



Basingstoke
and Deane



working together

**Draft Sex Establishments Policy
2024
Joint Statement of Policy
Version 1.0**

Contents

1	Introduction.....	1
2	Definitions.....	2
3	Requirement for a Licence	4
4	Suitability of the Applicant.....	4
5	Waiver	5
6	The Licensing Act 2003	6
7	Location of licence premises	6
8	Making an Application.....	7
9	Commenting on licence applications	8
10	Determining applications	9
11	Layout, Character and condition of the premises	10
12	Disability Access	10
13	Duration of Licence	10
14	Term conditions and restrictions.....	11
15	Grounds for the refusal of a licence	11
16	Hearing.....	12
17	Renewal Applications	12
18	Variation Applications	13
19	Transfer of Licence.....	13
20	Exchange of information	13
21	Enforcement.....	13
22	Nil Limit Area	14
	Appendix A -Sexual Entertainment Venues (SEV) Standard Conditions	15
	Appendix B Sex Establishment Conditions	19
	Appendix C Sex Cinemas Conditions	21
	Appendix D	24

1 Introduction

- 1.1 The Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) does not require the publication of a sex establishment licensing policy; however, we recognise the benefits of having such a policy. A sex establishment licensing policy can play a pivotal role in the achievement of the pattern, number and standards of sex establishments within a area.
- 1.2 This policy provides the council's approach to the regulation of sex establishments as set out in the 1982 Act and gives guidance to the Licensing Authority when considering and making decisions on applications.
- 1.3 Each application will be determined on its individual merits and this policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.
- 1.4 The council may depart from this policy if, in the interests of the promotion of the objectives, the individual circumstances of any case merit such a decision. Full reasons will be given for departing from the policy.
- 1.5 Basingstoke and Deane Borough Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can regulate sex shops, sex cinemas and sexual entertainment venues in the Borough. In this policy, we refer to these as "sex establishments" unless we say otherwise.
- 1.6 The council resolved to adopt the Schedule in order to allow for the regulation of sex establishments. Local authorities have no authority to regulate such establishments without adopting the schedule. A consultation on this policy was undertaken between 1 November 2012 and 1 January 2013 and it was formally approved by the Licensing Committee on 16 May 2013.
- 1.7 Hart District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on the 31 March 2011 and the amendment under Section 27 of the Policing and Crime Act 2009 on the 6th April 2010.
- 1.8 Adoption of Schedule 3 also allows the relevant council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licenses and the number of premises to be licensed in an area, which may be nil.
- 1.9 In carrying out their licensing functions, the relevant council will have regard to the following:
 - The Local Government (Miscellaneous Provisions) Act 1982
 - Any supporting regulations
 - Guidance issued by Central Government
 - This joint statement of licensing policy

The council must also fulfil it's obligations under s17 of the Crime and Disorder Act 1998, to do all that can be reasonably done to prevent crime and disorder.
- 1.10 The Policy should be read in conjunction with, and without prejudice to,

other existing national legislation, including the Human Rights Act 1998, the Equality Act 2010, The Provision of Services Regulations 2009, and the Regulators' Code 2013 (as set out under the Legislative and Regulatory Reform Act 2006).

- 1.11 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics.
- 1.12 In carrying out their licensing functions authorities will have regard to equality and will expect an applicant to meet their statutory obligations in this area and not unlawfully discriminate refuse service on grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or display discriminatory signs.
- 1.13 Councils do not take a moral stand in adopting this policy. It is recognised that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is the council's role as the licensing authority to administer the licensing regime in accordance with the law.
- 1.14 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or schedules issued under the Act.

2 Definitions

2.1 For the purposes of this policy the following definitions will apply, provided that any subsequent amendments to the relevant articles of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 will also be taken into account:

2.2 **Sex Shop** any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- sex articles; or
- other things intended for use in connection with, or for the purpose of stimulating or encouraging:
- sexual activity; or
- acts of force or restraint which are associated with sexual activity.

