

**Report to:** Executive Cabinet Member  
Environmental Services

**Date:** 4<sup>th</sup> November 2013

# Bolton Council

**Report of:** Director of Environmental Services

**Report No:** ECMES/37/13

**Contact Officer:** Sarah Schofield

**Tele No:** 336718

**Report Title:** **Sex Establishments - Draft Policy and Proposal to Consult**

**Non Confidential:** **(Non-Confidential)** This report does **not** contain information which warrants its consideration in the absence of the press or members of the public

**Purpose:** The Executive Cabinet Member to consider the draft Sex Establishment Policy and recommend that they agree to consult on whether to adopt the provisions of section 27 of the Policing and Crime Act 2009

**Recommendations:** The Executive Cabinet Member is requested to consider the draft Sex Establishment Policy and it is recommended that they agree to consult on whether to adopt the provisions of section 27 of the Policing and Crime Act 2009

**Decision:**

**Background Doc(s):**

*(for use on Exec Rep)*

**Signed:**

\_\_\_\_\_  
Leader / Executive Member

\_\_\_\_\_  
Monitoring Officer

**Date:**

\_\_\_\_\_

\_\_\_\_\_

## 1. BACKGROUND

- 1.1. In April 2010 section 27 of the Policing and Crime Act 2009 came into force. The legislation amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to give local authorities the powers to licence lap dancing clubs and similar premises as “sexual entertainment venues”.
- 1.2. The powers are not mandatory and only apply where they are adopted by the local authority. However if a local authority has not made a resolution to adopt the provisions within one year of their introduction (i.e. by April 2011) it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

## 2. DEFINITIONS

- 2.1 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.”*
- 2.2 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).
- 2.3 Home Office guidance states that the following would be deemed to be relevant entertainment:
  - Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows

## 3 ADOPTING THE PROVISIONS

- 3.1 Bolton Council has already adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of sex shops and sex cinemas however a further resolution is necessary before the new provisions introduced by Section 27 of the Policing and Crime Act 2009 will have effect in Bolton. The process for the adoption of the amendments to Schedule 3 is set out in Section 2 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.2 Firstly, the local authority would have to pass a resolution specifying that the amendments to Schedule 3 will apply in Bolton and the day on which they will come into force. The specified day must be more than one month after the day on which the resolution was passed.

- 3.3 The local authority then has to publish a notice that they have passed a resolution under paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009 for two consecutive weeks in a local newspaper that is circulated in the area. The first publication must be no later than 28 days before the day specified in the resolution for the provisions to come into force in the local authority's area. The notice must state the general effect of Schedule 3.

#### **4 NECESSITY TO CONSULT**

- 4.1 There is no statutory duty for a local authority to seek the views of local people and businesses but the Home Office guidance recommends that it is good practice to do so prior to deciding whether to pass a resolution. The guidance also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made to ensure affected businesses are aware of what action they will need to take in order to comply with the new regime.
- 4.2 However as Bolton Council did not adopt the new provisions by April 2011 then we must, as soon as reasonably practicable, consult local people about whether the local authority should make such a resolution. "Local people" is defined as persons who live or work in the area of the local authority.
- 4.3 It is proposed to use a universal survey so that a wide range of stakeholders are able to participate should they choose to do so. The use of a standard format for all consultees will also ensure consistency of response.
- 4.4 The survey response form will be made available via a range of channels:
- Online via the council's website
  - By email to those who have signed up to the council's eView consultation panel
  - By email to stakeholders, including the existing businesses. A full list is provided at appendix B.
  - Printed copies will be available on request from the One Stop Shop
- 4.5 The consultation will be promoted via the council's website, where it will feature on the relevant service section.

#### **5 IMPLICATIONS OF ADOPTING THE PROVISIONS**

- 5.1 It is believed that Bolton Council only has one premises which would be required to be licensed under the new provisions.
- 5.2 Adopting the provisions would give the Council greater powers to regulate Sex establishments.
- 5.3 Premises which provide relevant entertainment on an infrequent basis do not need to be licensed as sexual entertainment venues. An infrequent basis is defined as:
- no more than 11 occasions in a 12 month period
  - occasions to be at least a month apart
  - no occasion to last longer than 24 hours

## **6 DRAFT POLICY**

- 6.1 A draft Sex Establishment Policy is attached at appendix D and Members are requested to consider this policy and provide comments. In addition to Sexual Entertainment Venues, the policy also covers Sex Shops and Sex Cinemas. Sex Shops and Sex Cinemas are already regulated by the Council and therefore this policy or the adoption of the new provisions would not have an impact on them.
- 6.2 It is recognised that Bolton town centre is likely to be the main locality where an application to operate as a sex entertainment venue would be received. However, it is also recognised that one of the corporate objectives of the Council is to promote re-generation of the town centre and it is seen that granting a sex establishment licence within the locality of the town centre could be detrimental to that re-generation. Therefore the Council consider it appropriate to set the relevant number of sex establishment licences for the town centre to zero. For the purposes of this policy the town centre is defined as the area within the boundary on the map at appendix A of the policy.
- 6.3 In other localities, including other town centres within the borough, there is a general presumption for refusal especially where the characteristic of the locality is made up of:
- i) residential accommodation,
  - ii) parks and children's play areas,
  - iii) other retail units (and their uses),
  - iv) schools, nurseries, children centres, colleges or university
  - v) religious and communal buildings
  - vi) alcohol or entertainment licensed premises
  - vii) historic buildings or tourist attractions
  - viii) family shopping or leisure areas
  - ix) any other existing sex establishments
- 6.4 With the new proposed restrictions in the policy regarding the localities for these establishments some existing premises would not comply with the policy. Therefore it is suggested that there will be a rebuttable presumption that an application to renew a sex establishment licence, or from an applicant has operated a venue as sex entertainment venue prior to 31<sup>st</sup> March 2013, will be granted.

