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**TITLE: APPROVAL OF THE SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES LICENSING POLICY**

**COMMITTEE: LICENSING COMMITTEE**

**DATE: 15 JUNE 2011**

**AUTHOR: LICENSING OFFICER**

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1.0 ISSUE

1.1 That Members approve the proposed East Cambridgeshire District Council's Sex Establishments and Sexual Entertainment Venues Licensing Policy at **Appendix 1** following the twelve-week consultation with relevant stakeholders and members of the general public.

2.0 RECOMMENDATION(S)

2.1 That Members approve the proposed Sex Establishments and Sexual Entertainment Venues Licensing Policy to come into force on 16 June 2011.

3.0 BACKGROUND

3.1 The Local Government (Miscellaneous Provisions) Act 1982 (the Act) as amended by the Policing and Crime Act 2009 allows local authorities to adopt provisions concerning the regulation of sex establishments.

3.2 On 8 December 2010 the Licensing Committee agreed that a referral should be made to Full Council on 22 February 2011 to pass a resolution under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

3.3 It was agreed that Schedule 3 of the Act should come into force at the end of March 2011 to enable the Council to regulate sex establishments and sexual entertainment venues within the East Cambridgeshire district.

3.4 Under the Local Government (Miscellaneous Provisions) Act 1982 there is no legal requirement for the Council to adopt a policy on how it proposes to licence sex establishments and sexual entertainment venues under the Act.

3.5 However, it is considered best practice for the Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

3.6 At the Licensing Committee of 8 December 2010, Members agreed for the adoption of a policy on the licensing of sex establishments in the district.

- 3.7 The Council's Licensing Committee of 12 January 2011 approved a twelve-week consultation exercise to be undertaken on the draft East Cambridgeshire District Council's Sex Establishments and Sexual Entertainment Venues Licensing Policy with relevant stakeholders and the general public from 17 January 2011 to 10 April 2011, with all consultation responses to be considered by the Licensing Committee before a finalised policy be approved.
- 3.8 Members agreed that the draft policy on sex establishments should clarify the Council's policy on:
- i. "relevant locality" and "appropriate number";
  - ii. conditions under which sex establishments must operate; and
  - iii. recommend an appropriate fee for applications.
- 3.9 A copy of the draft Sex Establishments and Sexual Entertainment Venues Licensing Policy was displayed on the Council's website and public notice board in the Council reception, with copies made available for viewing in the public libraries within the district for the duration of the consultation period.
- 3.10 A copy of the draft policy was sent to eighty-eight consultees representing stakeholders and members of the public.
- 3.11 Four responses were received within the consultation period from Mepal, Witcham and Witchford Parish Councils and a representative of Cambridgeshire Fire and Rescue Service.
- 3.12 No adverse comments were raised in the four consultation responses regarding the content of the proposed Sex Establishments and Sexual Entertainment Venues Licensing Policy, attached as **Appendix 2** to this document.

#### 4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The draft policy sets out how East Cambridgeshire District Council would approach its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 4.2 The policy will provide guidance to Members and Licensing Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.
- 4.3 Having a policy in place, which has been subject to consultation with the general public, ensures that communities have had the opportunity to take advantage of the new stronger role that they now have in deciding how the Council carries out its licensing functions in relation to sex establishments,

such as sex shops and sex cinemas and sexual entertainment venues such as lap dancing or pole dancing clubs.

4.4 In preparing the draft Sex Establishments and Sexual Entertainment Venues Licensing Policy, Licensing Officers have carried out extensive research with other local authorities both locally and nationally and have sought guidance from the Home Office and Local Government Regulation, formerly Lacors.

#### 5.0 FINANCIAL IMPLICATIONS

5.1 There are no costs associated with this report.

#### 6.0 APPENDICES

6.1 Appendix 1 Proposed Sex Establishments and Sexual Entertainment Venues Licensing Policy.

6.2 Appendix 2 Consultation Responses on the proposed Sex Establishments and Sexual Entertainment Venues Licensing Policy.