2.3 No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

2.4 **Sex Article** Anything made for use in connection with, or for the purpose of stimulating or encouraging—

- sexual activity; or
- acts of force or restraint which are associated with sexual activity; and
- anything to which the sub-paragraph below applies.
- This sub-paragraph applies to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as

- one of a set, for the reproduction or manufacture of any such article; and
- to any recording of vision or sound, which
- is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

2.5 **Sex Cinema**, any premises, vehicle, vessel, or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—

- are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage.
- sexual activity; or
- acts of force or restraint which are associated with sexual activity; or
- are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
- but does not include a dwelling-house to which the public is not admitted.
- No premises shall be treated as a sex cinema by reason only.
- if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- by their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

2.6 **A Sexual Entertainment Venue (SEV)** is defined as: *'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.'*

2.7 **'Relevant entertainment'** is *"any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)".* An audience can consist of just one person (e.g., where the entertainment takes place in private booths).

2.8 In deciding whether entertainment is "relevant entertainment" We will judge each case on its' individual merits, however we would expect that the following forms of entertainment as they are commonly understood will be "relevant entertainment":

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows.
- Peep shows
- Live sex shows
- Topless bars

- Premises where private entertainment booths are present.

2.9 This list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should be treated as indicative only. Ultimately, decisions as to whether entertainment is “relevant entertainment” will depend on the content of the entertainment and not the name it is given.

2.10 The following premises are not sexual entertainment venues:

- Sex shops and sex cinemas (which are separately defined in Schedule 3 of the 1982 Act)
- Premises which provide relevant entertainment on an infrequent basis.
- These are premises where- relevant entertainment has been provided on no more than 11 occasions within a 12-month period; no such occasion has begun within a period of one month beginning with the end of the previous occasions; and no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

2.11 Premises providing relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 (the Licensing Act).

2.12 Where activities that would otherwise be considered to involve the provision of relevant entertainment take place but are not provided for the financial gain of the organiser or entertainer, such as spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser may be considered to have provided the entertainment where s/he has permitted the activity to take place, whether express or implied.

3 Requirement for a licence

3.1 Any person wishing to operate a sex establishment as defined by Schedule 3 to the 1982 Act requires a sex establishment licence unless the relevant council has waived the requirement for a licence.

3.2 Councils will normally grant a licence for a period of one year, but may exercise discretion to issue a licence for a shorter period if it is considered to be appropriate.

4 Suitability of the applicant

4.1 The applicant must be a fit and proper person to hold a licence. In determining suitability, the applicant will be required to demonstrate that he/she is suitable to hold a licence. The Council will take into account:

- Previous knowledge and experience of the applicant

- Information relating to the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- Information about the applicant and their management of the premises received from objectors, Council officers or the Police including any known criminal convictions or cautions the applicant or officers of any corporate that applicants may have
- Any other relevant information

4.2 The above factors are not an exhaustive list of considerations but are merely indicative of the types of factors which may be considered in dealing with an application. Similar considerations may also apply to persons whom it is alleged would benefit from the grant of the application but would be unsuitable to hold the licence themselves. In such cases the Council will also have regard to any evidence.

5 Waiver

5.1 Councils may, upon application, waive the requirement for a licence in any case where it is considered that to require a licence would be unreasonable or inappropriate.

5.2 Waivers may be granted to;

- Book shops, including shops where sale of DVD's and CD's are present
- Sexual Health Clinics
- Cases where the requirement for a licence is borderline, where events are minor or temporary, or where clarity or regularisation is required.
- Educational Establishments as part of a recognised educational curriculum

5.3 Councils will consider each application for a waiver on its individual merits; however, any establishment that would normally require a licence under the provisions of the 1982 Act is unlikely to be granted a waiver other than in exceptional circumstances.

5.4 In order for a waiver to be considered, an applicant must provide the basic information included in the application form, and any other information that may reasonably require in order to make a decision.