## **7 FEES**

- 7.1 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 states that an applicant for the grant, renewal, variations or transfer of a sex establishment licence shall pay a "reasonable fee" to be determined by the appropriate authorities

## **8      EQUALITY IMPACT ASSESSMENT (EIA)**

- 8.1      An EIA has been completed for this draft policy and this can be found at appendix C.

## **9      RECOMMENDATIONS**

- 9.1      The Executive Cabinet Member is asked to consider the draft Sex Establishment Policy and it is recommended that they agree to consult on whether to adopt the provisions of section 27 of the Policing and Crime Act 2009.



## Proposed changes to Sexual Establishment policy

### Proposed Sexual Establishment Policy

Sexual Establishments include sex cinemas, sex shops and venues which provide lap, pole or table dancing, strip, peep or live sex shows. They are all legal in this country and councils are unable to ban them if they operate within the law.

Bolton Council is proposing a new Sexual Establishment policy which incorporates Section 27 of the Policing and Crime Act 2009, giving us greater powers to license and regulate Sexual Establishments.

Full details of the proposed Sex Establishment policy and relevant legislation can be found on the [refer to relevant area of website or insert link to proposals here](#).

While there are very few Sexual Establishments in the borough at the moment, adopting the proposed policy would allow the council to limit the number of Sexual Establishments in any area and decide where we did not want them.

For example, we could decide that no new Sexual Establishments should be allowed in Bolton town centre, because they could damage the local economy.

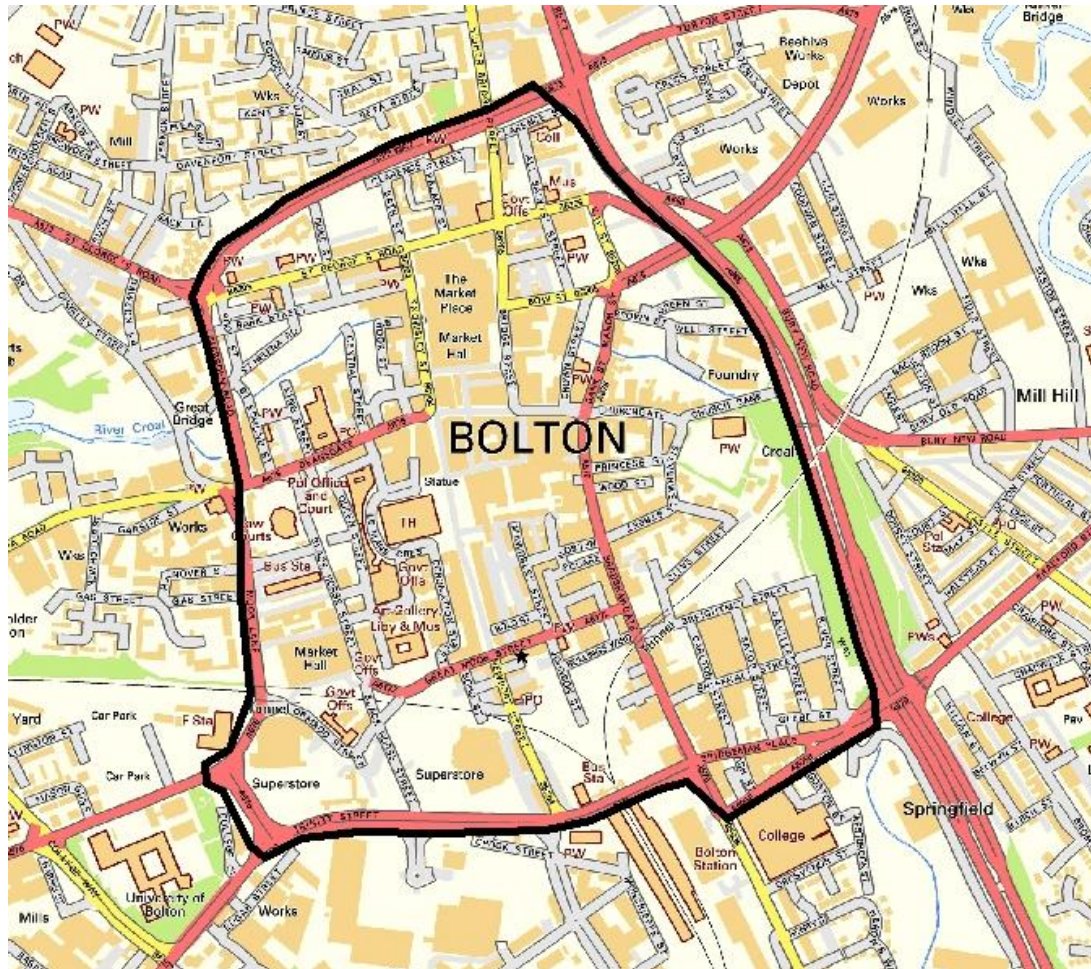
We could also decide that no new Sexual Establishments should be allowed anywhere that we feel is inappropriate. This could include places where children / young people congregate [such as schools and parks], areas where people live or shop, and near to places of worship.