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#### **Background Documents**

#### **Location**

#### **Contact Officer**

Local Government  
(Miscellaneous Provisions)  
Act 1982  
Policing and Crime Act 2009  
Home Office Guidance for  
Sexual Entertainment  
Venues

Room FF113  
The Grange  
Ely

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**EAST CAMBRIDGESHIRE**

**DISTRICT COUNCIL**

**SEX ESTABLISHMENTS AND  
SEXUAL ENTERTAINMENT VENUES  
POLICY**

**EAST CAMBRIDGESHIRE DISTRICT COUNCIL**  
**DRAFT SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT**  
**VENUES POLICY**

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**Appendix 1: Standard Conditions for Establishment Licences (Sex Shops and Sex Cinemas)**

**Appendix 2: Standard Conditions for Sexual Entertainment Venues**

## **1.0 Introduction**

- 1.1 This document sets out East Cambridgeshire District Council's policy regarding the regulation of sex establishments and the procedure relating to sex establishment licensing.
- 1.2 The policy was approved for consultation by the Council's Licensing Committee on 12 January 2011. A twelve-week consultation on the draft policy took place from 17 January 2011 to 10 April 2011. Following consultation, the policy was approved by Licensing Committee on XXXXXX.
- 1.3 The policy will continue to be reviewed in light of developing practices, guidance and secondary legislation.
- 1.4 Any significant future amendment to this policy will only be implemented after further consultation with the individuals and partner agencies originally consulted.
- 1.5 All such amendments to this policy will be undertaken in accordance with the East Cambridgeshire District Council's Constitution.
- 1.6 Any significant amendment under the relevant legislation is defined as one that:
  - is likely to have a significant financial effect on the licence holders;
  - is likely to have a significant procedural effect on the licence holders;
  - is likely to have a significant effect on the community;
  - is likely to have a significant effect on any person involved in the sex establishment industry.
- 1.7 Any minor amendments to this policy may be authorised by the Head of Environmental Services and undertaken in accordance with the Council's Constitution.
- 1.8 The Licensing Authority maintains the right to review the policy as deemed necessary by the Head of Environmental Services, the Council's Licensing Committee or as required due to legislative changes and Government guidance.
- 1.9 When considering and reviewing this policy the Licensing Authority has and will continue to consider local and regional strategies and policies including crime prevention, equality and disability discrimination law. The Licensing Authority recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations on employers and operators such as the Health and Safety at Work Act 1974, the Environmental Protection Act 1990, Children's Act 2004, Disability Discrimination Act 1995 and the Regulatory Reform (Fire Safety) Order 2005.
- 1.10 The Licensing Authority is aware of its obligations under the Race Relations Act 1976 as amended with the Authorities Race Equality Scheme and will have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- 1.11 The licensing of sex establishments is governed by Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.

- 1.12 East Cambridgeshire District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 22 February 2011.
- 1.13 The adoption of the Act enables the Licensing Authority to control and regulate the operation of certain kinds of sex establishments within the East Cambridgeshire district and no sex establishment can operate in the district unless it has been granted a licence from the Licensing Authority.
- 1.14 The Council has regard to the Home Office Sexual Entertainment Guidance for England and Wales March 2010.
- 1.15 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can, to prevent crime and disorder in their area. This policy has regard to the likely impact of such licences on related crime and disorder in the area.
- 1.16 The policy should be read in conjunction with, and without prejudice to, other existing national and European Union legislation, such as the Human Rights Act 1988 and Disability Discrimination Act 1995.
- 1.17 The policy relates to applications for sex establishment licences that fall into the following categories:
- sex shops
  - sex cinemas
  - sexual entertainment venues.
- 1.18 The objectives of the policy are to:
- promote East Cambridgeshire District Council's visions and values; and
  - protect the rights and health and safety of the general public, workers, residents, small businesses, minority and vulnerable groups.
- 1.19 The policy sets out the Council's approach for both applicants and operators. It also aims to guide and reassure the general public and other public authorities, ensuring transparency and consistency in decision-making. When the Council's decision-making powers are engaged, each application will be considered on its own merit.
- 1.20 The procedure outlines:
- the procedure for making an application; and
  - the process the Licensing Authority will follow in considering and determining applications for a sex establishment licences.
- 1.21 Sex establishment licences will contain conditions to restrict how the premises may trade within the East Cambridgeshire district.
- 1.22 The policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.