5.5 A waiver may be for such period as the Licensing Authority thinks fit. Where an application for a waiver has been received the council will give notice to the applicant stating the application has been granted. The relevant council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate, on a date not less than 28 days from the date on the notice, or as may be specified in the notice.

6 The Licensing Act 2003

6.1 Premises holding a sexual entertainment licence will not require a premises licence under the Licensing Act 2003 unless the premises is carrying on other licensable activities e.g., the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment.

6.2 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act.

6.3 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment licence but will instead need an appropriate authorisation under the Licensing Act, for example to cover the performance of dance. An exemption for live music or the playing of recorded music, which is integral to the entertainment, does not apply to such venues.

7 Location of licence premises

7.1 The councils have not imposed a limit on the number of premises that may be licensed in any area, however, whilst deciding each application upon its own merits councils will not normally licence premises that are in close proximity to:

- a residential area
- a school, nursery or any other premises substantially used by or for children under 16 years of age;
- a park or other recreational areas used by or for children under 16 years of age;
- a church or other place of religious worship;

7.2 In addition, the relevant council will consider public safety issues when determining whether an area is appropriate; for example, areas that attract a high percentage of female, elderly or young users may be considered to be inappropriate. Where an application is received and deemed to be within close proximity to those areas or premises identified in paragraph 7.1, the application will not be automatically refused. Applications presenting genuinely exceptional circumstances may be granted.

7.3 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.

7.4 Councils would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

7.5 Applications may be refused on grounds relating to an assessment of the 'relevant locality' including the impact on the local amenity. A licence may be

refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind in the relevant locality, is equal to or exceeds the number that the Council considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put, or the layout, character or condition of the premises. Nil may be an appropriate number.

7.6 The figure of “nil” per ward may respond to these concerns and in addition to the above the following factors may justify this safeguarding regulatory step. Whilst this is not intended to be an exclusive list, consideration should be given to the following matters,

- Areas and premises attracting families such as leisure and sport facilities and play spaces, parks and open spaces
- Premises attracting young people such as schools, nurseries ,children’s centres and other educational establishments and access routes to and from those premises
- Places of worship, religious and communal buildings
- The proximity of residential accommodation, including sheltered housing and accommodation for vulnerable people
- Other retail units, such as shopping centres (and their uses)
- Alcohol or entertainment licensed premises
- Any planned or proposed regeneration of the area
- Any relevant planning considerations such as whether the premises are in a conservation area or areas designated as primary residential or prime retail frontage
- The nature and character of the area
- The nature of the clientele that sexual entertainment venues may attract and their behaviour outside the premises may also be inappropriate.

8 Making an application

8.1 Applicants for a licence must complete the application form and submit to the relevant council’s licensing team together with:

8.2 A set of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;

8.3 A set of plans showing the existing and front elevation of the premises depicting all signage;

8.4 A set of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;

8.5 A set of plans (scale 1:50) showing the layout of the sex establishment;

8.6 The correct fee as set by the relevant council.

8.7 As part of the application process, applicants are required to post an A3 notice at the proposed site for 21 days, from the date the application is lodged with the council, setting out the application details. A specimen notice is available from the Licensing team. The notice must be posted in a prominent position, for example at each point of entry, for the whole of that time and be easily legible by passers-by.

8.8 Applicants are also required to place a public notice in a local newspaper giving details of the application. A specimen notice is available from the Licensing team. The newspaper notice should appear in the publication within 7 days of the application being lodged. The Chief Officer of Police must also be informed within 7 days of the application.

8.9 Officers from the Licensing Authority and the Fire Authority will inspect the premises to ensure that required technical standards are met. If works are required to bring the building up to standard, the applicant will be notified. Licences will not be issued until all required works are satisfactorily completed.

