

# **POLICY IN RELATION TO SEX ESTABLISHMENT LICENSING**

## **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009)**

Whilst all applications will be judged and determined on their individual merits the policy will be the basis of the Licensing Authority's decisions. The policy will be reviewed regularly to reflect the needs of Boston Borough Council area.

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## **PART A - Sex Establishment Licensing**

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| <b>1.0</b>  | <b>Preface</b>  |
| 1.1.        | Boston 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 we can licence 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.  |
| 1.2.        | We do not make a moral stand in adopting this policy. We recognise 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 our role as a Licensing Authority to administer and enforce the licensing regime in accordance with the law.   |
| 1.3.        | The 1982 Act and the 2009 Act can be viewed at <a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a> .   |
| 1.4.        | We consulted on this Policy between 5 July 2011 and 9 September 2011 and it was approved by our Regulatory & Appeals Committee on 11 October 2011 and adopted by Cabinet on 1 November 2011.  |
| 1.5.        | <p>In developing this policy, we took into account the legal requirements of the 1982 and 2009 Acts and our duties under:</p> <ul style="list-style-type: none"><li>a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the District</li><li>b) The Regulators’ Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and</li><li>c) The provision of Services Regulations 2009 to ensure requirements are:<ul style="list-style-type: none"><li>i. Non- discriminatory</li><li>ii. Justified by an overriding reason relating to the public interest</li><li>iii. Proportionate to the public interest objective</li><li>iv. Clear and unambiguous</li><li>v. Objective</li><li>vi. Made public in advance, and</li><li>vii. Transparent and accessible</li></ul></li></ul> |
| <b>2.0.</b> | <b>The Boston Borough Council Area</b>  |
| 2.1.        | Boston Borough Council is situated in the south of the county of Lincolnshire, which contains 7 district councils in total. The Council has a population of 61,000 (as detailed in the population projection by the Office for National Statistics – Feb 2010) and is the smallest district in the County in terms of population. In terms of area it is the second smallest, covering 139 square miles. The council area is mainly rural with an urban area comprising of Boston town itself.  |
| 2.2.        | At the time of drafting this Policy, the Council licences one sex shop under the 1982 Act. The shop is located in Boston town centre. There is one premise authorised under the Licensing Act 2003 to provide entertainment that would require licensing as a sexual entertainment venue. This premise is also within Boston town centre.   |
| <b>3.0.</b> | <b>Commenting on Licence Applications</b>   |

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| 3.1.        | Unlike some other licensing regimes (such as for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences; the Police are a statutory consultee for all applications.  |
| 3.2.        | Objections must be relevant to the statutory grounds for refusal that are set out in the 1982 Act.   |
| 3.3.        | <p>We take the following approach to deciding applications:</p> <ul style="list-style-type: none"> <li>a) Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making;</li> <li>b) Objectors can include residents'/ tenants' associations, community associations and trade associations. Councillors may represent interested parties, providing they do not also sit on the Regulatory &amp; Appeals Committee determining the application in question.</li> <li>c) We will give clear reasons for our decisions.</li> </ul> |
| 3.4.        | We will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act) Decisions on whether objections are frivolous or vexatious will be made objectively by our Officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason.  |
| 3.5.        | A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.  |
| 3.6.        | Objections will be considered by the full Regulatory & Appeals Committee; we give both applicants and objectors an equal opportunity to state their case in accordance with our protocol, which is available from the Licensing Section.   |
| 3.7.        | <p>Objections should ideally:</p> <ul style="list-style-type: none"> <li>• Be made in writing (unless submitted electronically)</li> <li>• Indicate the name and addresses of the person or organisation making the representation</li> <li>• Indicate the premises to which the objection relates</li> <li>• Indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this</li> <li>• Clearly set out the reasons for making the objections.</li> </ul>   |
| <b>4.0.</b> | <b>Exchange of Information</b>   |
| 4.1.        | The Authority may from time to time exercise its powers under The Data Protection Act 1998 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime in the area.  |
| 4.2.        | Details of applications and objections which are referred to a Regulatory & Appeals Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.  |

