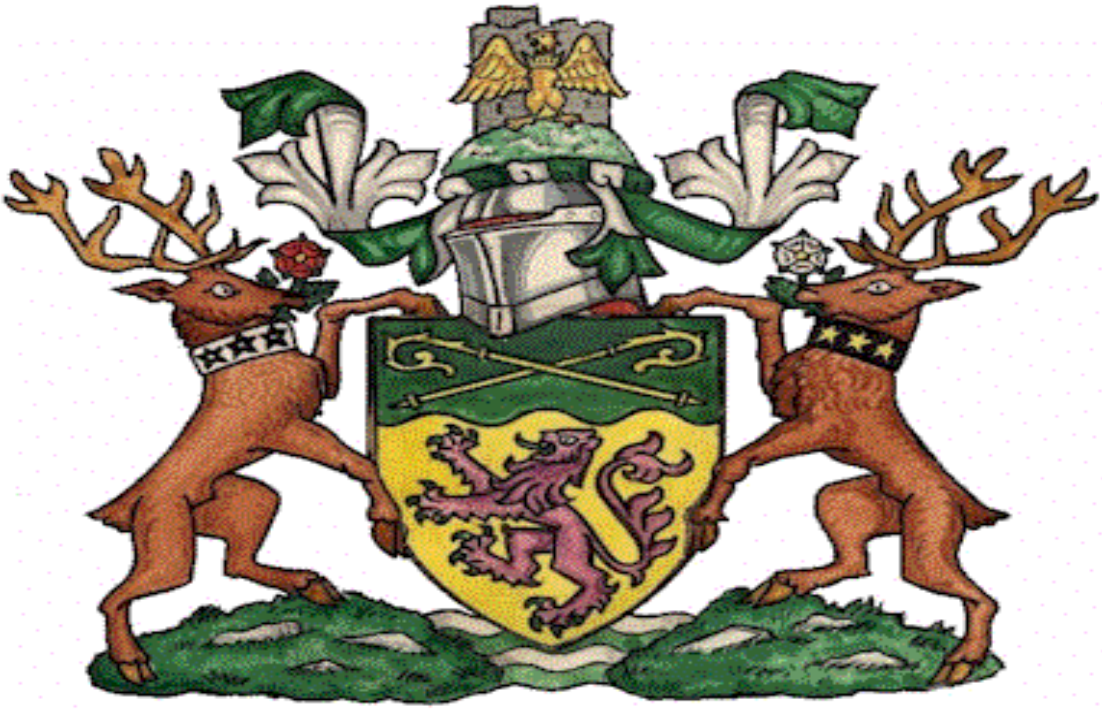
Ribble Valley Borough Council



Corporate Policy
For the Determination of Applications for Sex Establishments

March 2012

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- Appendix 1 – Standard Conditions

1. INTRODUCTION

1.1 On 23 August 1982, the Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the "**1982 Act**"), which gave it the power to license and regulate Sex Establishments, which were at that time defined as Sex Shops and Sex Cinemas.

1.2 In September 2008, the Home Secretary at that time announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed consultation with Local Authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

1.3 As a result Section 27 of the Policing and Crime Act 2009 (the "**2009 Act**") reclassifies lap-dancing clubs into a new category of Sex Establishment called a 'Sexual Entertainment Venue' ("**SEV**") and gives Local Authorities in England and Wales the power to regulate such venues under the 1982 Act.

1.4 On 14 December 2010 the Council resolved to adopt these powers.

1.5 A consultation took place on this policy from 6 October to 16 December 2011. The results of the consultation were reported to Licensing Committee on 20 March 2012 for further consideration and were then referred to Policy & Finance Committee and Full Council.

The Policy will be kept under review and amendments proposed in the light of any changes in the relevant legislative provisions.

1.6

1.7 Any person wishing to operate a Sex Establishment as defined in Schedule 3 of the 1982 Act requires a licence, unless the Council has waived the requirement for a licence. This document sets out the Council's policy in relation to the licensing of Sex Establishments within its administrative area.

1.8 The aim of the policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Committee when making a determination on an application. The policy provides framework guidance but, the Council as the Licensing Authority, will ultimately determine each individual application on its own merits.

1.9 The policy also provides prospective applicants with details of what is expected of them should an application be made. Not all premises will automatically require a licence, and where there is an exemption this has been set out in this policy.