We would like to hear what you think about the proposed policy and whether we should adopt it or not.

## Exclusion areas

If the legislation is adopted, the council will be able limit the number of Sexual Establishments in any area.

The proposal is that no new Sexual Establishments will be licensed within Bolton town centre [within the black boundary of the map]



Q1 Do you have any comments on this proposed town centre exclusion zone?

Applications may be considered outside the town centre, but these will generally not be granted, especially if the area is made up of residential accommodation, parks or children's play areas, shops, schools, colleges, universities, religious buildings, communal buildings, licensed premises [eg pubs and clubs], historic buildings or tourist attractions, family shopping or leisure areas.

**Q2 Do you have any comments on these proposed exclusion areas?**

#### **If the proposed policy is adopted**

**Q3 How will you be affected, if at all, if the proposed policy is adopted?**

#### **Alternative suggestions**

**Q4 Please use this space if you wish to suggest any alternatives or additions to the proposed policy.**

#### **Comments and alternative solutions**

**Q5 Having looked at the proposed policy and taken everything into consideration, how strongly do you agree or disagree that Bolton Council should adopt the proposed Sexual Establishment policy in order to regulate these premises?**

☐ Strongly agree      ☐ Agree      ☐ Disagree      ☐ Strongly disagree      ☐ Don't know

**Q6 Please use this space if you wish to make any further comments.**

**About you. Questions in this section are entirely optional. Please be assured that no individual will be identified in any report.**

**Q7 In what capacity are you completing this questionnaire?**

- ☐ Live / work in Bolton borough
- ☐ Local Councillor
- ☐ Staff / owner / manager of licensed premises [pub, club etc]
- ☐ Staff / owner / manager of Sexual Establishment
- ☐ Representative of a religious / faith group
- ☐ Representative of statutory authority [police etc]
- ☐ Other

*If 'other' please state*

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Please use this box if you wish to give us further details of the organisation you represent.....

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Please give you postcode. If you don't want to give the full postcode, pleas provide the first 4 characters eg BL1 2.....

**Thank you for completing this questionnaire.**

## **Appendix B – Proposed Consultees**

It is suggested that the following stakeholder organisations and individuals should be invited to comment on the proposed adoption of the new powers:

- Development and Regeneration Department (Planning Control, Building Control, Town Centre Strategy)
- Community Safety – Crime and Disorder
- Children's Services Department (Child Protection)
- Regulatory Services
- Legal and Democratic Services
- Voluntary and Community Organisations
- Primary Care Trust (Medical Practices)
- Faith Leaders Forum
- Town centre ward Councillors
- GM Police
- GM Fire and Rescue Service
- Current sex establishments including sexual entertainment venues in Bolton
- Town Councils

**Equality Impact Assessment  
Part 1: Screening Form**

<b>Title of report or proposal:</b>
Sex Establishment Draft Policy and Proposal to Consult

<b>Department:</b>	Environmental Services
<b>Section/SIAP unit:</b>	Licensing, Neighbourhood and Regulatory Services
<b>Date:</b>	15 <sup>th</sup> October 2013

This report is for decision and is therefore subject to an Equality Impact Assessment. The following questions have been completed to ensure that this proposal, procedure or working practice does not discriminate against any particular social group. Details of the outcome of the Equality Impact Assessment will also be included in the main body of the report.

# Equality Impact Assessment Questions

**1. Describe in summary the aims, objectives and purpose of the proposal, including desired outcomes:**

In April 2010 section 27 of the Policing and Crime Act 2009 came into force. The legislation amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to give local authorities the powers to licence lap dancing clubs and similar premises as “sexual entertainment venues”.

The powers are not mandatory and only apply where they are adopted by the local authority. However if a local authority has not made a resolution to adopt the provisions within one year of their introduction (i.e. by April 2011) it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

Bolton Council is proposing to adopt these new provisions which will give it greater powers to regulate sex establishments.

**2. Who are the main stakeholders in relation to the proposal?**

The main stakeholders in relation to this proposal are listed below and it is suggested that they should be invited to comment on the proposed adoption of the new powers:

- Development and Regeneration Department (Planning Control, Building Control, Town Centre Strategy)
- Community Safety – Crime and Disorder
- Children’s Services Department (Child Protection)
- Regulatory Services
- Legal and Democratic Services
- Voluntary and Community Organisations
- Primary Care Trust (Medical Practices)
- Faith Leaders Forum
- Town centre ward Councillors
- GM Police
- GM Fire and Rescue Service
- Current sex establishments including sexual entertainment venues in Bolton

**3. In summary, what are the anticipated (positive or negative) impacts of the proposal?**

The proposal to adopt the provisions of section 27 would give the Council powers to licence sexual entertainment venues which would mean in practice that there would be greater regulation of all sex establishments in Bolton including sex entertainment venues, sex shops and sex cinemas. For local people the impact of Bolton Council adopting these new powers would be positive as greater restrictions would be placed on the operation of sex establishments.