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| 4.3.        | Where requested the names and addresses of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to Councillors on the Regulatory & Appeals Committee. |
| <b>5.0.</b> | <b>Compliance and Enforcement</b>  |
| 5.1.        | This Authority will keep itself informed of developments as regards the work of the Better Regulation Executive and other Central Government bodies in its consideration of the regulatory functions of Local Authorities.   |
| 5.2.        | Our approach to enforcement is set out in our enforcement policies, which are available on request.  |
| 5.3         | It is desirable that the licence holder(s) join the Shopwatch/Pubwatch scheme or any subsequent scheme that replaces them.   |

## **PART B – Sex Shops**

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| <b>6.0.</b> | <b>Sex Shops</b>  |
| 6.1.        | <b>Significant Degree</b><br>Licenses for sex shops are required where there are 18R films being sold or where there is “a significant degree” of “sex articles”.   |
| 6.2.        | The phrase “sex articles” is defined in the 1982 Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider: <ul style="list-style-type: none"> <li>a) The ratio of sex articles to other aspects of the business</li> <li>b) The absolute quantity of sales</li> <li>c) The character of the remainder of the business</li> <li>d) Turnover</li> <li>e) The nature of the display</li> <li>f) The nature of the articles</li> <li>g) Other factors which appear to be materially relevant.</li> </ul> <p>The Courts have indicated that no single factor is decisive when considering whether a shop sells sex articles to a significant degree. Significant degree cannot be prescribed by any rule of thumb so the Licensing Authority will decide on a case-by-case basis, which considerations are material to the individual case and what weight is to be attached to them.</p> |
| 6.3.        | There are some specific grounds for refusing sex establishment licences set out in paragraph 12 of schedule 3 to the 1982 Act. These include where the applicant is unsuitable to hold a licence, due to their age, domiciliary status or previous criminal convictions.  |
| 6.4.        | <b>Relevant Localities</b><br>We can also refuse applications for new or renewed licenses where: <ul style="list-style-type: none"> <li>a) The number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number, which we consider</li> </ul>  |

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|      | <p>appropriate for that locality.</p> <p>b) The grant or renewal of the licence would be inappropriate, having regard to</p> <ol style="list-style-type: none"> <li>i. The character of the relevant locality, or</li> <li>ii. The use to which any premises in the vicinity are put, or</li> <li>iii. To the layout, character or condition of the premises.</li> </ol>   |
| 6.5. | <p>We recognise that different parts of our Borough have different characteristics; the number or numbers of sex shops appropriate for a particular locality can be set by the Authority.</p> <p>In considering the characteristics of a locality we shall particularly take account of the density and proximity of:</p> <ul style="list-style-type: none"> <li>• Residential accommodation</li> <li>• Parks and children's play areas</li> <li>• Other retail units (and their uses)</li> <li>• Schools</li> <li>• Religious and communal buildings</li> <li>• Alcohol or entertainment licensed premises</li> </ul> |
| 6.6. | <p>Our Licensing &amp; Appeals Committee made a resolution on 29 November 2002, with reference to sex shops within the Borough of Boston that the appropriate number of Sex Establishments, be <b>ONE</b>.</p>   |
| 6.7. | <p>We would consider representations from applicants as to why our view should be changed about the permitted number or any particular locality. Where this is likely to affect existing licence holders, we will give notice allowing time for the existing licence holders to make representations.</p>  |
| 6.8. | <p><b>Duration of licence</b></p> <p>We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.</p>  |
| 6.9. | <p><b>Waivers</b></p> <p>We do not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by our full Regulatory and Appeals Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).</p>  |
| 6.10 | <p><b>Application form</b></p> <p>We have a standard application form, including public notices, which are available on request from the Licensing Section.</p>  |
| 6.11 | <p><b>Licence Conditions</b></p> <p>We have adopted standard conditions for the operation of sex shops that are set out at <b>Appendix I</b> of this Policy. Where it is reasonable and necessary to do so, our Regulatory &amp; Appeals Committee will impose additional proportionate conditions on a licence.</p>   |
| 6.12 | <p><b>Fees</b></p> <p>Our fees are set each year and details are available from the Licensing Section.</p>   |

