

## LICENSING SUB-COMMITTEE (MEETING AS THE SEX ESTABLISHMENT SUB COMMITTEE)

Tuesday, 13 July 2021

3.00 pm

Committee Room 1, City Hall

Membership: Councillors Loraine Woolley (Chair), Alan Briggs and Pat Vaughan

Officers attending: Democratic Services and Rob Cuffling

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### A G E N D A

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<b>SECTION A</b>	<b>Page(s)</b>
1. Declarations of Interest	
2. Application for Variation of Sexual Entertainment Venue Licence for Dsire, 8a Park Street, Lincoln, LN1 1UF	<b>3 - 38</b>

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<b>SUBJECT:</b>	<b>APPLICATION FOR VARIATION OF SEXUAL ENTERTAINMENT VENUE LICENCE FOR DSIRE, 8A PARK STREET, LINCOLN, LN1 1UF</b>
<b>REPORT BY:</b>	<b>COMMUNITIES &amp; ENVIRONMENT</b>

**1. Purpose of Report**

1.1 To determine an application for variation of a sex establishment licence for Dsire, 8A Park Street, Lincoln, LN1 1UF.

**2. Background**

2.2 The Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') provides the legislative framework in relation to the licensing of sex establishments. Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called a 'sexual entertainment venue', which allows local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The new powers were adopted by the Council with effect from 1 April 2011.

2.3 These premises have held a sexual entertainment venue (SEV) licence since initial application and grant in April 2012. Being renewed annually thereafter.

2.4 Admiral Bars (Lincoln) Ltd have held the SEV licence for the premises since April 2021 when it was simultaneously transferred and renewed, both being issued under delegated powers

**3 The Application**

3.1 On 26 May 2021 an application was received from Admiral Bars (Lincoln) Ltd for a variation of their Sex Establishment Licence. The application submitted is a request for alterations to the first floor, the ground floor remains as existing. A copy of the application can be found at **Appendix A**

3.2 In summary the applicant has requested to make the following changes:

- Removal of bar and existing booths
- Till point installed in first floor lobby
- CCTV cameras to cover all performance areas
- New VIP rooms to be created
- Install new private booths

3.3 A copy of the current first floor layout can be seen at **Appendix B(i)**. The proposed layout can be found at **Appendix B(ii)**

- 3.4 The conditions attached to the licence are the standard conditions attached to a sexual entertainment venue. These can be seen at **Appendix C**.
- 3.5 The proposed variation will not affect these conditions and they remain in force.
- 3.6 All applications for the variation of a sex establishment are determined by a delegated sub-committee of the Licensing Committee, whether or not objections to the application have been received.
- 3.7 Consultation was carried out with Police, Fire, Planning, Building Control and Environmental Health departments.

#### **4. Objections**

- 4.1 No objections to the variation were received.

#### **5. Considerations**

##### **5.1 Policy and Guidance**

- 5.1.1 The 1982 Act sets out a clear procedure for making applications for the grant of a sexual entertainment venue licence, renewal of such a licence and transfer of such a licence to another person. These include:
- the content of applications
  - giving notice to the Chief Officer of Police
  - advertising applications
  - the right of those who live or carry on a business in the vicinity to object;
  - the right of the applicant to be heard by the Council's Licensing Committee; and,
  - the requirement that the Council has regard to any objections and/or any representations made by the Chief Officer Police when determining an application.
- 5.1.2 The 1982 Act also states that a person may apply to vary the terms, conditions or restrictions on which a licence is held, however, it does not specify that any part of the procedure set out in paragraph 5.1.1 applies to such an application, although it does state that a fee is payable for such an application.
- 5.1.3 The Council may establish its own procedure for determining applications to vary a licence, to date, the Council has not done so.
- 5.1.4 The councils Sex establishment policy states that all applications for the variation of a sex establishment are determined by a delegated sub-committee of the Licensing Committee, whether or not objections to the application have been received. The councils sex establishment policy can be found at **Appendix D**

- 5.1.5 In the absence of any procedure established by the Council, applications can be made without any public notification and the Act suggests they could be granted or refused without giving the applicant the opportunity of a hearing or taking account of the views of any persons who might be affected by the application. It is however, a requirement of natural justice that an applicant is given an opportunity to be heard in relation to such an application.
- 5.1.6 Paragraph 5.13 of the council's policy states:  
*The use of private booths used for performances of relevant entertainment shall not be permitted otherwise than with the prior consent of the Council having considered the number, style and construction of the booths.*
- 5.1.7 Therefore, it is necessary for this application to be decided by a sub-committee with this stipulation in mind.

## **5.2 Human Rights Act**

- 5.2.1 Article 6 – right to a fair hearing  
 “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.”  
 The right to engage in commercial activities is a civil right –  
*Kaplan v United Kingdom 1980*  
*Pudas v Sweden 1987*
- 5.2.2 Article 8 – right to respect for private and family life  
 “1. Everyone has the right to respect for his private and family life, his home and his correspondence.  
 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”  
 Removal or restriction of a licence may affect a person's private life.
- 5.2.3 Article 1, Protocol 1 – peaceful enjoyment of possessions  
 “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.  
 The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of

property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The right to engage in commercial activities under the benefit of a licence or registration is a possession

*Tre Traktor Aktiebolag v Sweden 1989*

## **6. Other Considerations**

6.1 The Policing and Crime Act 2009 Act amended the Licensing Act 2003 (‘the 2003 Act’) to state that premises for which a sexual entertainment venue licence is required or held do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant sexual entertainment. This is because sexual entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act.