**Impact for the business community**

The new policy would impact on current businesses already operating in Bolton as sex

entertainment venues but it is likely that existing businesses would be allowed to continue to operate in their current locations even if they do not comply with the new restrictions written into the policy.

### **Impact for the wider community**

The changes proposed in the revised Statement of Principles are not anticipated to impact significantly on the wider community.

4. With regard to the stakeholders identified above and the diversity groups set out below:

	Is there any potential for (positive or negative) differential impact?	Could this lead to adverse impact and if so what?	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group, or for any other reason?	Please detail what measures or changes you will put in place to remedy any identified adverse impact
<b>Race</b>	It is not anticipated that the proposed amendments will have an effect on the grounds of race.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of race.	Not applicable at this time.	Consultation on the proposed adoption of the powers and the new policy will be undertaken with stakeholders including representatives from the business community.
<b>Religion</b>	There will be a presumption for refusal of a licence if the locality includes religious buildings	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of faith.	Not applicable at this time.	Consultation on the proposed adoption of the powers and the new policy will be undertaken with stakeholders including representatives from the different faith groups.
<b>Disability</b>	It is not anticipated that the revised statement will have an impact on the grounds of disability.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of disability.	Not applicable at this time.	As the Licensing Authority Bolton Council has responsibilities under equality legislation, which includes eliminating discrimination, promoting

	<p>Businesses have obligations under national equality legislation, which can include the requirement to make reasonable adaptations for people who have a disability. They also have an obligation to ensure that appropriate evacuation arrangements are in place in the event of an emergency, and that patrons who have a disability are made aware of these arrangements.</p>			<p>equality of opportunity and fostering good relations. As such, we work with the business community to fulfil these duties.</p> <p>Consultation on the proposed adoption of the powers and the new policy will be undertaken with stakeholders including representatives from the business community.</p>
<p><b>Gender (including gender reassignment)</b></p>	<p>The new provisions will give Bolton Council greater powers to ensure that the licence holders comply with the standard conditions laid down in the policy including rules relating</p>	<p>It is not anticipated that the proposed amendments will have an adverse impact on the grounds of gender.</p>	<p>Not applicable at this time.</p>	<p>Consultation on the proposed adoption of the powers and the new policy will be undertaken with stakeholders including representatives from the business community.</p>

	to the conduct of the performers. These conditions give the performers, mainly female, greater protection.			
<b>Age</b>	<p>There will be a presumption for refusal of a licence if the locality includes schools, nurseries, childrens centres, colleges or university.</p> <p>The standard conditions in the policy for all sex establishments and sex venues include a requirement for them to operate the challenge 25 proof of age scheme ensuring that people under the age of 18 are not allowed into the premises.</p>	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of age	Not applicable at this time.	Consultation on the proposed adoption of the powers and the new policy will be undertaken with stakeholders including representatives from Children's services department.

<b>Sexuality</b>	It is not anticipated that the proposed amendments will have an effect on the grounds of sexuality.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of sexuality.	Not applicable at this time.	Any issues relating to sexuality highlighted in the consultation process will be addressed in a reviewed EIA.
<b>Caring status (including pregnancy &amp; maternity)</b>	It is not anticipated that the proposed amendments will have an effect on the grounds of caring status.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of caring status.	Not applicable at this time.	Any issues relating to caring status highlighted in the consultation process will be addressed in a reviewed EIA
<b>Marriage and civil partnership</b>	It is not anticipated that the proposed amendments will have an effect on the grounds of marriage and civil partnership.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of marriage and civil partnership.	Not applicable at this time.	Any issues relating to marriage and civil partnership highlighted in the consultation process will be addressed in a reviewed EIA
<b>Socio-economic</b>	It is not anticipated that the proposed amendments will have an effect on the grounds of socio-economic.	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of socio-economic.	Not applicable at this time.	Any issues relating to socio-economic highlighted in the consultation process will be addressed in a reviewed EIA
<b>Other comments or issues</b>	Existing sex establishments and venues will have some of the locality restrictions lifted in order to ensure they can continue to operate their business in their current location.			

<p><b>Please provide a list of the evidence used to inform this EIA, such as the results of consultation, service take-up, service monitoring, surveys, stakeholder comments and complaints where appropriate.</b></p> <p><b>If you have undertaken consultation as part of the proposal, the consultation manager will upload it on to the corporate database.</b></p>	<ul style="list-style-type: none"> <li>• The draft Sex Establishment Policy</li> <li>• National legislative frameworks and guidance – Sexual Entertainment Venues March 2010</li> <li>•</li> </ul>
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**5.a Are there any gaps in your evidence or conclusions that make it difficult for you to quantify the potential adverse impact?**

No

**5.b If so, please explain how you will explore the proposal in greater depth or please explain why no further action is required at this time.**

Please see above.