## **PART C – Sex Entertainment Venues**

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| 7.0. |  |
| 7.1. | <p><b>Relevant Entertainment</b><br/> Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.</p>  |
| 7.2. | <p>“Relevant entertainment” is defined in schedule 3 (as amended by section 27 of the Policing and Crime Act 2009) as “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. in a private booth.</p>  |
| 7.3. | <p>In deciding whether entertainment is “relevant entertainment” we will judge each case on its merits, but will generally apply to:</p> <ul style="list-style-type: none"> <li>• Lap dancing</li> <li>• Pole dancing</li> <li>• Table dancing</li> <li>• Strip shows</li> <li>• Peep shows</li> <li>• Live sex shows</li> </ul> <p>Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003. Further information is available from the Licensing Section.</p>   |
| 7.4. | <p>There are some specific grounds for refusing sex establishment licences set out in Paragraph 12 of Schedule 3 to the 1982 Act. These include where the applicant themselves are unsuitable, due to their age, domiciliary status or previous criminal convictions.</p>  |
| 7.5. | <p><b>Relevant Localities</b><br/> We can also refuse applications for new or renewed licences where:</p> <ol style="list-style-type: none"> <li>a) The number of sex entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number, which we consider appropriate for that locality.</li> <li>b) The grant or renewal of the licence would be inappropriate, having regard to <ol style="list-style-type: none"> <li>i. The character of the relevant locality, or</li> <li>ii. The use to which any premises in the vicinity are put, or</li> <li>iii. To the layout, character or condition of the premises.</li> </ol> </li> </ol> |
| 7.6. | <p>If a number of premises is set for any locality within the borough then this Authority will indicate (in the table below) the locality, number of sex entertainment venues and the reason for the number.</p>   |

| Locality                | Number of Sex Entertainment Venues | Reason   |
|-------------------------|------------------------------------|--|
| <i>Whole of Borough</i> | <i>One</i>                         | The reason for setting the limit on the number of Sex Entertainment Venues at one is as Boston council, we feel, within a rural area, we do not want to impede a business variety within the Borough but also feel we do not want to encourage businesses that do not fit in within our local environmental and rural society. The Council therefore consulted on the number of establishments and received no objection to its proposal to limit the number to one” |

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| 7.7. | <p>The above table is not exhaustive and we would consider representations as to why our view should be changed about any particular locality Where this is likely to affect existing licence holders, we will give notice allowing time the existing licence holders to make representations.</p> <p>In considering the characteristics of a locality we shall take account of the density and proximity of:</p> <ul style="list-style-type: none"> <li>• Residential accommodation</li> <li>• Parks and children’s play areas</li> <li>• Other retail units (and their uses)</li> <li>• Schools and nurseries</li> <li>• Religious and communal buildings</li> <li>• Alcohol or entertainment licensed premises</li> </ul> |
| 7.8. | <p><b>Duration of licence</b></p> <p>We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of a year at a time to provide certainty to those operating businesses.</p>  |
| 7.9. | <p><b>Waivers</b></p> <p>We do not consider it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more then eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.</p>  |
| 7.10 | <p><b>Application form and operating schedule</b></p> <p>We have a standard application form, including public notices, which are available on request from the Licensing Section. As part of the application, the applicant will have to submit an Operating Schedule showing how the licensee will operate the premises, so as to comply with the standard conditions detailed at Appendix II of this document, together with a plan which must be in accordance with the requirements set out in Appendix 3.</p>  |

