



CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAW

LICENSING OF SEX ESTABLISHMENTS POLICY 2018

LICENSING OF SEX ESTABLISHMENTS

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1. INTRODUCTION

- 1.1 The former Swansea City Council resolved to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) on 24th November 1983 and the provisions came into force from 30th January 1984. (The Local Government Wales Act 1994 provided for the transfer of the provisions of this legislation to the City and County of Swansea following Local Government re-organisation in 1996).
- 1.2 Anyone wishing to operate premises in the City and County of Swansea area as a sex establishment requires a licence under the 1982 Act.
- 1.3 A policy on the licensing of sex establishments (the Policy) was agreed by Council on the 29th November 2001.
- 1.4 Amended provisions of the 1982 Act were adopted by Council on the 3rd February 2011. These amendments introduced the licensing of sexual entertainment venues. Amendments to the Policy were adopted by Council on the 29th September 2011, 30th July 2013 and 26th July 2018.
- 1.5 The role of the Council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with any moral standing. The Council recognises that Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries.
- 1.6 The Council is mindful of the possible concerns of the local community and that there may be conflict between the wishes of an applicant in respect of a licence and those who object to such applications. The aim of this 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.
- 1.7 While each application will be dealt with on its own merits, this policy gives prospective applicants an early indication as to whether their application is likely to be granted or not and creates a presumption that any application for a sex establishment outside of the city centre area and any application for a sex entertainment venue in the city centre area will normally be refused. It also provides prospective applicants with details of what is expected of them should an application be made.

2. DEFINITIONS

In this document the following expressions shall have the following meanings:-

“The 1982 Act” – means the Local Government (Miscellaneous Provisions) Act 1982 as amended.

“The Council” – means the City and County of Swansea.

“The licensed premises” – means any premises, vehicle, vessel or stall licensed under the 1982 Act.

“Licence holder” – means a person who is the holder of a Sex Establishment licence.

“Permitted hours” – means the hours during which the licensed premises are permitted under Regulations 2 and 3 hereof to be open to the public.

“Sex establishment licence” – means a licence granted pursuant to Schedule 3 of the 1982 Act.

The following expressions “Sex Establishment”, “Sexual Entertainment Venue”, “Sex Cinema”, “Sex Shop”, “Sex Article” and “Vessel” shall have the meanings respectively assigned to them by Schedule 3 of the 1982 Act. Included below:

“Sex Establishment” means a “Sexual Entertainment Venue”, “Sex Cinema” or a “Sex Shop”.

“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”.

“Relevant Entertainment” means any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience, whether by verbal or other means.

“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.

“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.

“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) anything to which the sub-paragraph below applies.

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 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.

3. POLICY GUIDELINES

3.1 The 1982 Act enables local authorities to exercise control over sex establishments in various ways. There are five mandatory grounds and four discretionary grounds for refusal of a sex establishment licence.

3.2 The mandatory grounds for refusal of an application are that the applicant:

- a. is under 18 years of age.
- b. is for the time being disqualified from holding a sex establishment licence;

- c. is not a body corporate and is not resident or has not been resident in an EEA state for 6 months immediately preceding the date of the application;
- d. is a body corporate which is not incorporated in an EEA state;
- e. has in the period of 12 months preceding the date of the application 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.

3.3 The Discretionary Grounds for Refusal of an application are that:

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

3.4 In respect of paragraph 3.3 c) above, the local authority may determine an “appropriate number” for the “relevant locality”. Nil may be an “appropriate number” where the character of the area is considered to be unsuitable for the siting of a sex establishment.

3.5 The Council has determined that the “relevant localities” for the purposes of determining applications are “the City Centre area” and “outside the City Centre”, as defined on the map in Appendix A. At the boundary of the city centre area, all premises that front onto the street at the boundary will be included in the “city centre area.”

3.6 The Council has considered the character of its relevant localities and has determined the following as appropriate numbers of sex establishments:

i) The appropriate number of sex establishments outside the City Centre area will be nil unless varied by the Council.

ii) The appropriate number of sexual entertainment venues in the City Centre area will be nil unless varied by the Council

3.7 A local authority may refuse an application for the grant or renewal of a licence on the grounds that it is considered inappropriate, having regard to the character of the relevant locality and the use to which any premises in the vicinity are put. The Council has determined the relevant localities as defined in 3.5 above. Vicinity will be determined in the circumstances of each case

3.8 In exercising its discretion the Council will take into account the following and as a general rule there will be a presumption against the licensing of a sex establishment if it is near to:

- i) schools or other facilities frequented by children, such as play areas, nurseries, playgroups and children's centres;
- ii) cultural facilities such as museums, theatres and cinemas;
- iii) historic buildings and tourist attractions;
- iv) facilities frequented primarily by women such as well woman clinics, women's refuges;
- v) places of worship;
- vi) public leisure facilities such as leisure centres, swimming pools, parks and open spaces;
- vii) family shopping areas;
- viii) community buildings such as community centres, libraries and drop in centres;
- ix) places used by vulnerable persons such as hostels and other adult social care facilities;
- x) residential premises;
- xi) hospitals and other medical facilities
- xii) other sex establishments