8.10 As part of the process the Licensing Authority will also consult the Environmental Health Department of the relevant council. If there is the possibility of noise nuisance, for example, from amplified music, an inspection may be carried out and light or noise insulation work recommended.

8.11 Comments on applications will also be sought from local Councillors, the Police, the Planning Authority and any other relevant person as deemed appropriate by the Council.

8.12 Applicants are warned that any person who, in connection with an application for the grant, renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction of a fine not exceeding £20,000.

8.13 The council will not determine an application for the grant of a licence unless the applicant allows an authorised enforcement officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.

8.14 Any licence approved does not constitute any approval under any other Acts. The applicant must ensure that all necessary consents and approvals are obtained prior to operation.

9 Commenting on licence applications

9.1 Any person or organisation can object to an application for a sex establishment licence. The Police are a statutory consultee for all applications.

9.2 Councils can only consider objections that are relevant to the statutory grounds for refusal set out in the 1982 Act and are received within the 28-day period for making objections. The objector must provide full reasons for their objection and, where possible, demonstrate how their reasons are relevant to the mandatory and discretionary grounds for refusal (if any).

9.3 Councils will notify applicants of any observations made by the Chief Officer of Police and provide details in general terms of objections that we have received within the 28-day period. Councils will not, without the consent of the person making the objection, reveal his/her name or address to the applicant.

9.4 Where no relevant objections are made, or objections are withdrawn, officers will grant the licence under the scheme of delegated powers.

9.5 Licensing Sub-Committee will consider all applications where there are relevant objections. This will give both applicants and objectors an equal opportunity to state their case in accordance with the relevant council's hearing's procedure.

9.6 No weight will be given to objections,

- that are frivolous or vexatious,
- or which relate to moral grounds (as these are outside the scope of the 1982 Act).

9.7 Officers will make decisions on whether objections are frivolous or vexatious and where objections are rejected the objector will be given a written reason.

10 Determining applications

10.1 In considering any application for the grant, renewal or transfer of a licence councils will have regard to:

- the Local Government (Miscellaneous Provisions) Act 1982;
- any supporting regulations;
- this Sex Establishment Licensing Policy;
- any observations submitted by the Chief Officer of Police; and
- any relevant objections that have been received within the 28-day period.

10.2 The Council shall have regard to all relevant considerations, including any representations received and comments made by:

- District Councillors
- Police
- Fire Service
- Planning Department,
- Community Safety Team,

- Environmental Protection Team,
- Food and Safety Team,
- Licensing Authority
- Children's Safeguarding Unit,
- Trading Standards
- Interested Parties (local residents / businesses)
- Any representations made by the applicant

10.3 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

10.4 Where the relevant council refuse to grant, renew or transfer a licence, a notice of the reasons for the decision will be sent to the to the applicant within seven days.

11 Layout, character and condition of the premises

11.1 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the following:

- The type of activity to which the application relates;
- The duration of the proposed licence;
- The days and hours of operation of the activity;
- The layout and condition of the premises;
- The use to which other premises in the vicinity are put;
- The levels of crime and disorder in the area;

11.2 Sex establishments should not be functionally visible to passers by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

12 Disability Access

12.1 Applicants are reminded of their duties under the Disability Discrimination Act 1995 and should provide such facilities so as to enable the admission of disabled people.

13 Duration of Licence

13.1 Sex Establishment Licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate.

14 Term conditions and restrictions

14.1 The relevant council may impose terms, conditions and restrictions on the grant of a licence. Where imposed, these will be necessary, non-discriminatory and proportionate.

14.2 The councils will consider all applications on an individual basis and may impose additional or alternative conditions tailored to individual premises.