1.10 Notwithstanding the matters set out within this policy consideration will be given to the provisions of the Human Rights Act 1998 and the Home Office guidance issued

in March 2011 entitled "Sexual Entertainments Venues – Guidance for England Wales" when considering applications for SEV's.

1.11 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as Licensing Authority to regulate such premises in accordance with the law.

2. LEGISLATIVE BACKGROUND

2.1 In this policy:

The "**2009 Act**" means the Policing and Crime Act 2009

The "**1982 Act**" means the Local Government (Miscellaneous Provisions) Act 1982

The "**2003 Act**" means the Licensing Act 2003

"**Section 27**" means section 27 of the Policing and Crime Act 2009

"**Schedule 3**" means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Types of Sex Establishment

2.2 There are 3 types of sex establishment: Sex Shops, Sex Cinemas and Sexual Entertainment Venues.

2.3 Not all of these premises automatically require a licence, due to the provisions and exemptions with the 1982 Act. The criteria for requiring a licence are set out below.

Sex Shop

2.4 Sex Shop is defined as:

"(1) *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.*

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

2.5 Sex articles are defined as:

"(3) (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) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies –

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording 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 or 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."

Sex Cinema

2.6 Sex Cinema is defined as:

"(1) 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 or 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.

(2) No premises shall be treated as a sex cinema by reason only -

(a) if they are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or

(b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

Sexual Entertainment Venue

2.7 Sexual Entertainment Venue ("SEV") is defined as:

"2A (1) In this Schedule "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).

(3) The following are not sexual entertainment venues for the purposes of this Schedule -

(a) sex cinemas and sex shops;

(b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time –

(i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

(ii) no such occasion has lasted for more than 24 hours; and

(iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

(4) – (12) omitted as they refer to other matters

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph -

"audience" includes an audience of one;

"display of nudity" means -

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

"the organiser", in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of –

(a) the relevant entertainment; or

(b) the premises;

"premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity."

Waivers

2.8 Applications can be made to waive the requirement for a sex establishment licence.

2.9 The Council does not consider that it would be appropriate to permit waivers of the requirement to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, save for in extreme circumstances considered by the Licensing Committee (i.e to allow the temporary re-location of a business following damage to its current premises).

2.10 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of SEV's, as the legislation allows for entertainment on an infrequent basis of no more than 11 occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

3. APPLICATION PROCESS

3.1 Applicants should be aware that planning permission to operate a premises as a sex establishment may not be in place. Planning is a separate process to obtaining a sex establishment licence. The Council recommends that applicants ensure that the appropriate planning permission is in place prior to submission of an application for a licence.

3.2 All applications (grant/variation/transfer and renewal) must be submitted to the Administration and Licensing Officer together with the application fee. These may be

submitted by post or online. The application form can be found on the Council's website or can be obtained from the Administration and Licensing Officer.

3.3 The schedule of fees can be found at on the Council's website or can be obtained from the Administration and Licensing Officer.

3.4 If the application is submitted electronically then it is the responsibility of the Council to send a copy of it to the chief of police, not later than 7 days after the date the application is received.

3.5 If however, the application is submitted by any other means it is the responsibility of the **applicant** to send a copy to the chief of police within 7 days of the application being made.

3.6 When making an application for a grant or variation of a licence all applicants must provide a scheme showing the exterior design for consideration by the Council to ensure that the exterior design is such that the interior is not visible to passers-by. They must also submit a plan of the interior layout for consideration by the Council. In the case of SEVs this must outline the area where the relevant entertainment will take place.

3.7 Applicants for SEVs must submit a copy of their "House Rules" which shall include the required conduct of performers i.e no touching, no meeting customers outside of the licensed premises for any purpose, no sex acts, no giving or taking phone numbers (including exchange of business cards). These rules will form part of the licence, if granted, and may be subject to amendment by the Council prior to approval.

3.8 The Applicant must make provision for all performers to sign documentation to confirm their knowledge of and acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers' employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.

3.9 The Council may as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality, which may require consideration by the Licensing Committee.

Notices

3.10 The Applicant must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the Council's area no later than 7 days after the date the application is made.

3.11 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where members of the public can conveniently read it.

The notice should be displayed for a period of 21 days beginning with the date the application was made.

3.12 The Council's prescribed notice can be found on the Council's website or can be obtained from the Administration and Licensing Officer.

Commenting on licence applications/objections

3.13 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application.