**You may wish to consider undertaking secondary data analysis, further consultation or research or investigating best practice. If you are planning to undertake further consultation or research as a result of this EIA, please contact the Consultation Manager on ext. 1083.**

# Sex Establishment Policy

(incorporating Sex Shops, Sex Cinemas and  
Sexual Entertainment Venues)

Published date TBC (due for review by date TBC)

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## **Introduction**

- 1.1. This Policy statement provides Bolton Council's (hereinafter "the Council") approach to the regulation of sex establishments (sex shops, sex cinemas, and sexual entertainment venues) as set out in the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009, within the borough of Bolton.
- 1.2. The Council's policy is that there is a rebuttable presumption against the grant of any new applications for a sex establishment licence in any area of Bolton. This policy does not apply to the renewal of existing licences. Of course, applications for new licences may still be made and will be considered accordingly by the Council. The policy in respect of existing venues is set out in more detail in 5.3 b) and 5.4 below.
- 1.3. The Policy sets out an overview of the administrative process for the licensing sex establishments including particular considerations that the Council will have in relation to the location of premises, which are set out at Section 4. Also included are the Council's Standard Conditions for sex establishments, which shall be considered the basic norm for premises licensed in Bolton.

## **Definition of Sex Shop**

- 1.4. A "sex shop" is defined as any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
  - a) sex articles; or
  - b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
    - i) sexual activity; or
    - ii) acts of force or restraint which are associated with sexual activity.

## **Definition of Sex Cinema**

- 1.5. A "sex cinema" is defined as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –
  - a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage -
  - b) sexual activity; or

- c) acts of force or restraint which are associated with sexual activity; or
- d) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

but does not include a dwelling-house to which the public is not admitted.

### **Definition of Sexual Entertainment Venue**

1.6. 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.

“Relevant entertainment” means –

- a) any live performance; or
- b) any 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 the audience (whether by verbal or other means).

### **Premises that cannot be licensed as Sexual Entertainment Venues**

1.7. The following are premises that are not sexual entertainment venues:

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

### **Information Relevant to Sexual Entertainment Venues**

1.8. Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called “sexual entertainment venue”, defined as “any

premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer”.

1.9. Paragraph 2A of Schedule 3 as inserted by Section 27 defines the meaning of ‘relevant entertainment’ 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 verbal or other means)”. An audience can consist of just one person. The definition of relevant entertainment is expected to apply to the following terms of entertainment as they are commonly understood:

- a) Lap dancing
- b) Pole dancing
- c) Table dancing
- d) Strip shows
- e) Peep shows
- f) Live sex shows

1.10. Relevant entertainment is not restricted to the above defined forms of entertainment and will be considered with regard to the nature of the entertainment, not the name it is given.

1.11. Paragraph 2A(14) of Schedule 3 sets out the definition of nudity with regard to ‘relevant entertainment’; in the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man, it means exposure of his pubic area, genitals or anus.

1.12. The ‘organiser’ means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. The ‘organiser’ must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment.

## 2. The Grounds for Refusal

### Mandatory

2.1. A licence **must** not be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA state; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

### Discretionary

2.2. A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed, or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate having regard -
  - i) to the character of the relevant locality; or
  - ii) to the use to which any premises in the vicinity are put; or
  - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

- 2.3. A decision to refuse a licence must be relevant to one or more of the above grounds.
- 2.4. Bolton Council will have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.
- 2.5. If, having considered an application for the grant, renewal or transfer of a licence, Bolton Council decides to refuse it on one or more of the above grounds, the reasons for the decision will be provided in writing to the applicant.
- 2.6. Applications will only be refused where the Council considers it as necessary and proportionate to do so, and any decision shall be on a non-discriminatory basis.

### **3. The Grounds for Revocation**

- 3.1 The grounds for revocation of a licence are the same as the grounds for refusal laid out in section 2 with the exception of paragraphs 2.2c and 2.2d.

### **4. The Application Process**

#### **Application Form**

- 4.1. Applications for a sex establishment licence must be made on the prescribed form available upon request from the Licensing Unit or at: [www.bolton.gov.uk](http://www.bolton.gov.uk).
- 4.2. Applications to increase the size of an existing premises should be made as a new licence application.
- 4.3. Changes to the permitted hours, internal layout of the premises and licence conditions may be made by way of a variation to the licence.
- 4.4. All renewals and variations to the licence have to follow the same process as for first grant applications.

#### **Electronic Submission of Applications**

- 4.5. Applications may be made electronically on the prescribed form available at [www.bolton.gov.uk](http://www.bolton.gov.uk).

#### **Advertisement of Application**

- 4.6. Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper in the Bolton area no later than 7 days after the date the application is made.
- 4.7. Where the application relates to a premises, a notice must also be displayed on or near the premises in a place where it can be conveniently read by members of the

public. The notice must be displayed for a period of 21 days beginning on the day the application is made.

- 4.8. The notices shall be in the form prescribed and copies of the form notices are available upon request from the Licensing Unit.

### **Fees**

- 4.9. The applications for grant, variation, renewal and transfer of a sex establishment have been established by Bolton Council with regard to The European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.