15 Grounds for the refusal of a licence

15.1 The councils will not grant a licence;

- to a person under the age of 18; or
- to a person who is for the time being disqualified under paragraph 17 (3) of Schedule 3 to the 1982 Act; or
- to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate which is not incorporated in an EEA state; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

15.2 The councils may refuse grounds listed in a) - d) below:

ii) an application for the transfer of a licence on either or both of the grounds specified in paragraphs a) and b) below: The grounds are:

- A. that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- B. that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- C. that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality. Nil may be the appropriate number.
- D. that the grant or renewal of a licence would be inappropriate having regard to the character of the relevant locality, or to the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- E. The 'relevant locality' means: in relation to premises, the locality where they are situated; and in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

- F. The relevant council has not made a decision to determine the number of sex establishment premises appropriate for the Council however this may be subject to review.
- G. The relevant council may refuse applications for a sex establishment licence where they are not satisfied that the application has been advertised in accordance with the requirements of the 1982 Act.
- H. The relevant council may refuse to accept an application where they consider that relevant information has been omitted or an application is incomplete.

16 Hearing

16.1 Where relevant objections have been made, the relevant council will give applicants the opportunity of appearing before the Licensing Sub-Committee.

16.2 The relevant council will advise the applicant and objectors of the date, time and venue of the hearing.

16.3 A copy of the committee report will be published on the council website at least 5 days prior to the hearing. The report will contain a summary of the application, objections, and any other relevant information.

16.4 The hearing will be conducted in accordance with the relevant council's standard hearing's procedure.

16.5 The Licensing Sub-Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation of the decision within seven days.

16.6 Whilst the Act does not stipulate a timescale for hearing applications, where objections have been submitted and accepted, the councils aim to determine an application within 20 working days from the close of the 28-day period for receiving objections.

16.7 Applicants have a right of appeal to a Magistrates Court.

17 Renewal Applications

17.1 An application to renew the licence must be made on the appropriate form prior to the expiry of the existing licence and must be accompanied by the relevant fee.

17.2 The council will not determine an application for the renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.

17.3 If, before the expiry of a licence, an application is made for its renewal, the licence will remain in force, even though the expiry date has passed, until the withdrawal of the application or its determination by the council.

17.4 Where a licence was in existence before the introduction of the policy, this policy will become a consideration when the licence is due for renewal.

17.5 It should be noted that the Licensing Authority in applying its decision-making discretion may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.

17.6 If a renewal application is not opposed, it shall be approved under delegated authority to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the licensing committee for decision.

18 Variation Applications

18.1 The application form, together with relevant plans and the fee should be sent to the Licensing team. Please note that applications for variation of licence are also subject to the site and newspaper notice requirements.

18.2 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes in licensee must be the subject of a transfer application.

18.3 Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.

19 Transfer of Licence

19.1 The councils will not determine an application for the transfer of a licence unless the applicant allows an authorised enforcement officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.

19.2 Where, before the date of expiry of a licence, an application has been made to transfer, it shall be deemed in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the expiry date has passed or that the person to whom the licence is to be transferred is carrying on the business of the sex establishment.

20 Exchange of information

20.1 The relevant council may, from time to time, exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.

21 Enforcement

21.1 The councils will establish protocols with the police and any other relevant

enforcement body on enforcement issues. These protocols will target agreed problems and high-risk premises, which require greater attention, while providing a lighter touch approach in respect of low-risk premises that are well run.

21.2 In general, action will only be undertaken in accordance with the council's enforcement policy, as adopted at the time, which reflects the council's obligations relating to enforcement and is consistent with the Regulators Code. To this end, the key principles of consistency, openness, proportionality, clear standards and practices, courtesy and helpfulness and training will be maintained.

22 Nil Limit Area (Basingstoke and Deane Borough Council)

22.1 Basingstoke and Deane Borough Council has set a nil limit on the number of sex establishments it permits within the Basingstoke Town Centre area defined as the Night Time Economy area. A map is available at Appendix D of this policy document showing the boundaries this area designated as a 'Nil Limit.'

22.2 Applicants are advised to consider the impact of their proposed application within this area prior to considering whether or not they wish to operate a sex establishment business and state how they believe any potential impacts could be mitigated. The council reserves the right to take into account other issues or considerations that may arise at the application and consultation stage as well as during the period of a licence.