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|       | <p>The operating Schedule will detail:</p> <ul style="list-style-type: none"> <li>• stewarding arrangements, including the means by which physical contact between the audience and performers will be prevented.</li> <li>• the appearance and content of each type of advertising material outside and inside the premises.</li> <li>• the means by which potential customers will be made aware of the nature of the performance.</li> </ul> |
| 7.11. | <p><b>Licence conditions</b><br/> We have adopted standard conditions for the operation of sexual entertainment venues set out at <b>Appendix II</b> of this Policy. Where it is reasonable and necessary to do so our Regulatory &amp; Appeals Committee will impose additional proportionate conditions on a licence.</p>   |
| 7.12  | <p><b>Licence conditions - private booths or performing areas</b><br/> There will be a presumption against granting consent for private booths or private performing areas on the premises, unless the Council are satisfied that the relevant risk assessments have been undertaken and adequate safety measures and assurances are in place.</p>  |
| 7.13. | <p><b>Fees</b><br/> Our fees are set out each year and details are available from the Licensing Section. We charge separate fees for applying for a licence, renewing a licence and for making major and minor variations to a licence.</p>   |

## APPENDIX I

### BOSTON BOROUGH COUNCIL

#### REGULATIONS PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX SHOPS AND SEX CINEMAS

|    | <b>Definition</b>  |
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| 1. | <p>In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:-</p> <p>(i) “Sex Establishment” “Sex Cinema” “Sex Shop” and Sex Article” shall have the meanings ascribed to them in the 3<sup>rd</sup> Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>(ii) “Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said 3<sup>rd</sup> Schedule.</p> <p>(iii) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.</p> <p>(iv) “Approved” means approved by the Council in writing.</p> <p>(v) “The Council” means Boston Borough Council.</p> <p>(vi) “He” means he or she and “his” means his or her.</p> |
|    | <b>General</b>   |
| 2. | <p>In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.</p>  |
| 3. | <p>The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the 3<sup>rd</sup> Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p>  |
|    | <b>Times of Operation</b>  |
| 4. | <p>Except with the previous consent of the Council a Sex Establishment shall only be open between 9.00am and 8pm Monday to Saturday inclusive.</p>   |
| 5. | <p>Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays or any Bank holidays or any public holidays.</p>   |

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|     | <b>Conduct and Management of Sex Establishments</b>   |
| 6.  | Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council. |
| 7.  | The Licensee or a responsible person nominated by him in writing, for the purpose of managing the Sex Establishment, and of who details have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the public.   |
| 8.  | The name of the person responsible for the management of a Sex Establishment (the Licensee or a manager approved by the Council) shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.  |
| 9.  | The Licensee shall retain control over all portions of the Premises and shall not let, license or part with possession of any part of the premises.   |
| 10. | The Licensee shall maintain good order in the Premises.   |
| 11. | The Licensee shall ensure that there is no nuisance or annoyance to neighbouring residents or commercial occupiers arising from noise emanating from the premises.  |
| 12. | No person under the age of 18 shall be admitted to the Premises or employed in the business of the Sex Establishment.   |
| 13. | The Licensee 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.   |
| 14. | No part of the Premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.  |
| 15. | Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.   |
| 16. | The Licensee shall comply with all statutory provisions and any regulations made there under.   |
| 17. | The copy of the licence and of these Regulations is required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. A copy of the licence, being at least A4 in size, is required to be displayed and shall be suitably framed A copy of these Regulations shall be retained in a clean and legible condition.   |
| 18. | A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.   |
|     | <b>User</b>   |

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| 19. | No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.  |
| 20. | No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.   |
| 21  | Neither Sex Articles nor other things intended for use in connection with, or 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>Goods available in Sex Establishments</b>   |
| 22. | All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.   |
| 23. | All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.   |
| 24. | The Licensee shall, without charge, display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.   |
|     | <b>External Appearance</b>   |
| 25. | The licence holder shall comply with any requirements relating to the external appearance of the licensed premises as the Council may consider reasonably necessary for the preservation of public amenity.  |
| 26. | Without prejudice to the generality of Regulation 19 above no advertisement, display, work, letter, model, sign, placard board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be displayed outside or on the exterior of the licensed premises or inside the licensed premises so as to be visible from outside such premises without the consent of the Council except:-<br><br>(i) as required by law or regulation; or<br><br>(ii) the name of the business carried on at the licensed premises; in not more than one place, in characters not exceeding 37cm in height. |
| 27. | The licence holder shall ensure that the interior of the licensed premises shall not be visible to persons outside the premises.   |
|     | <b>State, Condition and Layout of the Premises</b>   |
| 28. | The Premises shall be maintained in good repair and condition.   |
| 29. | Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.   |
| 30. | There shall be exhibited on the licensed premises a warning notice containing the following words and no others:   |