## **2.0 Consultation**

2.1 Consultation on this policy took place with:

- the Chief Officer of Cambridgeshire Constabulary;
- one or more persons who appear to East Cambridgeshire District Council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the East Cambridgeshire district;
- one or more persons who appear to the Council to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment in the East Cambridgeshire district;
- one or more persons who appear to the Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy, including the Planning Authority, Fire Authority, Community Safety, Environmental Protection and Child Protection;
- interested parties such as resident associations, trade associations and others as considered appropriate;
- ward councillors;
- town and parish councils.

2.2 The Licensing Authority gave due weight to the views of those consulted and the policy was amended as appropriate. In determining what weight to give particular representations, the factors taken into account included:

- who made the representation and what was their expertise and interest;
- how many other people expressed the same or similar views;
- how the representation related to the matters the Council should include in its policy.

2.3 A full consultee list and comments received and the Council's considerations can be obtained by email at [licensing@eastcambs.gov.uk](mailto:licensing@eastcambs.gov.uk)

2.4 The policy is published via the Council's website on [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk)

## **3.0 Definitions**

### **3.1 The Act**

This refers to Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

### **3.2 The Policy**

This refers to the East Cambridgeshire District Council Sex Establishment and Sexual Entertainment Venues Policy.

### **3.2 Sex Cinemas**

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which:



- are concerned primarily with the portrayal of, or primarily deal with or relate to or intend to stimulate sexual activity, acts of force or restraint associated with sexual activity;
- 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 are not admitted.

### 3.3 Sex Shops

A sex shop is any premises, vessel, vehicle or stall used to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- sex articles;
- other things intended for use in connection with or for stimulating or encouraging:
  - i. sexual activity;
  - ii. acts of force or restraint associated with sexual activity.

### 3.4 Sex Articles

A sex article is anything for use in connection with or for stimulating or encouraging:

- sexual activity;
- acts of force or restraint associated with sexual activity;
- anything:
  - i. 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
  - ii. to any recording or vision or sound, which:
    - a. 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 associated with sexual activity, or
    - b. is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs or urinary or excretory functions.

### 3.5 Sexual Entertainment Venues

- a. A sexual entertainment venue 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'.
- b. The meaning of '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).
- c. The Licensing Authority judges each case on its individual merits, however the Licensing Authority considers that the definition of relevant entertainment would apply to the following forms of entertainment:

- lap dancing
  - pole dancing
  - table dancing
  - strip shows
  - peep shows
  - live sex shows
  - topless bars
  - premises where private entertainment booths as defined in paragraph (b) are present.
- d. The Licensing Authority does not consider the list to be exhaustive as the nature of premises may vary. Decisions to licence premises as sexual entertainment venues will depend on the content of the entertainment provided and not the name it is given.
- e. Premises not classed as sexual entertainment venues are:
- sex shops and sex cinemas
  - premises which provide relevant entertainment on an infrequent basis, defined as premises where:
    - no relevant entertainment has been provided on more than 11 occasions within a twelve-month period;
    - no such occasion has taken place within a period of one month beginning with the end of the previous occasion; 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.
- f. Premises providing relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003.
- g. Premises holding a sexual entertainment venue licence will not require a premises licence under the 2003 Act unless the premises is carrying on other licensable activities, e.g. the sale of alcohol or the provision of regulated entertainment.
- h. 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 2003 Act.

### 3.6 The Organiser

This is any person who is responsible for the organisation or management operation of the relevant entertainment on the premises.

### 3.7 Display of Nudity

This means:

- In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- In the case of a man, exposure of his pubic area, genitals or anus.

### 3.8 Relevant Locality

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used as a sex establishment. The locality and the area that this covers is a matter for the Licensing Authority to decide at the time it considers the application for the grant, renewal or transfer of a sex establishment licence.

### 3.9 Permitted Hours

These are the hours of activity and operation that have been authorised under a sex establishment licence.

### 3.10 Appropriate Authority

East Cambridgeshire District Council is the 'appropriate authority' for the purposes of the licensing regime introduced by Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 and adopted by the resolution of the Council on 22 February 2011 taking effect from 9 April 2011.