22.3 The Licensing Authority will review this policy with regard to the number and location of Sex establishments across the Borough as necessary.

Appendix A-Sexual Entertainment Venues (SEV) Standard Conditions

1. **Exhibition of a Licence**

a) A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the premises so as to be available for inspection by the police, the fire authority and authorised officers of the council.

2. **Hours of Opening and Closing**

a) The premises shall not open outside of the permitted hours stated on the licence.

3. **Management of Licensed Premises**

a) The licence holder or some responsible person, being 21 years of age or over, nominated by him/her in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any Police Officer or Authorised Officer of the council or Police and give the name and address of the person nominated.

b) The name of the person responsible for the management of the premises, whether the licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.

c) All members of staff shall be easily identifiable as such. If required by the council in writing the Licence Holder shall ensure that during the hours the premises are open for business every employee or person working in the license premises wears a badge of a type approved by the council indicating his name and that he is an employee or person working in the premises.

d) The licence holder shall exhibit in a conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not permitted on the premises.

e) No other notices unless pursuant to these Regulations may be exhibited.

f) The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.

g) The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any sex article as defined.

h) The licence holder shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the licensee's absence and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 1 hour of the premises opening for business and is to be available for inspection by the police and by authorised officers of the council and Police.

i) The licence holder must submit a set of "House Rules" to the Licensing

Authority as part of the application process; these rules will form part of the licence and must be complied with. All performers must sign an agreement to adhere to these House Rules.

j) Where the licence holder is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the council.

4. Operation of the Premises

a) The Licence Holder shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the council.

b) The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.

c) No person under the age of 18 shall be admitted to any part of the premises which issued as a sex establishment or be employed in the business of the sex establishment.

d) All persons working in the premises, including performers, shall be aged not less than 18 years old.

e) Neither the licence holder nor any employees or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.

f) The licence holder shall not permit the display outside the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises. External advertising of relevant entertainment shall not include any of the following:

- Any depiction of full nudity
- Any depiction of partial nudity
- Any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm

g) No sex articles shall be used, displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or sex cinema.

h) The licence holder shall not knowingly allow the licensed premises to be the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.

i) The licensed premises shall not be used for any purpose other than the business of a sex establishment.

j) The licensed premises shall not be open for the purposes of which a sex establishment is granted on any occasion when the council may signify in writing to the licence holder, occupier or other person having at the time the care and management of the premises, that the same should not be open.

5. External Appearance

- a) A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the premises.
- b) The licence holder shall ensure that the interior of the sex establishment is not visible to persons outside the premises.
- c) The exterior of the licensed premises shall be of a design and materials approved by the council. The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. Detailed proposals for the external appearance of the premises shall be agreed with the council's Development Control team within 14 days of the notification of the determination of a grant of the application for a new premises licence. The approval shall be subject to ratification by the council's Licensing Committee.
- d) The interior and exterior of the licensed premises shall be kept in good repair and condition.
- e) No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the council's Development Control team and shall be subject to ratification by the council's Licensing Committee.
- f) The external doors of the licensed premises shall be fitted with self-closing mechanisms and such mechanisms shall be maintained in good order. Doors and openings, other than exits, which lead to parts of the premises to which public are not permitted to have access shall be clearly marked "Private".
- g) No external doors shall be fixed in an open position at any time during the permitted hours.
- h) The entrances, windows and openings to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.

6. Internal Layout and Condition of Premises

- a) The licence holder shall maintain the premises in good repair and condition as well as carrying out his duties under the Health and Safety at Work etc Act 1974 and other related legislation.
- b) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
- c) Lighting shall be in operation continuously during the whole time that the sex establishment is open to the public.
- d) Any alterations or additions to the premises shall not be made without prior written consent from the council. A variation application will be required to make any such changes to the internal or external look of the building.
- e) No fastenings shall be fitted to any booth or cubicle within the Sex Establishment. Appropriate fastenings are permitted on toilet doors.