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|            | <b><u>“WARNING”</u></b>   |
|            | <p><b>NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE</b></p> <p>(a) the word “WARNING” must appear as a heading;</p> <p>(b) no pictures or other matter shall appear on the notice;</p> <p>(c) The notice must be so situated that no one could reasonably gain access to the licensed premises or any part of such premises without being aware of the notice and it must be easily legible by any person gaining such access.</p>   |
| <b>31.</b> | <p>The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-</p> <p>(i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word “exit”.</p> <p>(ii) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked “private”.</p> <p>(iii) Save in the case of emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.</p> |
| <b>32.</b> | <p>The external doors of the licensed premises shall be fitted with self closing door mechanisms and such mechanism shall be maintained in good working order. No external door shall be fixed in the open position at any time during which the premises are open for the serving of customers. A partition shall be erected inside the premises in such a position so that the interior of the premises and the contents cannot be seen when the front door of the premises is opened.</p>  |
| <b>33.</b> | <p>The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.</p>  |
| <b>34.</b> | <p>Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.</p>  |
| <b>35.</b> | <p>All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.</p>   |
| <b>36.</b> | <p>The Licensee shall provide and maintain satisfactory sanitary conveniences and personal washing facilities for any staff employed by him.</p>  |

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|     | <b>Safety</b>   |
| 37. | The Licensee shall take all reasonable precautions for the safety of the public and employees.  |
| 38. | The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council or the Fire Prevention Officer.   |
| 39. | The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use, in accordance with the requirements of the Fire Prevention Officer. |

## APPENDIX II

### REGULATIONS PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX ENTERTAINMENT VENUES AND STANDARD LICENCE CONDITIONS

|           | <b>Definition</b>  |
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| <b>1.</b> | <p>In these Conditions save when the context otherwise requires the following expressions shall have the following meanings:-</p> <p>a) “Sex Establishment” and “Sex Entertainment Venue” shall have the meanings ascribed to them in the 3<sup>rd</sup> Schedule of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009)</p> <p>b) “Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule.</p> <p>c) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.</p> <p>d) “Approved” means approved by the Council in writing.</p> <p>e) “The Council” means Boston Borough Council</p> <p>h) “He” means he or she and “his” means his or her.</p> |
| <b>2.</b> | Sexual entertainment shall only take place between xxxx and xxxx hours on the following days xxxx.   |
| <b>3.</b> | A copy of this licence and these conditions shall be securely displayed and suitably protected against theft, damage or defacement in a prominent position where they can be easily read by all customers.   |
| <b>4.</b> | The Licensee shall ensure that each performer is fully aware of the licence conditions and the House Rules. A register to evidence that each performer has been given a copy of these conditions and the House Rules and that they have read them, understood them and will comply with them must be maintained. This register must be made available to an authorised officer of the Council or a Police Officer upon request.  |
| <b>5.</b> | The Licensee must remain in personal control of the premises at all times or nominate an individual in writing to the Council to direct activities within the premises. The nominated person must be aged 18 years or over.  |
| <b>6</b>  | There shall be provided door supervisors/stewards in such number as agreed in  |