3.14 Any person can object to an application but the objection should be relevant to the grounds set out in Schedule 3 Paragraph 12 for refusing the licence.

3.15 Anyone wishing to object must give notice of his or her objection in writing, stating the general terms of the objection. Any objections, which do not comply with paragraphs 3.13 and 3.14, shall be rejected and the applicant will be given written reasons.

3.16 Where the Council receives notice of an objection the Council shall before considering the application, give notice in writing of the general terms of the objection to the applicant. The Council will not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.17 Before refusing an application all applicants shall be given the opportunity to appear before and be heard by the Licensing Committee responsible for determining the application. The Licensing Committee may at its discretion hear representation from an objector at such hearing.

Duration of a licence

3.18 Licences for sex establishments can be granted for up to one year.

Refusal of a licence

3.19 Under the 1982 Act the Council may refuse to grant/transfer/renew a licence on the following grounds:

3.20 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.

3.21 A licence **may** be refused where:

(a) the applicant us 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.

3.22 The Council will only refuse to grant, renew or transfer a licence on one or more of the grounds above, and when determining a licence application 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.

3.23 Should the Council decide to refuse a licence on any of the grounds above it shall provide the reasons for its decision to the applicant in writing.

Relevant Locality

3.24 When considering the relevant locality in respect to the grounds set out above the Council shall particularly take account of the density and proximity of:

(1) schools, nurseries, crèches, youth hostels and other similar educational or recreational facilities attended by children;

(2) parks and children's play areas;

(3) residential and sheltered accommodation;

(4) religious and community buildings;

(5) alcohol or entertainments licensed premises;

(6) places and or buildings of a historical/cultural interest, tourist attractions; and/or

(7) other retail units (and their uses).

3.25 The Council will consider the extent of the locality on a case-by-case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or an entire town.

3.26 When hearing an application the Licensing Committee shall have regard to the guidelines set out above but subject to the overriding principle that each application will be determined on its merits.

Numerical Limits

3.27 The Council may refuse an application if it is satisfied that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.

3.28 The Council does not seek to set out in this policy the number of sex establishments, which it considers, appropriate in any locality within the Council's administrative area. Consideration will be given to the locality in each case and to the number of sex establishments suitable for that locality. The Council is however able to determine that the number suitable for any particular locality is nil.

Appeals

3.29 Should the Council refuse an application for the grant, renew, or transfer of a licence the applicant may appeal to the magistrate's court within 21 days or being notified of the decision, save where the application was refused on grounds of locality or numerical limit in which case the applicant may only challenge the refusal by way of judicial review.

Licence Conditions

3.30 The Council is permitted to under the 1982 Act to make standard conditions applicable to sex establishments. The Council has decided to produce such standard conditions which shall apply to every licence granted, renewed or transferred unless they have been expressly varied out excluded.

3.31 Copies of these standard conditions can be found at Appendix 1 to this policy.

Renewal Applications

3.32 If before the date of expiry of a licence an application has been made for its renewal it shall be deemed to remain in force until the withdrawal of the application or its determination by the Council.

Variation of a licence

3.33 A licence holder may at any time apply to vary a term, condition or restriction of a licence, to change the location of a licensed vessel or stall.

On receipt of an application to vary the Council may:

(a) make the variation as requested;

(b) make such variations as it thinks fit; or

(c) refuse the application.

Cancellation of a licence

3.34 Upon receipt of a written request from the licence holder the Council may cancel the licence.

3.35 Should a licence holder die then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holders death and will then expire. This period can however be extended if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

Revocation of a licence

3.36 A licence may be revoked at anytime on any one of the mandatory grounds for refusal of a licence set out at 3.20 or the discretionary grounds set out at 3.21 (a) and (b).

3.37 Before a licence is revoked a licence holder will be given the opportunity to appear before and be heard by Licensing Committee.

3.38 If a licence is revoked:

(a) the Council shall provide the licence holder with the reasons for its revocation in writing within 7 days of a request being made;

(b) its holder will be disqualified from holding or obtaining a licence in the area of the Council for a period of 12 months from the date of the revocation; and

(c) the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

4. OFFENCES

4.1 Paragraphs 20 to 23 of Schedule 3 set out the offences, which can be committed with regard to the licensing of sex establishments and the penalties. They include:

- knowingly causing or permitting the use of any premises as a sex establishment without a licence;
- being the holder of a licence, knowingly employing a person in a sex establishment who is disqualified from holding a licence;
- being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
- being the servant or agent or the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
- being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 to enter the establishment; and
- being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

4.2 A person guilty of any of the offences above is liable on summary conviction to a fine not exceeding £20,000.

4.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

APPENDIX 1 – PROPOSED STANDARD CONDITIONS

RIBBLE VALLEY BOROUGH COUNCIL

STANDARD CONDITIONS FOR MAIL ORDER SEX SHOPS

1. Introduction

1.1 These conditions are imposed by Ribble Valley Borough Council (the "**Council**") pursuant to its powers under Paragraph 13 of Schedule 3 to the Local Government Miscellaneous Provisions Act 1982 (the "**1982 Act**").