### **a) Objections**

- 4.10. When considering an application for grant, renewal or transfer of a licence, the Council will have regard to any objections submitted to it on behalf of the chief officer of Greater Manchester Police as well as any objections received from anybody else within 28 days of the application.
- 4.11. Any person or organisation can object to an application and objections must be made in writing. The Council encourages any objector to provide full reasons for their objection and, where possible, demonstrate how their reasons are relevant to the mandatory and discretionary grounds for refusal (if any) as set out in this Policy.
- 4.12. No weight will be given by the Council to objections made on moral grounds or that are, in the opinion of the Council, frivolous or vexatious. In this policy, 'frivolous' and 'vexatious' have their ordinary meanings.
- 4.13. Where any objection is received, the applicant shall be notified of the general grounds of the objection, prior to the application being determined by the Council.
- 4.14. We will not disclose the name or address of any objector to the applicant unless the objector has provided consent to their details being disclosed. However, any objection should state the name and address of the person or organisation making the objection.

### **Consideration of 'late' Objections**

- 4.15. Although the Council is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

### **The Determination of Applications**

- 4.16. All applications for a new sex establishment will be determined by the Licensing and Environmental Regulations Committee.
- 4.17. Contested applications (i.e. where objection is received) for the renewal of a sex establishment will be determined by the Licensing and Environmental Regulations Committee.
- 4.18. Non-contested applications (i.e. no objection received) for the renewal of a sex establishment will be determined by the Principal Officer subject to the approval of the Chair of the Licensing and Environmental Regulations Committee. Reasons shall be given of the decision taken for all applications.

### **Licence Conditions**

- 4.19. The Council intends to adopt standard conditions, which will be imposed by way of regulations, in respect of sex shops and sexual entertainment venues, which will apply to all respective licences granted, unless such conditions have been expressly excluded or varied. These proposed standard conditions will be provided separately.
- 4.20. However, following a hearing, the Licensing and Environmental Regulations Committee may attach further conditions to a licence, considered necessary and proportionate in the public interest including, but not limited to, the interest of public policy, public security, public health or the protection of the environment. This could include conditions restricting the opening and closing times of the premises.

### **Duration of Licences**

- 4.21. Unless a shorter period is specifically stated, all licences will be granted for one year, which shall be the maximum duration for any licence.

### **Waivers**

- 4.22. The Council will not normally grant a waiver for a sex establishment licence but will consider applications on their individual merits. Applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived.
- 4.23. Applications will be considered by the Licensing and Environmental Regulations Committee or delegated sub-committee thereof, and reasons shall be given of the decision taken.

## **Suitability of Applicants**

4.24. The Council needs to be satisfied that the applicants for a sex establishment licence are suitable to operate the business by ensuring:

- a) that the operator is honest;
- b) that the operator is qualified by experience to run the type of sex establishment in question;
- c) that the operator understands the general conditions;
- d) that the operator is proposing a management structure which will deliver compliance with operating conditions e.g. though:
  - i) managerial competence;
  - ii) attendance at the premises;
  - iii) a credible management structure;
  - iv) enforcement of rules internally, e.g. through training and monitoring
  - v) a viable business plan, e.g. sufficient to employ door staff and install CCTV;
  - vi) policies for the welfare of performers (SEV only).
- e) that the operator can be relied upon to act in the best interests of the performers, e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored (SEV only);
- f) that the operator can be relied upon to protect the public, e.g. transparent charging, freedom from solicitation;
- g) that the operator can show a track record of management of compliant premises, or that s/he will employ individuals who will have such a track record;

4.25. All applications will be considered in conjunction with the Council's conviction policy but they are unlikely to be granted if the following apply:

- a) the applicant has a criminal record. Offences that would be considered particularly relevant include:
  - convictions for dishonesty
  - violence
  - sexual offences

- drugs
  - public order
  - people trafficking
- b) the applicant has previously been involved in running an unlicensed sex establishment;
- c) if the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves.

4.26. It is anticipated that these expectations would be demonstrated by the operator through their completed application form and any accompanying submissions as part of the application process. However, the Council may also take into account any oral submissions made at any hearing to determine the application.

## 5. The Location of Licensed Premises

- 5.1. All applications for sex establishment licences will be considered on their individual merits.
- 5.2. Without prejudice to the above, a licence can 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 authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises.
- 5.3. The following outlines the numbers considered appropriate by the Council for certain localities; and the characteristic of a locality where the Council considers it would be inappropriate to grant a sex establishment licence:-

### a) **Relevant Number – Town Centre**

It is recognised that Bolton town centre is likely to be the main locality where an application to operate as a sex entertainment venue would be received. However, it is also recognised that one of the corporate objectives of the Council is to promote re-generation of the town centre and it is seen that granting a sex establishment licence within the locality of the town centre could be detrimental to that re-generation. Therefore the Council consider it appropriate to set the relevant number of sex establishment licences for the town centre to zero. For the purposes of this policy the town centre is defined as the area within the boundary on the map at appendix A.

Notwithstanding the number of sex establishments within the town centre be set to zero, the Licensing Authority will still consider applications for that locality; however, the onus will be on the applicant to demonstrate why the Council should depart from its policy.