6.2 However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant sexual entertainment), they are required to obtain the appropriate licence or authorisation in accordance with the 2003 Act, for those other activities, subject to any exceptions contained in that Act

6.3 These premises do currently benefit from a premises licence issued under the Licensing Act 2003. That licence was varied and granted on 12<sup>th</sup> May 2021.

6.4 The variation under the 2003 Act sought the same layout alterations as the application under the 1982 Act. It received no objections and was granted as applied for.

6.5 Therefore, should the variation be granted today then both licences would marry up. However, if the application were refused or altered in any way then a new variation application may need to be sought under the 2003 Act.

## **7. Legal**

7.1 The legal implications are as outlined in the report and an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.

## **8. Options**

8.1 Paragraph 18 of the Local Government (Miscellaneous Provisions) Act 1982 provides that the holder of a sexual entertainment venue (SEV) licence may at any time apply for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

8.2 The authority may;

- a) Make the variation specified in the application (grant the application);  
or
- b) Make such variations as they think fit; or

c) Refuse the application.

8.3 The variations that an authority may make by virtue of 8.2 (b) above include, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.

8.4 No variation should be made in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005

8.5 The Sub-Committee is required to give reasons for its decision. Such reasons need to be clear and include an explanation of why it has reached its decision.

**9. List of associated papers**

- |     |                 |                               |
|-----|-----------------|-------------------------------|
| 9.1 | Appendix A (i)  | Application for variation     |
|     | Appendix A (ii) | Application details           |
|     | Appendix B (i)  | Current first floor plan      |
|     | Appendix B (ii) | Proposed first floor plan     |
|     | Appendix C      | Licence conditions            |
|     | Appendix D      | Statement of Licensing Policy |

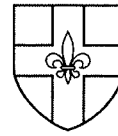
**Lead Officer:** Ian Cullen  
Licensing Team Leader  
01522 873714

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**Contact Details:**  
**Tel:** 01522 873714  
**Email:** [licensing@lincoln.gov.uk](mailto:licensing@lincoln.gov.uk)  
**Web:** [www.lincoln.gov.uk/licensing](http://www.lincoln.gov.uk/licensing)

**The Licensing Team**  
City of Lincoln Council  
City Hall  
Beaumont Fee  
Lincoln, LN1 1DD



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## APPLICATION FOR THE VARIATION OF A LICENCE FOR A SEX ESTABLISHMENT

### Data Protection

City of Lincoln Council is the Data Controller.

Your personal information will be held and used in accordance with the requirements of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

We will use the information you have provided in connection with the administration of Licensing.

We may lawfully disclose information to other public sector agencies to:

- prevent or detect fraud and any other crime;
- support national fraud initiatives;
- protect public funds;
- progress your request for service.

We may also use basic information about you, e.g. name and address, in other areas of service provision at City of Lincoln Council if this:

- helps you to access our services more easily;
- promotes the more efficient and cost-effective delivery of services;
- helps us to recover monies that you owe us.

If you require this document in an alternative format, please contact us.

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant questions). You may wish to keep a copy of the completed form for your records

**Application for Variation of a Sexual Entertainment Venue Licence**

**Premises, Applicant and contact details:**

Licensed Name of Premises...Dsire (previously Krystals) .....

Full Address of Licensed Premises.....8a Park Street, Lincoln, LN1 1UF  
.....

Telephone Number 01522 535599

Name of Applicant.....Admiral Bars (Lincoln) Limited .....  
(NB this must be the current licence holder)

Full Address of Applicant...8 Church Green East, Redditch B98 8BP...  
.....

Telephone Number (during normal office hours)...C/O Piers Warne, TLT 0333 00  
60692.....

Name and Address to which correspondence to be sent (if different from above)  
Piers Warne, TLT LLP 1 Redcliff Street, Bristol BS6 6PL.  
.....

Contact Telephone Number (during normal office hours)...0333 00 60692.....

Contact e-mail address ...piers.warne@tltsolicitors.com.....

**Variation details:**

When do you want the variation to take effect? .....A soon as possible .....

Please detail the proposed variation (enclose supporting documents if relevant)

.....This is an application to vary the layout and design on the first floor of the premises only, as set out on the plan submitted. The existing ground floor plan is to remain unchanged.

.....Further details on the specific changes will follow in writing.

Is there any information in this application which you would **not** wish to be seen by members of the public? **Yes**  **No**

If yes, state which information and the reasons why you would **not** wish it to be seen

Is there any further information which the Applicant would wish the Council to take into account when considering this application?

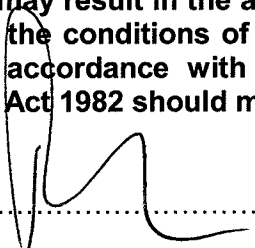
This application follows the submission and grant of a minor variation under the Licensing Act 2003 for the changes applied for herein, without objection and granted under the relevant authority within the Licensing Act 2003.

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents;

I have made payment of the fee: **PAID ONLINE**   
Payment can be made using the following link: [Pay licensing fees – City of Lincoln Council](#)

(Where relevant) I enclose a plan showing the interior layout and where relevant entertainment will take place **PLAN SUBMITTED BY EMAIL**

**DECLARATION:** I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by City of Lincoln Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

Signature  .....