1.2 These conditions apply only to premises licensed as a Mail Order Sex Shop.

1.3 The Council may at any time, waive, or modify or vary these conditions or impose additional special conditions in any particular case.

1.4 If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

1.5 In the event of a conflict between the prescribed conditions and special conditions contained in a Mail Order Sex Shop licence the special conditions shall prevail.

2. Management of the Premises

2.1 The Licensee, or a responsible person over 18 years of age nominated by them, and approved in writing by the Council for the purpose of managing the sex establishment (the "Manager") shall be in charge of and shall be present on the premises at all times that the sex establishment is open to the public.

2.2 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 to the Council within 14 days of the change occurring.

2.3 The Licensee or Manager shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.

2.4 A copy of the Licence and any special conditions attached shall be displayed at all times in a prominent position on the premises so as to be available for inspection by the Police, the Fire Authority and authorised Officers of the Council.

2.5 The name of the person responsible shall be displayed in a prominent position on the premises so as to be available for inspection by the Police, the Fire Authority, and authorised Officers of the Council.

2.6 At the time at which the licence is granted the Council shall appoint a name referred to as the "Licensed Name" being the name by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other.

2.7 Should the Licensee wish to change the Licensed Name it shall make an application to vary the license in writing not less than 28 days prior to the proposed change of name. The Council shall have an absolute and unfettered discretion to refuse such a change of name.

2.8 The Licensee shall:

(I) retain control over all areas of the premises, and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises;

(ii) ensure that the public is not admitted to any part of the premises. No person under 18 years of age shall be admitted to the premises at any time, for whatever reason or purpose;

(iii) Ensure that neither themselves nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises;

(iv) ensure that during the hours that the premises are open for business every employee wears a badge of a type approved by the Council indicating their name and that they are an employee;

(v) maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the Licensee's absence and the names and addresses of those employed in

the sex establishment. The register is to be completed each day within thirty minutes of the sex establishment being opened for business and is to be available for inspection by the Police and by authorised Officers of the Council;

(vi) take all reasonable precautions for the safety of employees;

(vii) ensure that all persons working in the premises are not aged less than 18 years, and maintain adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks;

(viii) provide upon request by an authorised Officer of the Council copies of any documents relating to compliance with the licence;

(ix) ensure that there are current insurance policies in force to cover employees and that this is displayed in an area where employees have access; and

(x) ensure that all advertisements, catalogues, sales documents, used in connection with the business intended or likely to be seen by customers will clearly and prominently state "Mail Order Only". All deliveries/dispatches of parcels shall be in plain wrapping not identifying what is inside.

3. External Appearance

3.1 No external nameplate, advertisement board or any other written or pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.

3.2 The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

3.3 The windows and opening of the premises shall be of a material or covered with a material, which will ensure the interior of the premises is not visible to passers-by.

3.4 No items should be stored on the premises so that they can be viewed from any external window or door.

4. State, Condition and Layout of the Premises

4.1 Notwithstanding the Licensee's duties under the Health and Safety at Work Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the premises, he shall maintain the premises in good repair and condition.

4.2 External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

4.3 No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

4.4 Alterations or additions, either internal or external shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

5. Goods

5.1 No film, DVD, video recording, computer game or other format capable of storing readable/viewable material shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

5.2 In accordance with Section 7(b) & (c) of the Video Recordings Act 1984 no 18R rated films may be sold or supplied by mail order.

RIBBLE VALLEY BOROUGH COUNCIL

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. Introduction

1.1 These conditions are imposed by Ribble Valley Borough Council (the "**Council**") pursuant to its powers under Paragraph 13 of Schedule 3 to the Local Government Miscellaneous Provisions Act 1982 (the "**1982 Act**").