## **4.0 General Policy Principles**

### 4.1 Specific mandatory grounds for the refusal of a licence are set out in the Act.

A licence cannot be granted to:

- a. any person under 18 years of age;
- b. to any person that has held a licence that has been revoked within the last 12 months (from the date of revocation) and who was disqualified from holding a licence during that period;
- c. to any person who has been refused a new licence or a renewal of a licence within the last 12 months (from the date of making the application);
- d. to an individual who is not resident in the UK or who has not been resident for 6 months prior to the making of the application;
- e. to a company not incorporated in the UK.

### 4.2 In determining an application relating to a sex establishment licence the Licensing Authority will assess the application on its individual merits having regard to the content of this policy, the relevant legislation and any relevant guidance that may be issued by central government.

### 4.3 Where it is necessary for the Licensing Authority to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Officer in consultation with the Chairperson of the Licensing Committee or the Council's Licensing Committee may authorise a departure from the policy if it is felt appropriate for a specific application.

### 4.4 Further consideration to grant a licence will be given where a premises, as defined by the 1982 Act, wishes to display a high profile exterior frontage and/or wishes to depict external nude images. Any decision to depart from the Licensing Authority's standard conditions will be referred to the Licensing Committee for final approval.

- 4.5 An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence, or a transfer of an existing one, the Licensing Authority will take the following into account:
- previous relevant knowledge and experience of the applicant;
  - the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other area.
  - any report about the applicant and management of the premises received from statutory objectors.
- 4.6 The Licensing Authority may refuse a licence if the applicant is considered unsuitable to hold a licence if the applicant has been convicted for an offence or for any other reason. The determination of the suitability of the applicant is a matter for the Licensing Authority to decide at the time the application is made.
- 4.7 Whilst every application will be considered on its individual merits the Licensing Authority will be unlikely to grant an application from any person, or for the benefit of any person, with unspent criminal convictions.
- 4.8 Applications for a sex establishment licence may be refused where the Licensing Authority is not satisfied that the application has been advertised in accordance with requirements of the Act.
- 4.9 The Licensing Authority may refuse to accept an application where it considers that relevant information has been omitted or an application is incomplete.
- 4.10 Where the Licensing Authority refuses to grant, renew or transfer a licence, a notice of the reasons for the decision will be sent in writing to the applicant within seven days of that decision.

## **5.0 Relevant Locality**

- 5.1 Every application for the grant, renewal or transfer of a sex establishment licence will be considered on its own merits on a case by case basis.
- 5.2 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 Licensing Authority considers appropriate for that locality; or that a sex establishment would be inappropriate, having regard to the character of the relevant locality, to the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.
- 5.3 This Licensing Authority considers the 'relevant locality' to mean the area which surrounds the premises specified in the application; and, in accordance with legislation, does not seek to further define any precise boundaries or markings.
- 5.4 A decision to determine the number of sex establishment venues appropriate for this particular area has not been made, however this may be subject to review.
- 5.5 The Licensing Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Licensing Authority shall normally take into account:

- i. the character of the relevant locality;
  - ii. the use to which any premises in the vicinity are put; or
  - iii. the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made;
  - iv. where it can be shown that the business would be managed for the benefit of a third party who would be refused a licence.
- 5.6 The relevant locality will be determined in accordance with where the premises is situated or where the vehicle, vessel or stall is going to be used. The area and extent of the relevant locality is a matter of the Licensing Authority to decide at the time the application is made. Each application will be considered on its own merits.
- 5.7 In determining the character of relevant locality and the appropriate number of sex establishments in the relevant locality, the Licensing Authority will take into account, but not limit its determination to:
- a. the use to which any premises in the vicinity are put;
  - b. the number of existing sex establishments both in total and also in respect of each type, i.e. sex cinemas, sex shops or sexual entertainment venues;
  - c. the number of existing premises engaged in and/or offering entertainment of an adult or sexual nature or entertainment or associated with an adult or sexual nature, e.g. tattooing, piercing, etc;
  - d. the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
  - e. the proximity of educational establishments to the premises;
  - f. the proximity of places of worship to the premises;
  - g. access routes to and from schools, play areas, nurseries, children's centres or similar premises;
  - h. the proximity to shopping centres;
  - i. the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs.
  - j. the potential impact of the licensed activity on crime and disorder and public nuisance;
  - k. the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises is situated;
  - l. the nature and concerns of any objections received from residents and/or establishments objecting to the licence application;
  - m. any evidence of complaints about noise and/or disturbance caused by the premises;

- n. current planning permission/planning requirements on the premises;
- o. any current planning policy considerations;
- p. whether there is planned regeneration of the area;
- q. any current licensing permission related to the premises in relation to activities, uses and hours.