Name of Signatory ..... **PIERS WARNE** .....

Designation of Signatory ..... **SOLICITOR FOR THE APPLICANT** .....

Date ..... **26/5/2021** .....

**NOTE:**

1. Your application should be determined within 40 days of receipt of all the information necessary for the Council to process and determine the application. (Please note that this will be subject to any Licensing Committee hearings) In the case of an incomplete application form, the Licensing Section will contact you for additional information to enable the application to be processed. Please refer to the Council's policy for Sexual Entertainment Venues which can be viewed via the Council's website.
2. Tacit Consent will not apply as it is in the public interest that the authority must process your application before it can be granted. If you have not heard from the Council within a reasonable period of time, please contact us using the contact details below.

## **VARIATION TO THE LAYOUT OF THE PREMISES (SEV LICENCE)**

**Dsire (Formerly Krystals): 8a Park Street Lincoln LN1 1UF**

### **Overview**

Following grant of a minor variation to the premises licence for the works detailed herein, an application has been made to vary the SEV licence plan on the same grounds.

The application is to vary the layout and design of the first floor of the premises in accordance with the submitted plan as detailed below. The existing ground floor plan and area permitted for licensable activity is to remain unchanged by this application.

The purpose is to update the décor and reconfigure the space for better customer flow, whilst also providing additional supervision of customers.

For the avoidance of doubt, the operating times, licensable activities and conditions authorised by the existing Premises Licence to remain unaltered.

### **Detailed summary of changes**

The bar near the lobby has been removed and customers wishing to purchase drinks will do so via service to their seats. Drinks will be provided from the main bar on the ground floor, with the exception of Champagne and spirits which will be available from an otherwise locked display fridge- with glasses, ice buckets etc. being provided from the main bar.

A small desk and till point will be added in the first floor lobby. This desk will be manned every night by a member of staff. Behind this desk, a CCTV monitor covering the performance areas will be visible for staff oversight.

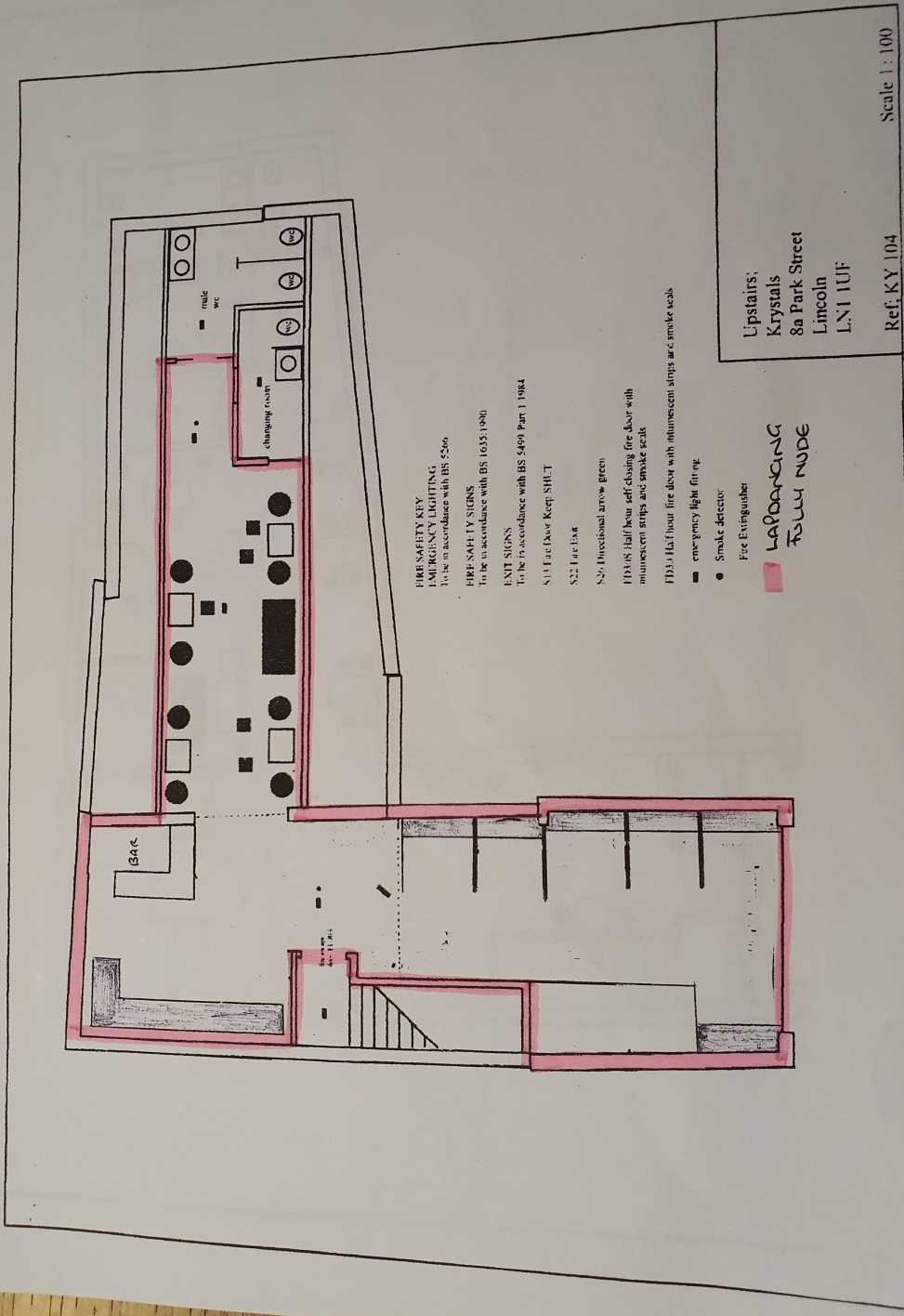
The former VIP area directly opposite the entrance to the lobby will become the main dance area, with the former main dance area (to either side of the new lobby desk) becoming the VIP area.