1.2 In these conditions, except where the context otherwise requires the following expressions shall have the following meanings:

(i) "**Sexual Entertainment Venues**" ("**SEV**") means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e a person who is responsible for organisation if management of the entertainment or the premises);

(ii) "**Relevant Entertainment**" means any live performance or 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 (weather by verbal or other means).

1.3 These conditions apply to all Premises licensed as a SEV.

1.4 The Council may at any time, waive, or modify or vary these conditions or impose additional special conditions in any particular case.

1.5 If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

1.6 In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

2. Management of the Premises

2.1 The Licensee, or a responsible person over 18 years of age nominated by them, and approved in writing by the Council for the purpose of managing the sex establishment (the "Manager") shall be in charge of and shall be present on the premises at all times that the sex establishment is open to the public.

2.2 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 to the Council within 14 days of the change occurring.

2.3 The Licensee or Manager shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.

2.4 The name of the person responsible shall be displayed in a prominent position on the premises so as to be available for inspection by the Police, the Fire Authority, and authorised Officers of the Council.

2.5 At the time at which the licence is granted the Council shall appoint a name referred to as the "Licensed Name" being the name by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other.

2.6 Should the Licensee wish to change the Licensed Name it shall make an application to vary the license in writing not less than 28 days prior to the proposed change of name. The Council shall have an absolute and unfettered discretion to refuse such a change of name.

2.7 The Licensee shall:

(i) retain control over all areas of the premises, and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises;

(ii) ensure that the public is not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers;

(iii) Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises;

(iv) maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the Licensee's absence and the names and addresses of those employed in the sex establishment. The register is to be completed each day within thirty minutes of the sex establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council;

(v) take all reasonable precautions for the safety of the public, employees and other persons working the premises;

(vi) ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the premises ("floor supervisors") to ensure that the conditions of the licence are complied with;

(vii) ensure that no person under the age of 18 is admitted to the premises;

(viii) adopt a procedure to check the age of customers entering the SEV who appear to be younger than 25 in order to ensure that they are not under the age of 18;

(ix) ensure that all persons working in the premises are not aged less than 18 years, and maintain adequate records of the names, addresses and dates of birth of persons working in the premises (including performers) including adequate identity checks;

(x) Submit a set of "House Rules" to the Council as part of the application process, which will form part of the licence conditions;

(xi) ensure that all performers sign an agreement to comply with the House Rules;

(xii) ensure that a closed circuit television system is installed internally and externally to the satisfaction of the Council and must ensure that they have complied with the Data Protection Act in all respects;

(xiii) ensure that CCTV recordings will be made available for viewing by authorised officers of the Council and/or the Police. Copies of such recordings must be kept for minimum of 28 days and shall be provided upon request;

(xiv) ensure that the CCTV is capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises;

(xv) ensure that the CCTV system is monitored by a dedicated member of staff or security personnel at all times that the premises are in operation;

(xvi) ensure that neither they nor any person promoting or providing entertainment on the premises (nor any person acting on behalf of such a person) shall display advertisements promoting the entertainment or the premises in any unlawful manner;

(xvii) ensure that no advertisement is displayed with regard to which the Council has given notice in writing to the Licensee that it objects to it on the grounds that, if displayed, it would offend against good taste and decency or be likely to encourage or incite crime or to lead to disorder or to be offensive to public feeling;

(xviii) ensure that the number of members of the public that are present on the premises at any time whilst Relevant Entertainment takes place shall not exceed the maximum number set by the Council if any;

(xix) provide upon request by an authorised officer of the Council copies of any documents relating to compliance with the licence;

(xx) ensure that there are current insurance policies in force to cover the public and employees and that this is displayed in an area where the public and employees have access;

(xxi) ensure that a copy of the licence and any special conditions attached shall, be displayed at all times in a prominent position in the premises so as to be available for inspection by the police, fire authority, and/or authorised officers of the Council; and

(xxii) provide adequate non-public changing rooms for performers.

3. Opening hours of the Premises

3.1 Relevant Entertainment may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition in the SEV licence permits this.

4. <u>External Appearance</u>

4.1 A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the premises. The notice must also include a statement that proof of age may be requested.

4.2 The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

4.3 The windows and opening of the premises shall be of a material or covered with a material, which will ensure the interior of the premises is not visible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the premises, with the exclusion of door supervisors.

4.4 The Licensee shall not permit the display outside the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place on the premises.