## **6.0 Crime and Disorder**

In accordance with Section 17 of the Crime and Disorder Act 1998, the Council is under a duty to exercise its functions with due regard to the likely effect on crime and disorder. East Cambridgeshire District Council aims to do all it can to prevent crime and disorder within its district. The possible impact of crime and disorder is clearly a relevant factor in the consideration of all applications. In giving 'due regard' to these possible implications, Members will consider all information available and representations made by all objectors, the applicant and most importantly, Cambridge Constabulary.

## **7.0 Renewal Applications**

- 7.1 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.
- 7.2 It should be noted that the Licensing Authority in applying for 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.
- 7.3 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 Sub-Committee for decision.

## **8.0 Application Process**

- 8.1 Applicants for a sex establishment licence must complete and return the application form, together with:
  - five sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indication how the premises lies in relation to the street;
  - five sets of plans showing the existence and front elevation of the premises depicting all signage;
  - five sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
  - five sets of plans (scale 150) showing the layout of the sex establishment;
  - the correct fee as set out by the Council's Licensing Committee.

- 8.2 Notice of all applications shall be given to Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service, Council Heads of Service, Ward Councillors and any other relevant person as deemed appropriate by the Licensing Authority.
- 8.3 As part of the application process, applicants are required to post a white A3 notice at the proposed site for 21 days, from the date the application is lodged with the Licensing Authority, setting out the application details.
- 8.4 The notice must be posted in a prominent position on the premises for the whole of that time so that it can be easily read by passers-by.
- 8.5 Applicants must place a public notice in a local newspaper at their own expense. The newspaper notice should appear in the publication within 7 days of the application being lodged.
- 8.6 The applicant shall supply a copy of every advertisement published under paragraph (8.5) to the Licensing Authority.
- 8.7 The Licensing Authority will not determine an application for the grant of a licence unless the applicant allows any authorised 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 sex establishment.
- 8.8 To ensure that technical standards are met, responsible authority authorised officers may choose to inspect the premises, including Council licensing officers and environmental protection officers, Cambridgeshire Constabulary and Cambridgeshire Fire and Rescue Service.
- 8.9 If work is required to the premises to bring it to an acceptable standard, the applicant will be notified in writing. No licence will be granted until all required works are satisfactorily completed.
- 8.10 Applicants are advised that any person who, in connection with an application for the grant, renewal or transfer of a licence, makes a statement which he/she knows to be false in any material respect, or which he/she does not believe to be true, is guilty of an offence and liable to a summary conviction to a fine not exceeding £20,000.
- 8.11 Any licence approved does not constitute any approval under any other Acts, e.g. the Town and Country Planning Act 1990 or by-laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.

## **9.00 Renewal of Licence**

- 9.1 To continue operating as a sex establishment, licence holders must make a renewal application prior to the expiry of the existing licence.
- 9.2 The Licensing Authority will not determine an application for the renewal of a licence unless the applicant allows an authorised 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 sex establishment.

## **10.0 Variation of Licence**

- 10.1 Applications for variations of licences are subject to the site and newspaper notice requirements set out by statute.
- 10.2 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes to the licensee must be the subject of a transfer application.
- 10.3 All variation applications for sex establishment licences must be referred to the Council's Licensing Sub-Committee for decision. 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.