The small changing room on this floor near the toilets will be removed and dancers will use the facilities on the ground floor, which are much more discrete and better apportioned.

Seating in the main dance area will be separated by hanging beads/voile allowing customers to have private dances. The other half of the room will remain open allowing easy monitoring by staff and management.

The VIP rooms to the right of the lobby entrance which were previously divided into separate dance booths will become three spacious VIP rooms. Each room will contain a sofa, table & warm lighting.

The overall layout allows for better supervision and sight lines and provides for a more sensible customer flow.

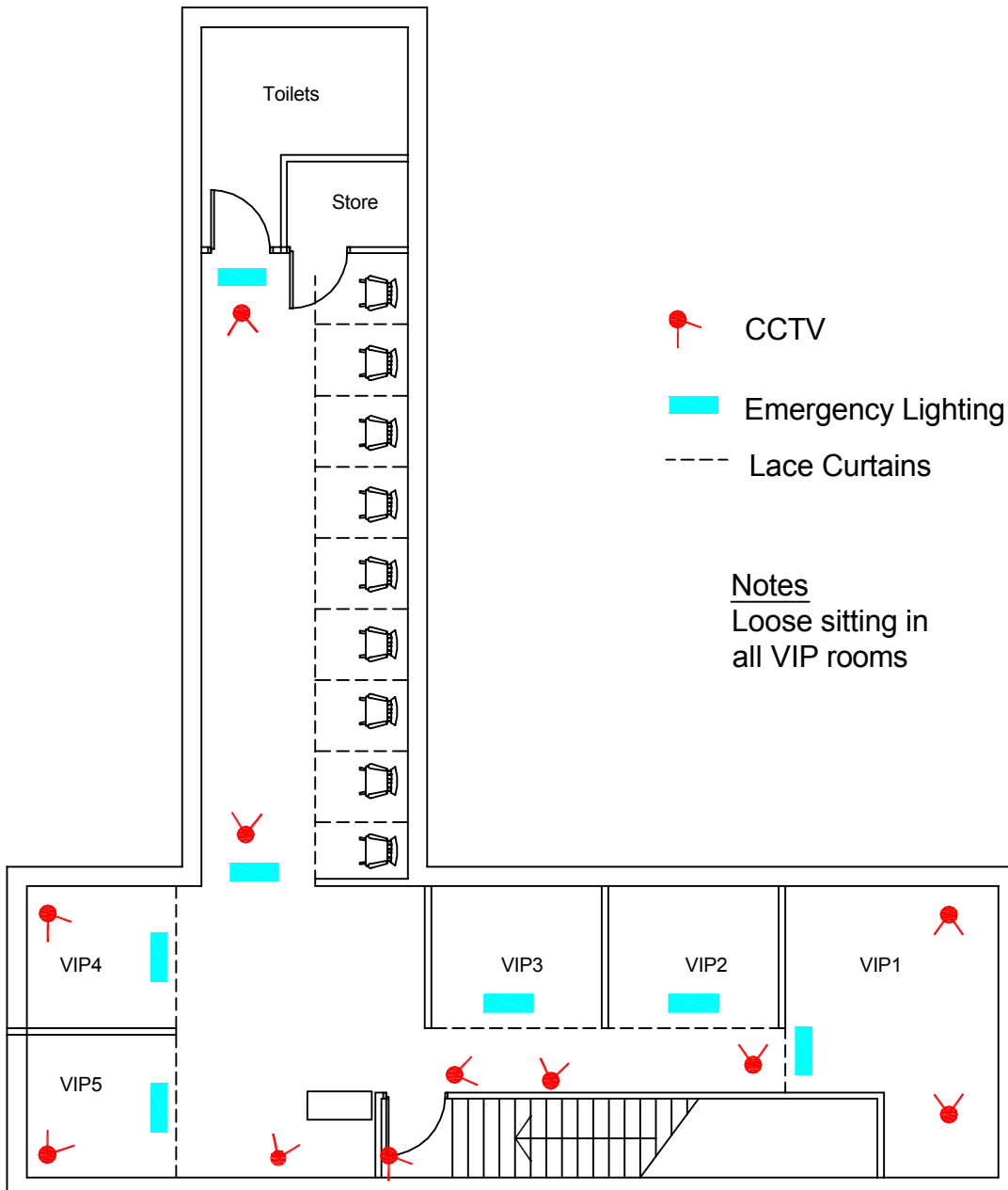


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DESIRE  
UPPER FLOOR PLAN

Scale : 1/100



First Floor

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## CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE