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|     | <p>writing with Boston Borough Council, sufficient to control entry of persons to the premises and for keeping of order in the premises when sexual entertainment is being provided. The aforementioned door supervisor and any other individual employed on the premises to conduct a security activity (within the meaning of section paragraph 2(1) (a) of Schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.</p>  |
| 7.  | <p>No person being staff, performer, entertainer, visitor or customer under the age of 18 shall be admitted to any part of the premises whilst sexual entertainment is being performed or at any time whilst a rehearsal or audition for such entertainment is being conducted. A clear notice shall be displayed at each entrance to the premises, in a prominent position so that it can easily be read by people entering the premises, saying :</p> <p>"NO PERSONS UNDER THE AGE OF 18 SHALL BE ADMITTED"</p> <p>Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age. The licensee must provide prominent notices at each entrance to the premises to this effect.</p>  |
| 8.  | <p>Performers shall be aged not less than 18 years. The licensee must maintain adequate records of the names, addresses, national insurance number and dates of birth of performers and carry out identity checks. Adequate identity checks are the checking, photocopying and keeping of the photocopy of a passport, driving licence, national identity card or PASS card</p>   |
| 9.  | <p>The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.</p> <ol style="list-style-type: none"> <li>a) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.</li> <li>b) The Licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the premises.</li> <li>c) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the premises is not visible from the outside of the premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from the outside of the premises.</li> </ol> |
| 10. | <p>Performances of sexual entertainment shall not be the subject of any advertising involving the distribution of leaflets in the street, promotion by canvassers or by touting in the street.</p>  |
| 11. | <p>The Licensee shall ensure that no more than the permitted number of members of the public shall be present on the premises at any time whilst sexual entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.</p>   |

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| 12. | Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council. There shall be no private booths or private performing areas provided on the premises (unless specifically permitted in writing by the Council).  |
| 13. | Performances of sexual entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose.  |
| 14. | There must be in place policy to ensure the safety of the performers when they leave the Premises after a period of work.  |
| 15. | No performer shall be allowed to work if they appear to be under the influence of intoxicating liquor and/or drugs.  |
| 16. | Performers shall be provided with changing room(s), including hot and cold washing facilities and a toilet that shall be located so as to be separate and apart from public facilities. No person other than performers and authorised staff shall be permitted in the changing room(s).   |
| 17. | Performers must remain clothed in public areas and all other areas except while performing in areas approved by the Council as where sexual entertainment may be provided.   |
| 18. | Performers must dress fully at the end of each performance.  |
| 19. | Performers must never be alone in the company of a customer except in an area open to the public within the Premises.  |
| 20. | The Licensee is to ensure a sufficient number of staff are employed inside the premises whilst sexual entertainment is provided to supervise the performers and customers  |
| 21. | Performers must not perform nude unless in a supervised area or within five metres of a floor supervisor.  |
| 22. | <p>The Licensee must ensure that during performances to which this Licence relates:</p> <ul style="list-style-type: none"> <li>a) The sexual entertainment shall be restricted to dancing and the removal of clothes, there shall be no other form of sexual activities including an act that clearly simulates any sexual act.</li> <li>b) Performers may not use inappropriate, suggestive or sexually graphic language at any time;</li> <li>c) Performers must never intentionally touch the genitals or breasts of another performer or to knowingly permit another performer to intentionally touch their genitals or breasts;</li> <li>d) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;</li> <li>e) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the Council.</li> </ul> |
| 23. | <p>The Licensee must ensure that during performances to which this Licence relates :</p> <ul style="list-style-type: none"> <li>a) Customers may not dance at any time except in areas specifically designated</li> </ul>  |