## **11.0 Transfer of Licence**

- 11.1 The Licensing Authority will not determine an application for the transfer of a licence unless the applicant allows authorised officers a reasonable opportunity to enter the proposed sex establishment to make such examinations and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

## **12.0 Application Representations**

- 12.1 Any person wishing to object to an application must submit a written representation to the Licensing Authority within the specified twenty-eight day consultation period.
- 12.2 Representations submitted before the application is submitted can be taken into account. The Licensing Authority has the discretion to consider representations made after the twenty-eight day consultation period although this will be assessed on a case by case basis.
- 12.3 The Licensing Authority will have regard to objections submitted within the prescribed timescales as set out in Schedule 3 Para 10(15) of the 1982 Act. Legislation imposes no pre-qualifications on who may be objectors or whether objectors are likely to be affected by the operation of an establishment. As such, the Licensing Authority will consider the views of any person or corporate persons that are submitted in writing.
- 12.4 The Act imposes no constraint on the subject matter of objections. The Licensing Authority may give consideration to the weight that should be given to objections considered as vexatious, malicious or frivolous. If doubt arises over the relevance/validity of an objection, the final decision on whether to accept the objection will be made by the Licensing Officer in consultation with the Chairperson of the Licensing Committee.
- 12.5 The Licensing Authority will notify applicants of any objections made within the prescribed advising period. The Licensing Authority will not, without the



consent of the person making the objection, reveal his/her name or address to the applicant at this stage.

12.6 Where a hearing is required to determine an application, it is the policy of the Licensing Authority to disclose the names and address of objectors unless there are clear reasons to depart from this practice. The Licensing Officer will make the final decision on whether the details of objectors are to be disclosed.

12.7 The Licensing Sub-Committee will determine all applications where there are relevant representations.

### **13.0 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.

### **14.0 Hearings / Appeals**

14.1 The Licensing Authority will give applicants the opportunity of appearing before the Licensing Sub-Committee before a decision is made to refuse the grant, renewal, variation or transfer of a licence.

14.2 Where the Licensing Authority is required to determine an application by reference to a Licensing Sub-Committee, the applicant and objectors will be advised of the date, time and venue of hearing.

14.3 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, objections and any other relevant information.

14.4 At the hearing, all parties will have an opportunity to address the Licensing Sub-Committee and ask questions of all parties they consider relevant to the determination process.

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

14.6 Whilst the Act does not stipulate a timescale for hearing applications where objections have been submitted and accepted, East Cambridgeshire District Council aims to determine an application within twenty-eight days from the last day of advertising.

14.8 The Act strictly limits who can appeal to the Magistrates' Court and the matters about which they can appeal. The Act affords rights of appeal to the industry only. The decisions against which a right of appeal lies are refusals of grants, renewals, transfers or variations, the imposition of conditions and also revocations.

14.2 Any appeal to the Magistrates' Court must be made within twenty-one days from the date on which the person is notified of the decision or became aware of the conditions imposed by the Licensing Sub-Committee.

14.3 Where an application is lodged against refusal to renew or revocation of a licence, the licence remains in force until such time as the appeal is determined.

14.4 Where an appeal is lodged against conditions applied to a licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

## **15.0 Enforcement**

15.1 Prior to pursuing enforcement action the Licensing Authority will have regard to the East Cambridgeshire District Council's Enforcement Policy and consult with any partners as deemed appropriate.

15.2 In pursuing the objectives in paragraph 15.1 the Licensing Authority will operate a proportionate and reasonable enforcement regime.

## **16.0 Human Rights**

16.1 In determining applications, the principles of the Human Rights Act 1998 must be taken into consideration. The Act acknowledges that local authorities are entitled, amongst other things, to act where this is in the 'general interest'.

16.2 Should it be decided to refuse or to grant an application, or to attach conditions, the rights of appeal that exist through the Magistrates' Court will ensure that the principles of the Human Rights Act are adhered to.

16.3 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right.

## **17.0 Conditions**

17.1. This policy provides for a set of 'standard conditions' to be attached to each licence granted, renewed or transferred by the Licensing Authority unless conditions have been expressly excluded or varied.

17.2 Further conditions may be attached to individual licences where the Licensing Authority deems it necessary. The standard conditions are also applicable to sex establishments, sex cinemas, sex shops and premises involved with the sale and/or supply of sex articles.

17.3 The Licensing Authority will seek to avoid duplicating licence conditions where a premise holds licences under both the Licensing Act 2003 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

17.4 The Licensing Authority will endeavour to avoid imposing conditions on either licence that are contradictory to one another.

## Standard Conditions for Sex Establishment Licence

East Cambridgeshire District Council reserves the power to alter, modify or dispense with these conditions as it sees fit at any time.