1. The term 'relevant entertainment' has the same meaning as in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
2. The term performer means a performer of relevant entertainment.
3. Relevant entertainment shall only take place between 20:00 and 04:30
4. Relevant entertainment shall be given only by performers who are engaged exclusively for that purpose.
5. No performer shall be allowed to work if they appear to be under the influence of intoxicating liquor and/or drugs.
6. There shall be no physical participation between performers or any member of the audience and any performer (other than a normal socially acceptable greeting such as a handshake, light kiss on the cheek or placing of a hand on a shoulder or waist).
7. The licence holder, management or anyone concerned in providing the relevant entertainment shall not encourage or permit the encouragement of the audience to throw money or other gratuities to the performers.
8. No performer shall accept or give any telephone number or business card or notes to or from members of the audience.
9. There shall be no private booths provided on the premises for the use of a performance of relevant entertainment without the prior consent of the Council.
10. Pole dancing shall be permitted on the ground floor in the area marked on the plan.
11. Lap dancing shall take place on the first floor in the area marked on the plan.
12. Performers shall be provided with changing room(s), which shall be located so as to be separate and apart from public facilities.
13. No person other than performers and authorised staff shall be permitted in the changing room(s).
14. A minimum A4 size sign with the house rules clearly legible shall be securely displayed and suitably protected against any theft, damage or defacement, in at least the following locations; at the point of entry, point of payment, above each urinal, at each bar, in the performers' changing room and at the entrance to the lap dancing area.
15. The licence holder shall ensure that each performer is to be trained to be fully aware of the House Rules and the conditions contained within them.

## CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE

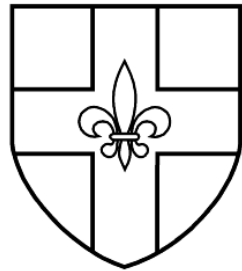
16. No still or moving photographic or video recordings other than by CCTV monitoring equipment installed for crime prevention or public safety purposes shall be made of any performance of 'relevant entertainment'.
17. There shall be no images of nakedness, nudity or of any description of a sexually explicit nature to cause offence as to the nature of the entertainment being held on the premises on any external advertising.
18. Performances of relevant entertainment shall only be the subject of any advertising involving the distribution of leaflets, promotion by canvassers or by touting in the street subject to written approval by Lincolnshire Police and on the undertaking that the premises licence holder shall ensure that all associated litter is collected at the end of each days opening hours with any area defined and agreed with Lincolnshire Police.
19. The relevant entertainment shall not be visible from the street.
20. The area set aside for performances of lap dancing shall be so screened from general view.
21. Any person who can be observed from outside the premises shall be decently dressed.
22. No person either resident, staff, performer, entertainer, visitor or customer under the age of 18 years shall be allowed in any part of the premises whilst a relevant entertainment is being performed or at any time whilst a rehearsal or audition for such entertainment is being conducted.
23. A CCTV system shall be installed and (or alternately where such a system is already installed) shall be maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police and must be 'Fit for Purpose' by complying with the following conditions;
  - a) A monitor and the recording equipment shall be located in a secure room or other location, which prevents unauthorised access, tampering or removal of images.
  - b) The system shall be used to record during all hours that the premises are open to the public.
  - c) Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
  - d) The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be endorsed with the accurate relevant time and date.
  - e) The system shall be capable of monitoring and recording satisfactory colour images from each and every camera continually e.g. Multiplex facility.
  - f) The system must be capable of monitoring and recording entrances and exits, and any areas not easily observed by staff, including access areas to toilet facilities.

## CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE

- g) The recordings shall be provided to officers of Lincolnshire Police on request.
  - h) Officers of the Lincolnshire Police shall be permitted access to the system at any reasonable time.
  - i) All aspects of the CCTV system must comply with the Data Protection Act 2018.
  - j) Signage shall be clearly displayed informing customers that a CCTV system is in operation and recording on the premises.
  - k) During all hours that the premises are open or licensable activities are permitted, a member of staff will at all times be on the premises and capable of operating the system in its entirety.
24. There shall be provided door supervisors to such a number as agreed in writing with Lincolnshire Police sufficient to control the entry of persons to the premises and for the keeping of order in the premises when they are used for the provision of relevant entertainment.
25. This arrangement will be subject to review at the instigation of either party (one 'party' being Lincolnshire Police and one 'party' being the Premises Licence Holder).
26. Door supervisors provided at the premises will be operated in accordance with the following conditions;
- a) There shall be a minimum of one SIA registered door supervisor inside the building on each floor level where any relevant entertainment is taking place.
  - b) There shall be a minimum of one SIA registered door supervisor stationed at the lap dancing area at all times when that area is in use for relevant entertainment.
  - c) There shall be a minimum of two SIA registered door supervisors at each entrance to the premises when the premises are being used for any relevant entertainment on Fridays and Saturdays.
  - d) A record/log book shall be kept on the premises of every person employed on the premises as a door supervisor.
  - e) The record shall contain the following details:-The door supervisor's name; His/Her Security Industry Authority Licence Number
  - f) The time and date he/she commenced and concluded their duty.
  - g) The door supervisors shall sign each entry.
  - h) A person authorised by the licence holder shall also endorse each entry as having checked the authenticity of the individual door supervisor.
  - i) Each Door supervisors licence number will be verified by the person authorised in '(h)' above or their agent using the Internet SIA website, on the occasion of each door supervisors initial employment at the premises. Thereafter a weekly check shall be carried out to ensure the licence status remains unchanged.
  - j) This verification check will be recorded and signed appropriately by the Person authorised in '(h)' above or their agent.

## CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE

- k) That record shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.
  - l) Each entry shall be retained for a period of 24 months from date of completion.
  - m) Door supervisors will remain outside the premises until at least after the last customer/performer has left the premises.
  - n) Door supervisors to control the queue to the premises to ensure that customers are advised of the amount of time they are going to have to wait to gain entry and to prevent any customers who have behaved in such a way as to cause a public nuisance or disturbance from entering the premises.
27. There shall be in place for the premises a written policy to prevent access to the premises of persons under 18 years of age.
- a) That policy shall include a requirement that any person who appears to be under the age of 18 years to produce one of the following forms of identification:
    - A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS)
    - Photo driving licence
    - Passport
    - Any other means of identification approved and accredited in writing by Lincoln Police Licensing Office.



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# **SEX ESTABLISHMENT LICENSING POLICY**

[www.lincoln.gov.uk](http://www.lincoln.gov.uk)

## **1. Introduction**

1.1 The City of Lincoln Council is situated in the County of Lincolnshire, which contains 7 District Councils in total. The Council area has a population of 88,400 making it the fourth largest in the County in terms of population. In terms of area it is the smallest covering 3569 hectares. The Council's area is mainly urban.

## **2. General Information**

2.1 On 1<sup>st</sup> April 2011 the City of Lincoln Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) so that it can licence sex shops, sex cinemas and sexual entertainment venues in the City. In this policy, we refer to these as "sex establishments" unless otherwise stated.

2.2 The Council does not make a moral stand in adopting this policy. It recognises 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 the licensing regime in accordance with the law.

2.3 In developing this Policy, we took into account the legal requirements of the Licensing Act 2003 (the 2003 Act) and our duties under:

- a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the City.
- 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
- c) The Provision of Services Regulations 2009 to ensure requirements are:
  - i. Non- discriminatory.
  - ii. Justified by an overriding reason relating to the public interest.
  - iii. Proportionate to that public interest objective.
  - iv. Clear and unambiguous.
  - v. Objective.
  - vi. Made public in advance, and
  - vii. Transparent and accessible.

## **3. Objections**

3.1. A wide range of people can raise objections about the grant, renewal or transfer of sex establishment licences. The persons/groups can include local residents, tenants associations, community associations and trade associations as well as Councillors and MPs. Councillors may also represent interested parties, providing they do not also sit on the



Licensing Committee determining the application in question. The Police and other responsible authorities (as defined in the 2003 Act) may be consulted on applications.

#### **4. Relevant Objections**

- 4.1 If an objection is received, the Licensing Authority officers will determine if an objection is relevant. The Council 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 Officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason.
- 4.2 Objections should ideally be made in writing (unless submitted electronically), indicate the name and addresses of the person or organisation making the representation and indicate the premises to which the objection relates. Additionally, the person making the objection should clearly set out the reasons for making the objections and where possible provide evidence.
- 4.3 Where the Council receives objections it will give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the objector reveal their name or address to the applicant.

#### **5. Definitions**

- 5.1 In this Policy “sex establishment” means a sex shop, sex cinema or a sexual entertainment venue.

##### **5.2 Sex Shop**

- (1) “Sex shop” means 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.

##### **5.3 Sex Article**

- (1) “Sex article” means—
- (a) anything made 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; and
- (b) any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording of vision or sound, which—
  - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

#### **5.4 Sex Cinema**

- (1) “Sex cinema” means 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—
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity; or
  - (b) 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.

#### **5.5 Significant Degree**

- 5.6 The phrase “significant degree” is not defined in the Local Government (Miscellaneous Provisions) Act 1982.
- 5.7 When considering if a business is selling a significant degree of sex articles thus requiring a licence, the following criteria will be considered:
  - the ratio of sex articles to other aspects of the business;
  - the absolute quantity of sales;
  - the character of the remainder of the business;
  - the nature of the displays in the business;
  - turnover; and
  - other factors which appear to be materially relevant.
- 5.8 Each case will be judged on its own merits giving regard to the above criteria.
- 5.9 Similar criteria will apply to Sex Cinemas in respect of a significant degree in showing films subject to this Schedule

## **5.10 Sexual Entertainment Venue**

- (1) “Sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “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).

5.11 In determining whether entertainment is “relevant entertainment” each case will be judged on its own merits, but will generally apply to:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

5.12 Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003. Further information is available from the Licensing Team.

5.13 The use of private booths used for performances of relevant entertainment shall not be permitted otherwise than with the prior consent of the Council having considered the number, style and construction of the booths.

## **6. Grounds for Refusal**

6.1 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.

6.2 Applications for new or renewed licences can be refused where:

- 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 appropriate for that locality.
- b) The grant or renewal of the licence would be inappropriate, having regard to

- i. The character of the relevant locality, or
- ii. The use to which any premises in the vicinity are put, or
- iii. To the layout, character or condition of the premises.

## **7. Relevant Localities**

7.1 When considering the locality, consideration shall be given to the proximity of the following:

- Residential accommodation
- Parks and children's play areas
- Other retail units (and their uses)
- Schools and nurseries
- Religious and communal buildings
- Alcohol or entertainment licensed premises

## **8. Duration of Licence**

8.1 A licence will normally be granted for a period of one year, unless there are exceptional reasons to grant the licence for a shorter period.