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|            | <p>by the Council as being separate from areas for sexual entertainment.</p> <p>b) Customers must remain appropriately clothed at all times.</p>   |
| <b>24.</b> | Apart from that permitted under Condition (25) below, there shall be no physical contact between any member of the audience or any performer(s).   |
| <b>25.</b> | The only time any physical contact shall be allowed between a performer and a customer is when the performer introduces herself/himself with a formal handshake or when a gratuity or tip is placed in the garter or armband. Other than that, there shall be no contact.  |
| <b>26.</b> | No performer shall accept or give any telephone number, email address, address, contact information or business card or note from or to members of the audience.   |
| <b>27.</b> | The licensee, management or anyone concerned in providing the approved entertainment shall not encourage or permit the encouragement of the audience to throw money or otherwise give gratuities to the performers except as permitted by condition (22) above.  |
| <b>28.</b> | The Licensee shall provide a copy of the House Rules to the Licensing Authority for approval. The House Rules shall be provided in English and in the languages agreed by the Licensing Authority. The current key languages other than English being Polish, Lithuanian, Latvian. Portuguese and Russian.   |
| <b>29.</b> | <p>On arrival, each customer shall be provided with a copy of the House Rules which shall include:</p> <ul style="list-style-type: none"> <li>a) No person under the age of 18 years shall be admitted to the premises.</li> <li>b) The only time any physical contact will be allowed between a performer and a customer is when the performer introduces herself/himself with a handshake or when a gratuity or tip is placed in the garter or armband. Other than that, there shall be no contact.</li> <li>c) No member of the audience shall throw money or otherwise give gratuities to the performers except as permitted in section (b) above.</li> <li>d) There shall be no physical participation by any member of the audience.</li> <li>e) No customer shall accept from or give to any performer any telephone number, email address, address, contact information, business card note or similar.</li> </ul> |
| <b>30.</b> | <p>The House Rules (minimum A4 in size) shall be securely displayed at all times in such a manner that they can be easily read by the customers and performers and suitably protected against theft, damage or defacement, in at least the following locations.</p> <ul style="list-style-type: none"> <li>a) At the point of entry (to include a copy in the additional languages detailed by Boston Borough Council).</li> <li>b) At the point of payment</li> <li>c) Above each urinal</li> <li>d) At each bar</li> <li>e) In the performers changing area (to include a copy in the additional languages detailed by Boston Borough Council).</li> <li>f) At the entrance to the performance area</li> <li>g) In each private booth should provision of such booths have been authorised by the Council</li> </ul>   |

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| <b>31.</b> | <p>The Licensee shall ensure that working CCTV is installed (both internally and externally). The CCTV to be maintained to the satisfaction of Lincolnshire Police, and the licensee to ensure that any images are:</p> <ul style="list-style-type: none"><li>a) retained for a period of at least 31 days, and</li><li>b) made available on request to a Police Officer or Authorised Officer of the Council.</li></ul> |
| <b>32.</b> | <p>No still or moving photographic or video recordings other than under condition (31) above shall be made of any performance of an approved entertainment.</p>  |
| <b>33.</b> | <p>The Licensee shall provide, in a timely fashion, copies of any documents reasonably required by an Authorised Officer of the Council in relation to compliance with this licence.</p>   |

## **APPENDIX III**

### **Application for a Licence for Sexual Entertainment Venue (SEV)**

#### **Plan of the Premises**

The licence application must be accompanied by a scale plan of the premises, which meets the detailed requirements described below. The recommended scale of the plan is 1:100. Any different scale must be agreed with the Licensing Authority prior to the submission of the licence application.

The plan must show

1. The layout of the premises including:
  - The area where the entertainers will perform,
  - The means of access to and egress from the performance area,
  - The performers' dressing room, including toilet facilities
  - The seating layout for the customers,
  - The cloakroom
  - The bar or bars
2. The extent of the boundary of the premises outlined in red,
3. The extent of the public areas outlined in blue,
4. Uses of different areas of the premises (e.g. performance area, reception etc),
5. Structures of objects (including furniture) which may impact of the ability of individuals to use exits or escape routes without impediment,
6. Location of points of access to and egress from the premises,
7. Any parts used in common with other premises,
8. Where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor,
9. Position of CCTV cameras,
10. Where the premises includes any steps, stairs, elevators or lifts, the location of the same,
11. The location of any public conveniences, including toilets for use by persons with disabilities.
12. The position of any ramps, lifts or other facilities for the benefit of disabled people.
13. Any level changes at the entrance to or within public parts of the premises which may be inaccessible to disabled people.
14. The location and type of fire safety and any other safety equipment.

15. The location of any kitchen on the premises.
16. The location of emergency exits.
17. The plan must also show how the premises lie in relation to the street.