### Management of the Premises

1. The licensee or a responsible person nominated by him and approved in writing by the Licensing Authority for the purpose of managing the sex establishment ('the manager') shall have personal responsibility for and be present on the premises at all times when the premises is open to the public.
2. Where the licensee 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 Licensing Authority 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 Licensing Authority.
3. 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 Licensing Authority or the local trading standards authority.
4. 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/she or they are responsible for the conduct of the premises.
5. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Licensing Authority must be notified within 24 hours in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
6. The licensee shall ensure that the public is not admitted to any part of the premises that has not been licensed.
7. No person under the age of 18 shall be admitted to the premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the premises.
8. Neither the licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the premises.
9. The licensee shall ensure that during the hours that the premises is open for business every employee wears a badge of a type approved by the Licensing Authority indicating his/her name and that he/she is an employee.
10. The licensee 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 thirty minutes of the sex establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Licensing Authority.

### **Opening of the Premises**

11. The premises shall not, without the written consent of the Licensing Authority, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday to Saturday 09:00 to 18:00

12. The premises shall not, without the written consent of the Licensing Authority, be opened and used for the purposes for which the licence is granted on Sundays, Good Friday, or Christmas Day.

### **Conduct of the Premises**

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Licensing Authority.
14. No 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 shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
16. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
17. No moving picture shall be provided or displayed at the licensed premises unless it is that of an advertising DVD on a loop system or allowing a prospective purchaser a short preview, being no longer than 3 minutes in length, of films upon request.

### **External Appearance**

18. The holder of a sex establishment licence may exhibit on the outside of the premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Licensing Authority, consisting of the words 'Licensed Adult Establishment'.
19. The holder of a sex establishment licence shall exhibit on the outside of the premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed'. 'Persons over the age of 18 but under the age of 21 will be required to show proof of their age'.

20. No other words, advertisement, letter, model, sign, placard, board, notice sign, device, representation, drawing, writing, display or any other matter, shall be displayed on the outside of the premises or in the vicinity of the premises, except those mentioned in conditions 18 and 19 or otherwise approved by the Licensing Authority in writing.
21. No external loudspeakers may be installed.
22. The windows and openings of the premises shall be of a material or covered with material that will render the interior of the premises invisible to passers-by.

### **State, Condition and Layout of the Premises**

23. Notwithstanding the licensee's duties under the Health and Safety at Work etc, Act 1974 and related legislation and his/her obligations under any lease or other agreement for the use of the premises, he/she shall maintain the premises in good repair and condition.
24. External doors shall be closed but not locked at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
25. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises.
26. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
27. Lighting shall be in operation continuously during the whole of the time that the sex establishment is open to the public.
28. Alterations or additions, either internal or external, shall be not be made to the premises without prior written consent from the Licensing Authority.
29. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
30. No fastenings of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

### **Safety and Security**

31. The licensee shall submit details of the steps to be taken, for the approval of the Licensing Authority, to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18. The licensee shall ensure the approved steps are implemented.

32. The licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Licensing Authority.

### **Goods Available in Sex Establishments**

33. All sex articles as defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and other items displayed for sale, hire, exchange or loan within a sex establishment shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
34. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect must be prominently displayed inside the sex establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
35. The licensee shall, without charge, display and make available in the sex establishment such free literature concerning counselling on matters related to sexual problems as may be published by the FPA (formerly the Family Planning Association) and by such other similar organisations and in particular any such material related to AIDS. Such literature is to be displayed in a prominent position approved by the Licensing Authority adjacent to all cash collection points in the sex establishment.

## Standard Conditions for Sexual Entertainment Venues

East Cambridgeshire District Council reserves the power to alter, modify or dispense with these conditions as it sees fit at any time.