## **9. Waiver**

9.1 City of Lincoln Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

9.2 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by its Licensing Committee.

9.3 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the 1982 Act is unlikely to be granted a waiver other than in exceptional circumstances.

## **10. Application Form**

10.1 An application form, including public notices, is available from the Licensing Team or via the website at [www.lincoln.gov.uk](http://www.lincoln.gov.uk)

## 11. Fees

- 11.1 The current licence fees for a sex establishment are published annually and are available from the Licensing Team or via the council website at [www.lincoln.gov.uk](http://www.lincoln.gov.uk)

## 12. Delegation

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for a new Sex Establishment licence		All cases	
Application for a variation of a Sex Establishment licence		All cases	
Application for a transfer of a Sex Establishment licence		Where a relevant objection has been received	Where no relevant objections have been received
Application for renewal of a Sex Establishment licence		Where a relevant objection has been received	Where no relevant objections have been received
Application for waiver from the requirement for a licence		All cases	
Setting of all fees in relation to sex establishment licences	The full Council		
Consideration of the revocation of a sex establishment licence		All cases	
Setting Policy	All cases		
Determining if an objection is relevant			All cases
Determining relevant localities	All cases		

## **APPENDIX I**

### **STANDARD CONDITIONS FOR SEX SHOPS**

#### **Definition**

1. In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:-
  - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" "Sex Article" shall have meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
  - (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 Schedule 3.
  - (iii) "Approved of the Council" or "Consent of the Council" means the approval or consent of the Council in writing
  - (iv) "Approved" means approved by the Council in writing
  - (v) "The Council" means the City of Lincoln Council
  - (vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

#### **General**

2. 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
3. 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 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
4. The heading notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof

#### **Times of Opening**

5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9.30 am and shall not be kept open after 8.00 pm
6. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays or any Bank Holiday or any public holidays

## **Conduct and Management of Sex Establishments**

7. 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, company secretary or manager are to be furnished within 14 days of a request in writing from the Council
8. The Licensee or some responsible person being 18 years of age or over nominated by the Licensee in writing shall be in attendance at the premises at all such times as the premises are open to the public. Prior to any such nomination or within five working days thereafter the Licensee shall supply details (including a photograph) of the person involved to the Council, who may serve notice on the Licensee that such nomination shall not be made or shall be revoked
9. The name of the person responsible for the management of a Sex Establishment be he 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
10. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex establishment in his absence and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council
11. The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises
12. The Licensee shall maintain good order in the premises
13. No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment
14. 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
15. No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling
16. 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
17. The Licensee shall comply with all statutory provisions and any regulations made there under.
18. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee

19. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition

### **User**

20. A sex Shop shall be conducted primarily for the purpose of the sale of goods by retail
21. 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.
22. No change from a Sex Cinema to a Sex Shop or from the Sex Shop to a Sex Cinema shall be effected without the consent of the Council
23. Neither Sex Articles nor other things intended for use in connection with or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema

### **Goods available in Sex Establishments**

24. All Sex Articles and other things displayed for sale hire exchange or loan within a Sex Shop shall be clearly marked to show persons inside the Sex Shop the respective prices being charged
25. 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
26. The Licensee shall comply with all Acts of Parliament governing the sale of any recorded media capable of reproducing pictures, whether moving or otherwise, from the premises. Furthermore, the Licensee should be aware that any conviction of the Licensee in respect of the foregoing may lead to the revocation of the Licence.
27. 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 other such 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.

### **External appearance**

28. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:-



- (i) any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law or by any condition of a licence granted by the Council
  - (ii) such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council
29. The entrances to the premises shall be of material or covered with a material which will render the interior of the premises invisible to passers by
30. Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them in a position and at an attitude approved by the Council opaque screens or blinds of a type and size approved by the Council. This Regulation shall not be construed as lessening the obligation of the licensee under Regulation 28 hereof

#### **State condition and layout of the premises**

31. The premises shall be maintained in good repair and condition
32. 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
33. The number size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
- (i) all such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit"
  - (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"
  - (iii) save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order
35. 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
36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time

37. 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
38. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council
39. The Licensee shall take all reasonable precautions for the safety of the public and employees
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council
41. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliance shall be maintained in proper working order and shall be available for instant use

## Conditions for Sexual Entertainment Venue

1. The term 'relevant entertainment' has the same meaning as in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
2. The term performer means a performer of relevant entertainment.
3. Relevant entertainment shall only take place between \*\*\* (subject to individual application)
4. Relevant entertainment shall be given only by performers who are engaged exclusively for that purpose.
5. No performer shall be allowed to work if they appear to be under the influence of intoxicating liquor and/or drugs.
6. There shall be no physical participation between performers or any member of the audience and any performer (other than a normal socially acceptable greeting such as a handshake, light kiss on the cheek or placing of a hand on a shoulder or waist).
7. The licence holder, management or anyone concerned in providing the relevant entertainment shall not encourage or permit the encouragement of the audience to throw money or other gratuities to the performers.
8. No performer shall accept or give any telephone number or business card or notes to or from members of the audience.
9. There shall be no private booths provided on the premises for the use of a performance of relevant entertainment without the prior consent of the Council.
10. Pole dancing shall be permitted (specify location)
11. Lap dancing shall take place on (specify location).
12. Performers shall be provided with changing room(s), which shall be located so as to be separate and apart from public facilities.
13. No person other than performers and authorised staff shall be permitted in the changing room(s).
14. A minimum A4 size sign with the house rules clearly legible shall be securely displayed and suitably protected against any theft, damage or defacement, in at least the following locations; at the point of entry, point of payment, above each urinal, at each bar, in the performers' changing room and at the entrance to the lap dancing area.