**b) Relevant Number – Other Localities**

For all other localities within the Borough the Licensing Authority will treat each application on its own merits. However, applicants should be aware that there will be a general presumption for refusal especially where the characteristic of the locality is made up of:

- i) residential accommodation,
- ii) parks and children's play areas,
- iii) other retail units (and their uses),
- iv) schools, nurseries, children centres, colleges or university
- v) religious and communal buildings
- vi) alcohol or entertainment licensed premises
- vii) historic buildings or tourist attractions
- viii) family shopping or leisure areas

- 5.4. There will be a rebuttable presumption that an application to renew a sex establishment licence, or from an applicant who has operated a venue as sex entertainment venue prior to 31<sup>st</sup> March 2013, will be granted.
- 5.5. Within the Town Centre, the policy is that there shall be a rebuttable presumption that any new application for the grant of a sex establishment licence shall be refused apart from in exceptional circumstances. Exceptional circumstances may include situations where a pre-existing operator has failed to renew their licence, or their licence has lapsed, as a result of a genuine administrative error. There is a rebuttable presumption that applications to renew a sex establishment licence will be granted.
- 5.6. Any application for a new licence proposed upon the surrender of an existing licence will be considered on its individual merits.
- 5.7. Applications for the grant of a sex establishment licence at any premises where a licence has been refused upon renewal, or revoked shall not be considered as exceptional.
- 5.8. The Council may also have regard to the following factors:

- a) access routes to schools, play areas, nurseries or children's centres or other uses normally attended by children;
- b) any existing licensing permissions for the premises;
- c) the proximity of other licensed premises in the surrounding area and the terms of those licences;
- d) the Planning permission for the premises and surrounding uses;
- e) any existing Planning or Regeneration policy/plan/strategy relevant to the area;
- f) history of complaints relevant to the premises
- g) the nature of the daytime and night-time economies in the surrounding area.

**Appendix A – Map of Town Centre showing the area where the relevant number of Sexual Entertainment Venues is zero**



## **APPENDIX B – STANDARD CONDITIONS FOR SEX ESTABLISHMENTS**

### **Standard Conditions for Sex Shops**

1. Premises licensed as a Sex Shop under the provisions of Schedule III of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purposes of a Sex Shop as defined in Paragraph 4 of said Schedule III and shall not be used, wholly or in part, for any other purposes during the period the premises are licensed as a Sex Shop.
2. Over each entrance to the premises, in a position approved by the Council, the Licensee shall affix and maintain in a permanent form a clear notice stating that the premises are licensed as a Sex Shop under the provisions of the Local Government (Miscellaneous Provisions) Act, 1982.
3. No person under the age of 18 shall be permitted admission to the premises at any time the premises is being used under this licence.
4. No person under the age of 18 shall be employed at the premises or permitted to work in the premises on a self-employed basis.
5. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
6. The Licensee of every premises licensed as a Sex Shop shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
7. The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises

or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, foot plates or forecourts except any notice displaying the name or trading title of the Licensee, any notice indicating the times of opening of the premises for

business, any notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions.

8. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible to persons outside the building.
9. No moving picture or display or recorded sound of any description or however provided shall be permitted on the licensed premises except for a period necessary to check a recording for fault by the licensee or for a period of not more than one minute for the sole purpose of demonstrating it to a prospective purchaser or hirer of the article in question and such display shall be in a booth to which there shall only be permitted the prospective purchaser or hirer and any one person employed by the Licensee to sell or hire such articles. The Licensee shall not make any charge or permit any charge to be made for such a display as mentioned in this condition.
10. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
11. The Licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard.
12. The Licensee or some responsible person nominated by him in writing for the purpose shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the Council or the Police.
13. 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 and such written details as the Council may require in respect of any new Director, Secretary and Manager are to be furnished within 14 days of a request in writing from the Council.
14. A copy of the licence shall be kept on the premises and be immediately available for inspection upon request by the Police or an authorised officers of the Council.
15. External doors shall be closed at all times except when persons are entering or leaving the premises. External doors shall be fitted with a device to provide their automatic closure and such devices shall be kept in good working order.
16. There shall be a CCTV system installed at the premises to the satisfaction of the Council.

17. The CCTV system must be maintained in good working order to provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially and kept for a period of 31 days and made available to the Police and the Council on request.

## **Standard Conditions for Sexual Entertainment Venues**

### **External Appearance of the Premises and Public Displays of Information**

1. The exterior of the premises must be presented in a manner appropriate for the character of the area. There shall be no advertisement or promotional material used by the premises that is unsuitable to be viewed by children, for example, by way of sexually provocative imagery. Any exterior signage shall be discreet and shall not display any imagery that suggests or indicates relevant entertainment takes place at the premises. Any external displays or advertising may only be displayed with the prior approval of the Licensing Unit Manager of Bolton Council.
2. The prices for entrance and any compulsory purchases within the venue, shall be clearly displayed on the exterior of the premises.
3. All charges for products and services shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.
4. Rules for customers shall be displayed in prominent areas within the premises, and at each customer table and in the bar area.
5. No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
6. There shall be no performers or persons employed at the premises in a state of undress, or scantily-clad, outside the premises at any time it is open.
7. The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customer and/or transport to or from the premises is prohibited.
8. The use of flyers and similar promotional material for the premises is prohibited.