7. Provision of Relevant Entertainment

- a) Any person who is providing relevant entertainment must be briefed verbally or in writing by the licence holder or his deputy about the conditions that relate to the premises and any code of conduct.
- b) Any person providing relevant entertainment shall be made aware that their

activities will be recorded on CCTV.

- c) The performer(s) shall sign in a register that they have received briefings, and these shall be retained for 12 months and made available for inspection by any Police Officer or authorised officer of the council.
- d) During any performance of relevant entertainment there must be no physical contact between the performer and any member of the public. The only exceptions are the placing of money or tokens in an item of clothing worn by the performer or in the performer's hand.
- e) There shall be no penetration of a performer's genitals or anus by any means.
- f) Performers shall not engage in masturbation and/or oral sex.
- g) No customer shall participate in any relevant entertainment except at the consent of the performer and must remain seated at all times.
- h) No customer shall be required or encouraged to participate in any relevant entertainment against their will.
- i) No customer shall have any clothing removed during any relevant entertainment.
- j) On completion of relevant entertainment performers shall dress immediately and leave the performance area.
- k) Performers are not to solicit, exchange addresses or telephone numbers with customers, or arrange to meet customers off the premises.

8. Safety and Security

- a) The licence holder shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not cause annoyance to residents and persons passing by.
- b) Relevant entertainment may only take place in 'designated areas' marked on the plan of the premises which was submitted as part of the application process.
- c) The licence holder shall have in place a policy concerning the safety of performers arriving at and leaving the premises, which shall be made in writing and made available to the Police or authorised officer of the Council or Police on request.
- d) The licence holder or deputy shall be present on the premises at all times whilst the relevant entertainment is taking place.
- e) The licence holder shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.
- f) A CCTV system shall be installed in the premises to the satisfaction of the Council's Licensing Officer. The system shall efficiently record the operation of the licensed premises and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in court.

All CCTV recordings shall be securely retained for a minimum of 28 days and shall be made available at the place licensed for inspection by a police officer or an authorised officer of the council or Police.

Appendix B Sex Establishment Conditions

1 Hours of Opening

1.1 The licensed premises shall not be open to the public before 9.30 am and shall not be kept open after 8.00pm from Monday through to Saturday (inclusive)

1.2 The licensed premises shall not be open to the public on Sundays, Christmas Day or Good Friday.

2 Management and Staffing of the Licensed Premises

1.3 Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for in the management of the body is to be notified in writing to the Licensing Authority within fourteen days of such change and such written details as the Licensing Authority may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the Licensing Authority.

1.4 The name of the person responsible for the management of the licensed premises, whether the Licensee or a manager approved by the Licensing Authority shall be prominently displayed within the licensed premises throughout the period during which that person is responsible for its conduct.

1.5 The Licensee shall notify the Licensing Authority and the Police of the name and address, and date of birth of any manager or employee involved at the premises within 7 days of them commencing employment. In the case of existing staff at the time the Sex Establishment licence comes into operation for the first time, this information shall be supplied to the Licensing Authority within 14 days of the licence coming into operation. The Licensing Authority shall reserve the right to object to persons being involved with the premises where they are unsuitable e.g., by way of previous relevant criminal convictions.

1.6 At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management. An approved person for the purposes of this condition shall be a person approved in writing in advance by the licensing authority following the submission of details and a satisfactory photograph by the Licensee. A person shall only be approved for the purposes of this condition if the licensing authority considers him or her to be a suitable person to have control of the premises.

1.7 No person under the age of 18 shall be admitted to the licensed premises or employed by the licensee to work at the licensed premises.

1.8 The Licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.

1.9 Neither the Licensee nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises.

1.10 The copy of the licence and these conditions shall be displayed in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.