1. No persons under 18 will be admitted to the premises.
2. The premises must operate a 'Challenge 25' scheme, whereby anyone who appears to be aged 25 or younger is asked for photographic ID proof of age.
3. The only ID that will be accepted are passports, a driving licence with a photograph or Portman Group proof of age cards bearing the 'PASS' mark hologram. The above list of acceptable proof of age items may be extended to other forms of ID on the future with advance written agreement of the police without the need to review the actual licence.
4. The 'Challenge 25' scheme and the stipulated forms of acceptable age identification must be clearly stated both on the premises website and on all membership applications, booking forms, customer contractual documents and promotional literature, etc.
5. The licensee must provide a photographic identification system for all entrants to the premises with recordings to be provided to the police at their request.
6. No under 18's events will be hosted anywhere on the premises at any time.
7. Whilst striptease entertainment is taking place, no customer under 18 shall be on the premises and clear notices shall be displayed at the entrance to the premises in a prominent position so that it can easily be read by persons entering the premises in the following terms:

NO PERSONS UNDER 18 TO BE ADMITTED

ENTERTAINMENT WITHIN THESE PREMISES INVOLVES A FORM OF NUDITY

IF YOU ARE LIKELY TO BE OFFENDED, PLEASE DO NOT ENTER

8. No intoxicating liquor shall be supplied for consumption off the premises.
9. The only form of relevant entertainment that is approved and may be provided at the premises is striptease entertainment in the form of tableside and pole dancing by club dancers only.
10. Only the performers and entertainers shall give the approved striptease entertainment with no audience participation permitted
11. There shall be no physical contact between the customer and the dancer, with the exception of shaking hands with a customer and/or leading a customer by the hand from a seated area to a booth for a private dance.
12. With the exception of the above, there shall be no deliberate physical contact between the customer and the dancer, either immediately before, during or after a dance.
13. Dancers shall only perform on the stage area or at a tableside to seated customers.
14. All booths must have adequate lighting to ensure the safety of the dancer and to ensure that both the member / guest / audience and the performer are adhering to the Club rules at all times.

15. A Security Industry Authority (SIA) licensed door supervisor must have a full and unrestricted view of any dancer performing in a booth at all times.
16. There must be no physical contact between dancers whilst performing
17. Dancers must not give out personal information, including telephone numbers; email addresses or other contact details to audience members.
18. Dancers must not accept any telephone number, addresses, business card or any other information from any customer.
19. The private booths must be designed in such a way that there can be no curtain or other visual barrier that can be pulled across the entrance, thus concealing activities inside the booth area.
20. The booths must be designed in such a way that the door supervisors / security staff can see into the booths to ensure the safety of the dancers performing inside and to ensure that the club rules are being strictly adhered to at all times.
21. All dancers / performers must be aged over 18 years of age and legally entitled to work in the UK before they perform at the Club.
22. Copies of all dancers files must be made available to the police for inspection upon request.
23. The licence holder must ensure no dancers are trafficked, exploited or controlled for another's gain.
24. Where possible all dancers will be escorted from the premises at the end of each evening to their transport (e.g. taxis) to ensure their personal safety and security.
25. Members and their guests may not at any time take photographs, film, video or mobile phone photographs or footage of performers.
26. The licensee must ensure that there is no display outside the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises.
27. Any promotional website for the premises must comply with the Advertising Standards Agency (ASA) regulations and will not display photographs or other images of topless or nude performers, or show photographs or other images that may reasonably be construed as offensive.
28. The premises website must include a clear requirement for compliance with the 'Challenge 25' proof of age scheme.
29. Any promotional literature circulated outside of the premises must not display photographs or other images of topless or nude performers, or show photographs or other images or words that may reasonably be construed as offensive.
30. All promotional literature must include clear statements as to the requirements of the 'Challenge 25' proof of age scheme.



## APPROVAL OF THE SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES LICENSING POLICY

LICENSING COMMITTEE, 15 JUNE 2011

## CONSULTATION RESPONSES

<b>Responding Organisation</b>	<b>Response Date</b>	<b>Respondents Comments</b>	<b>Licensing Authority Comments</b>	<b>Further Action Required</b>
Heather Day Cambridgeshire Fire & Rescue Service	24/01/2011	I have now read through this document. A very well written and comprehensive one.	None	None
Mepal Parish Council	17/02/2011	Mepal Parish Council considered this policy at the Full Council Meeting on Mon 14th February 2011. As a result it was unanimously resolved that there was no comment on the actual content of the document.	None	None
Witcham Parish Council	15/02/2011	Councillors considered this document at our meeting last week. We have no comments to make.	None	None
Witchford Parish Council	02/02/2011	Witchford Parish Council considered this draft policy at its meeting tonight, 2nd February 2011. Witchford Parish Council has no comments on the draft policy.	None	None