### **Control of Entry to the Premises**

9. No person under the age of 18 shall be permitted admission to the premises at any time the premises is being used under this licence.
10. No person under the age of 18 shall be employed at the premises or permitted to work in the premises on a self-employed basis.

11. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.

***OR at the discretion of the Licensing Authority in individual circumstances the following condition may be applied:***

12. All persons entering the premises must supply verifiable identification details that are passed through a digital scanning and recording system such as Club Scan, Idvista or similar computerised system
13. The premises shall maintain a Refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.
14. All individuals employed on the premises to conduct a security activity (within the meaning of paragraph 2(1) (a) of Schedule 2 to the Private Security Act 2001) must be licensed by the Security Industry Authority.
15. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
16. A policy of random searches of persons entering the premises shall be operated.
17. Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.
18. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible to persons outside the building.
19. The premises shall subscribe to the town centre radio system and radios shall be operational at all times the premises is open to the public.

**Conduct of performers and Rules relating to performances of sexual entertainment**

20. There shall be a written code of conduct for performers. All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the Police or an authorised officer of the Council. The code shall include the following:

21. There shall be no intentional physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to, or from, an area permitted for performances of sexual entertainment in advance of, or following, a performance.
22. The performer may not simulate any sexual act during a performance.
23. Performers must not use any inappropriate, lewd, suggestive or sexually graphic language in any public or performance areas of the premises.
24. Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.
25. There shall be no use of sex articles (as defined by paragraph 4(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982) at any time.
26. There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that area may be used for performances of sexual entertainment.
27. Performers must fully dress (i.e. no nudity) at the end of each performance.
28. Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council
29. There shall be no photography permitted by customers on the premises.
30. Customers must remain seated for the duration of a performance.
31. Performers shall not arrange to meet, or have further contact with, customers outside of the premises.

#### **The protection of performers and the prevention of crime on the premises**

32. Performers shall be provided with secure and private changing facilities.
33. All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.
34. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
35. The licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.

36. Private booths must not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.
37. There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the entrance to the premises, at all times the premises is open to the public.
38. Any private booths shall be fitted with a panic button or security alarm.
39. There shall be no alterations to the layout plan of the premises without the prior written approval of the Council.

### **Record Keeping and Management**

40. All performers shall be required to provide valid identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or national ID card.
41. All performers and staff shall be eligible to work in the UK and proof of eligibility records shall be kept on the premises. Management shall ensure that such records are regularly checked to ensure compliance.
42. Payment and remuneration records for both performers and staff shall be kept for a minimum of 6 months following cessation of their employment or work at the premises.
43. Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers shall be stated in writing and prominently displayed within the changing area.
44. No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises.

### **CCTV**

45. There shall be a CCTV system installed at the premises to the satisfaction of the Council.
46. The CCTV system must be maintained in good working order to provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially and kept for a period of 31 days and made available to the Police and the Council on request.

**Dress Code**

47. The premises shall operate a dress code for customers to the satisfaction of Greater Manchester Police and the Council.

## **Standard Conditions for Sex Cinemas**

1. Premises licensed as a Sex Cinema under the provisions of Schedule III of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purposes of a Sex Cinema as defined in Paragraph 4 of said Schedule III and shall not be used, wholly or in part, for any other purposes during the period the premises are licensed as a Sex Cinema.
2. Over each entrance to the premises, in a position approved by the Council, the Licensee shall affix and maintain in a permanent form a clear notice stating that the premises are licensed as a Sex Cinema under the provisions of the Local Government (Miscellaneous Provisions) Act, 1982.
3. No person under the age of 18 shall be permitted admission to the premises at any time the premises is being used under this licence.
4. No person under the age of 18 shall be employed at the premises or permitted to work in the premises on a self-employed basis.
5. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
6. The premises shall maintain a Refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.
7. The Licensee of every premises licensed as a Sex Cinema shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
8. The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, foot plates or forecourts except any notice displaying the name or trading title of the Licensee, any notice indicating the times of opening of the premises for business, any notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions.
9. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible to persons outside the building.

10. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
11. The Licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard.
12. The Licensee or some responsible person nominated by him in writing for the purpose shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the Council or the Police.
13. 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 and such written details as the Council may require in respect of any new Director, Secretary and Manager are to be furnished within 14 days of a request in writing from the Council.
14. A copy of the licence shall be kept on the premises and be immediately available for inspection upon request by the Police or an authorised officers of the Council.
15. External doors shall be closed at all times except when persons are entering or leaving the premises. External doors shall be fitted with a device to provide their automatic closure and such devices shall be kept in good working order.
16. There shall be a CCTV system installed at the premises to the satisfaction of the Council.
17. The CCTV system must be maintained in good working order to provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially and kept for a period of 31 days and made available to the Police and the Council on request.
18. No film shall be exhibited unless:
  - (i) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council, or
  - (ii) (ii) the film has been passed by the Council as U, PG, 12, 15, 18 or RESTRICTED (18).
19. If the licence holder is notified by the Council in writing that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.