1.11 No amusement or gaming machines of any kind, whether for prizes or otherwise, shall be kept or used upon the licensed premises at any time.

3 External Appearance

3.1 Windows and openings to the licensed premises other than entrances shall not be obscured otherwise than with the consent of the Licensing Authority but shall have suspended immediately behind them, plain light-coloured screens or blinds of a type and design approved by the Licensing Authority. No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions 3.2 and 3.3.

3.2 The Licensing Authority shall approve the design of the front elevation of the shop which shall include reference to the name of the shop, its postal address, opening hours, website address and any security grilles/shutters.

(As a general rule the name of the premises shall be of an uncontentious nature and light colours used throughout to the Licensing Authority's approval)

3.3 The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order. On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:

WARNING

“Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age”

4 Maintenance and Repair

3.4 The Licensee shall maintain the licensed premises in good order, repair and state of cleanliness at all times. This will include the need to maintain the front and rear of the premises in a clean and tidy condition, and to take appropriate measures to keep secure from public access (including unauthorised access) refuse and discarded sex articles/waste stock emanating from the premises pending prompt removal from site.

3.5 The licensee shall comply with any fire prevention and safety measures that may be required by the Fire Authority.

5 General

3.6 The licence shall be revocable in the event of the Licensing Authority being reasonably satisfied that a breach of any of the foregoing conditions has occurred and the licence holder may be liable to prosecution.

3.7 IN ADDITION TO THE ABOVE CONDITIONS, IT IS THE DUTY OF THE LICENCE HOLDER TO COMPLY WITH ALL THE REQUIREMENTS OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982.

Appendix C Sex Cinemas Conditions

1. **Exhibition of a Licence**

a) A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the premises so as to be available for inspection by the police, the fire authority and authorised officers of the council.

2. **Film Categories**

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:* U - Universal - suitable for all* PG - Parental Guidance - some scenes may be unsuitable for young children* 12 - Passed only for persons of 12 years and over Date: December 2011Version: 1Page 7 of 9* 15 - Passed only for persons of 15 years and over* 18 - Passed only for persons of 18 years and over* Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

3. **Unclassified Films**

a) The licence holder must notify the council in writing no later than 28 days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the council's gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

4. **Restricted Films**

a) Films restricted 18 (R18) may be shown at the premises only with the council prior written consent and in accordance with the terms of any such consent.

5. **Persons Under 18**

a) No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

“PERSONS UNDER 18 YEARS OF AGE CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME”

b) No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

6. **Advertising**

a) No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority as 18 or R18.

b) The licence holder shall display in a conspicuous position, to the satisfaction of the council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

c) When the programme includes a film restricted 18, the licence holder shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

“CINEMA CLUB - MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 YEARS OF AGE CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.”

7. Restricted 18

- a) A register of all members and all visitors, books of their guests shall be available for immediate inspection by police or an officer of the council during any performance or at any other reasonable time.
- b) Tickets shall in no circumstances be sold to persons other than to members.

8. Membership

- a) The club rules must be submitted to the council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.
- b) Membership shall be open to persons of both sexes of not less than 18 years of age.
- c) Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.
- d) No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.
- e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.
- g) Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitor's book and countersigned by the member. Any guest must be over the age of 18 years.
- h) Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.
- i) Membership cards shall be personal to the member and carry a photograph of the holder.
- j) Neither membership tickets nor guest tickets shall be transferable.
- k) Guests may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.
- l) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

9. Sale of Sex Articles

- a) Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
- b) Where a sex shop forms part of the structure of a building containing a sex cinema there shall be no access from the sex cinema to the sex shop or from the sex shop into the sex cinema.

10. Display of Tariff and Charges

a) There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises.

11. Conduct and Management of Premises

a) A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

12. Internal access to cinema

a) Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers-by and/or other areas within the building that are open to the public for other activities.

b) The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

13. Security

a) A member of staff to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

Appendix D Basingstoke Nil Limit Area