4.5 External advertising of the relevant entertainment shall not include any of the following:

(i) any depiction of full nudity;

(ii) any depiction of partial nudity (including the display of breasts, buttocks or genitalia);

(iii) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.

4.6 The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

(i) The licensed name of the premises (as explained below) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.

(ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.

(iii) A notice stating the opening hours of the SEV.

(iv) The lettering used shall not exceed 15cm in height for each letter.

4.7 No external loudspeakers may be installed.

5. State, Condition and Layout of the Premises

5.1 Notwithstanding the Licensee's duties under the Health and Safety at Work Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the premises, he shall maintain the premises in good repair and condition.

5.2 External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

5.3 The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

5.4 No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

5.5 Lighting shall be in operation continuously during the whole of the time that the sex establishment is open to the public.

5.6 Alterations or additions, either internal or external shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

5.7 Save for appropriate fastenings on toilet doors, no fastening 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.

6. <u>Provision of Relevant Entertainment</u>

6.1 Live music or the playing of recorded music, which is integral to the provision of relevant entertainment, will be subject to the same conditions contained in any authorisation under the Licensing Act 2003 in respect of live or recorded music. The only exception to this is where a specific condition on the licence requires otherwise.

6.2 Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed premises as may be agreed in writing with the Council.

6.3 The Licence must implement a policy to ensure the safety of the performers when they leave the premises after a period of work.

6.4 Performers must remain clothed in all public and other areas, save for those areas, which the Council has specified for Relevant Entertainment to take place.

6.5 All articles of clothing, which have been removed during a performance, must be put back on by the performer at its conclusion. This will not however prevent performers going to their non-public changing area to change their clothes.

6.6 Performers must not accept any telephone number, email address, address, contact information from a customer.

6.7 Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit himself or herself.

6.8 Performers must not perform a nude table dance unless in a supervised area or within 5 metres of a Floor Supervisor.

6.9 Performers must never be in the company of a customer except in an area open to the public within the premises.

6.10 Performers must not use the public toilets whilst the premises are open to the public.

6.11 The Licensee must ensure that during a performance of a table or lap dance:

(i) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;

(ii) customers must remain seated during the entire performance of the dance;

(iii) performers may only, for the purpose of restraint, touch a customer above the customer's chest (excluding the head) with their hands only;

(iv) performers do not sit on or straddle the customer; and/or

(v) performers do not place their feet on the seats.

6.12 The Licensee must ensure that during performances of Relevant Entertainment performers do not:

(i) perform any act that clearly simulates any sexual act;

(ii) ever intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;

(iii) intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;

(iv) use inappropriate, suggestive, or sexually graphic language at any time;

(v) engage in communications that could be deemed to be acts of prostitution or solicitation, even if the performer has no intention of carrying out the act; and/or

(vi) perform nude or semi nude dancing (of any description) within areas specified by the Council.

6.13 The Licensee shall ensure that during performances of Relevant Entertainment customers:

(i) do not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment; and/or

(ii) remain appropriately clothed at all times.

6.14 There must be no physical contact at any time between customers and employees, or other persons working within the premises, in any part of the premises save for the following:

(i) the payment of any entry fee by customers to authorised members of staff;

(ii) the payment of a fee for Relevant Entertainment;

(iii) the purchasing of drinks by customers from authorised members of staff;

(iv) the placing of bank notes in a garter worn by females or an armband worn by males; and/or

(v) door staff in the execution of their duties.

6.15 Save for those circumstances set out in paragraph 6.14 above there must be a minimum distance of at least three feet between the customer and the performer at all times.

6.16 Relevant Entertainment shall only take place in specified designated areas within the premises, as identified on the plan attached to the licence.

6.17 A notice outlining the conditions set out in 6.14 above will be clearly displayed at each entrance to the premises and in the specified areas. Notices must state that no touching relating to touching performers and other persons working within the premises and vice versa.

6.18 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

RIBBLE VALLEY BOROUGH COUNCIL

STANDARD CONDITIONS FOR SEX SHOPS AND SEX CINEMAS

1. Introduction

1.1 These conditions are imposed by Ribble Valley Borough Council (the "**Council**") pursuant to its powers under Paragraph 13 of Schedule 3 to the Local Government Miscellaneous Provisions Act 1982 (the "**1982 Act**").