15. The licence holder shall ensure that each performer is to be trained to be fully aware of the House Rules and the conditions contained within them.
16. No still or moving photographic or video recordings other than by CCTV monitoring equipment installed for crime prevention or public safety purposes shall be made of any performance of 'relevant entertainment'.
17. There shall be no images of nakedness, nudity or of any description of a sexually explicit nature to cause offence as to the nature of the entertainment being held on the premises on any external advertising.
18. Performances of relevant entertainment shall only be the subject of any advertising involving the distribution of leaflets, promotion by canvassers or by touting in the street subject to written approval by Lincolnshire Police and on the undertaking that the premises licence holder shall ensure that all associated litter is collected at the end of each days opening hours with any area defined and agreed with Lincolnshire Police.
19. The relevant entertainment shall not be visible from the street.
20. The area set aside for performances of lap dancing shall be so screened from general view.
21. Any person who can be observed from outside the premises shall be decently dressed.
22. No person either resident, staff, performer, entertainer, visitor or customer under the age of 18 years shall be allowed in any part of the premises whilst a relevant entertainment is being performed or at any time whilst a rehearsal or audition for such entertainment is being conducted.

The following suggested conditions in respect of the provision of CCTV, Door Supervisors and proof of Age are optional in so far as any existing licence for the premises may have similar conditions attached to it. In those cases where conditions are inconsistent with or less onerous than, the conditions in the licence granted under the 1982 Act they shall be read as though they have been deleted.

23. A CCTV system shall be installed and (or alternately where such a system is already installed) shall be maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police and must be 'Fit for Purpose' by complying with the following conditions;
  - a) A monitor and the recording equipment shall be located in a secure room or other location, which prevents unauthorised

- access, tampering or removal of images.
  - b) The system shall be used to record during all hours that the premises are open to the public.
  - c) Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
  - d) The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be endorsed with the accurate relevant time and date.
  - e) The system shall be capable of monitoring and recording satisfactory colour images from each and every camera continually e.g. Multiplex facility.
  - f) The system must be capable of monitoring and recording entrances and exits, and any areas not easily observed by staff, including access areas to toilet facilities.
  - g) The recordings shall be provided to officers of Lincolnshire Police on request.
  - h) Officers of the Lincolnshire Police shall be permitted access to the system at any reasonable time.
  - i) All aspects of the CCTV system must comply with the Data Protection Act 1998.
  - j) Signage shall be clearly displayed informing customers that a CCTV system is in operation and recording on the premises.
  - k) During all hours that the premises are open or licensable activities are permitted, a member of staff will at all times be on the premises and capable of operating the system in its entirety.
24. There shall be provided door supervisors to such a number as agreed in writing with Lincolnshire Police sufficient to control the entry of persons to the premises and for the keeping of order in the premises when they are used for the provision of relevant entertainment.
25. This arrangement will be subject to review at the instigation of either party (one 'party' being Lincolnshire Police and one 'party' being the Premises Licence Holder).
26. Door supervisors provided at the premises will be operated in accordance with the following conditions;
- a) There shall be a minimum of one SIA registered door supervisor inside the building on each floor level where any relevant entertainment is taking place.
  - b) There shall be a minimum of (\*) SIA registered door supervisor stationed at the lap dancing area at all times when that area is in use for relevant entertainment.
  - c) There shall be a minimum of (\*) SIA registered door supervisors at each entrance to the premises when the premises are being used for any relevant entertainment on (88 days).
  - d) A record/log book shall be kept on the premises of every person employed on the premises as a door supervisor.

- e) The record shall contain the following details:-The door supervisor's name; His/Her Security Industry Authority Licence Number
  - f) The time and date he/she commenced and concluded their duty.
  - g) The door supervisors shall sign each entry.
  - h) A person authorised by the licence holder shall also endorse each entry as having checked the authenticity of the individual door supervisor.
  - i) Each Door supervisors licence number will be verified by the person authorised in '(h)' above or their agent using the Internet SIA website, on the occasion of each door supervisors initial employment at the premises. Thereafter a weekly check shall be carried out to ensure the licence status remains unchanged.
  - j) This verification check will be recorded and signed appropriately by the Person authorised in '(h)' above or their agent.
  - k) That record shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.
  - l) Each entry shall be retained for a period of 24 months from date of completion.
  - m) Door supervisors will remain outside the premises until at least after the last customer/performer has left the premises.
  - n) Door supervisors to control the queue to the premises to ensure that customers are advised of the amount of time they are going to have to wait to gain entry and to prevent any customers who have behaved in such a way as to cause a public nuisance or disturbance from entering the premises.
27. There shall be in place for the premises a written policy to prevent access to the premises of persons under 18 years of age.
- a) That policy shall include a requirement that any person who appears to be under the age of 18 years to produce one of the following forms of identification:
    - A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS)
    - Photo driving licence
    - Passport
    - Any other means of identification approved and accredited in writing by Lincoln Police Licensing Office.