1.2 In these conditions, except where the context otherwise requires the following expressions shall have the following meanings:

(i) "**Sex Shop**" shall mean any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

(ii) "**Sex Cinema**" shall mean any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity or acts or force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

1.3 These conditions apply to all Premises licensed as a Sex Shop or Sex Cinema.

1.4 The Council may at any time, waive, or modify or vary these conditions or impose additional special conditions in any particular case.

1.5 If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.

1.6 In the event of a conflict between the prescribed conditions and special conditions contained in a Sex Shop or Sex Cinema licence the special conditions shall prevail.

2. Management of the Premises

2.1 The Licensee, or a responsible person over 18 years of age nominated by them, and approved in writing by the Council for the purpose of managing the sex establishment (the "Manager") shall be in charge of and shall be present on the premises at all times that the sex establishment is open to the public.

2.2 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 to the Council within 14 days of the change occurring.

2.3 The Licensee or Manager shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.

2.4 The name of the person responsible shall be displayed in a prominent position on the premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.

2.5 At the time at which the licence is granted the Council shall appoint a name referred to as the "Licensed Name" being the name by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other.

2.6 Should the Licensee wish to change the Licensed Name it shall make an application to vary the license in writing not less than 28 days prior to the proposed change of name. The Council shall have an absolute and unfettered discretion to refuse such a change of name.

2.7 The Licensee shall:

(i) retain control over all areas of the premises, and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises;

(ii) ensure that the public is not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers;

(iii) neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises;

(iv) ensure that during the hours that the premises are open for business every employee wears a badge of a type approved by the Council indicating their name and that they are an employee;

(v) maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the Licensee's absence and the names and addresses of those employed in the sex establishment. The register is to be completed each day within thirty minutes of the sex establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council;

(vi) take all reasonable precautions for the safety of the public, employees and other persons working the premises;

(vii) adopt a procedure to check the age of customers entering the Sex Shop and/or Sex Cinema who appear to be younger than 25 in order to ensure that they are not under the age of 18;

(viii) ensure that all persons working in the premises are not aged less than 18 years, and maintain adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks;

(ix) ensure that a closed circuit television system is installed internally and externally to the satisfaction of the Council and must ensure that they have complied with the Data Protection Act in all respects;

(x) provide upon request by an authorised officer of the Council copies of any documents relating to compliance with the licence; and

(xi) ensure that there are current insurance policies in force to cover the public and employees and that this is displayed in an area where the public and employees have access.

3. Opening hours of the Premises

3.1 The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Saturday 9.30am to 5.30pm.

4. External Appearance

4.1 A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the premises. The notice must also include a statement that proof of age may be requested.

4.2 The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

4.3 The windows and opening of the premises shall be of a material or covered with a material, which will ensure the interior of the premises is not visible to passers-by.

4.4 No items should be stored on the premises so that they can be viewed from any external window or door.

4.5 The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

(i) The licensed name of the premises (as explained below) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
(ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
(iii) A notice stating the opening hours of the establishment.
(iv) The wording “Private Shop” or “Adult Shop” but no other indication as to the nature of the business carried on at the licensed premises.
(v) The lettering used shall not exceed 15cm in height for each letter.

4.6 No external loud speakers may be installed.

5. State, Condition and Layout of the Premises

5.1 Notwithstanding the Licensee’s duties under the Health and Safety at Work Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the premises, he shall maintain the premises in good repair and condition.

5.2 External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

5.3 The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

5.4 No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.

5.5 Lighting shall be in operation continuously during the whole of the time that the sex establishment is open to the public.

5.6 Alterations or additions, either internal or external shall not be made to the premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

5.7 With regard to Sex Shops only, no previewing of films, video recordings or other similar material shall be allowed to be shown in the premises.

5.8 Save for appropriate fastenings on toilet doors, no fastening 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.

6. Goods

6.1 All items for sale, hire, exchange, or loan within a Sex Shop shall be clearly marked to show the prices being charged.

6.2 All printed matter, DVD, Video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly

displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. For the avoidance of doubt this does not require that they be played to customers.

6.3 No film, DVD, video recording, computer game or other format capable of storing readable/viewable material shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

6.4 In accordance with Section 7(b) & (c) of the Video Recordings Act 1984 no 18R rated films may be sold or supplied by mail order.

7. Information for Customers

7.1 Within the Sex Establishment the Licensee shall make available free literature on counselling and advice relating to matters of sexual health. This will include publications from the Family Planning Association and the NHS or similar organisations. This shall be displayed in a prominent position preferably adjacent to all points of sale in the Sex Establishment.