3.9 In respect of the layout/character or condition of the premises for which the application is made considerations would include health and safety issues, provision of electrical certificates, fire safety matters, provision

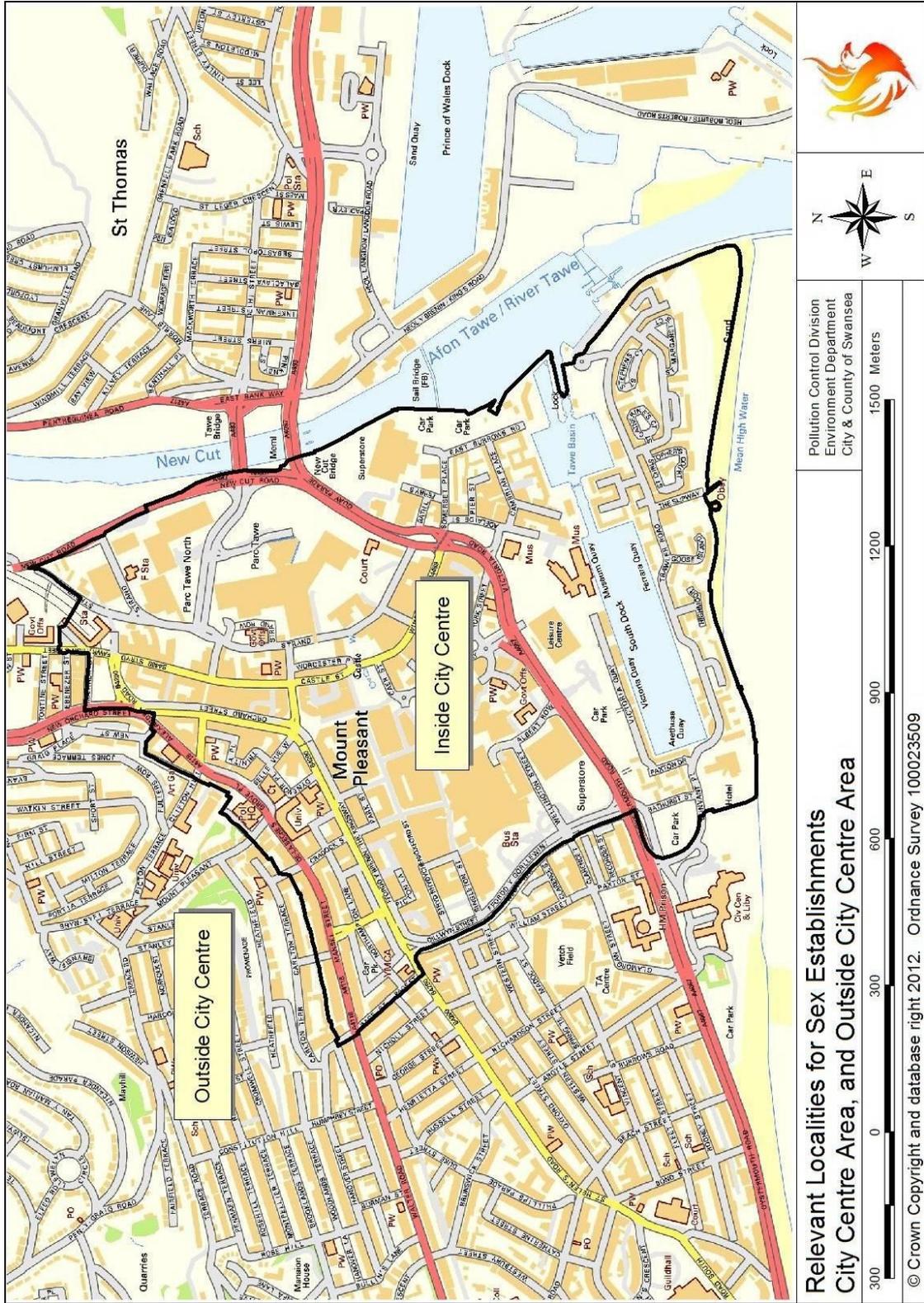
of sanitary accommodation, whether the premises can be effectively supervised, whether private booths are provided and how the premises is fitted out

- 3.10 A local authority may grant a licence subject to such terms and conditions and restrictions as it considers necessary. This enables a considerable degree of control to be exercised and relates to the management of the premises, opening times of the premises, fire safety, external appearance, age restrictions, etc. The Standard Conditions of Licence for a Sex Establishment shall be those included in this document at Appendix B.
- 3.11 Each individual application for a licence for a sex establishment will be considered on its merits. Where an appropriate number has been set for a particular locality the Council will consider whether the facts of the case warrant an exemption to the policy.
- 3.12 The Licence application procedure is specified in the Local Government (Miscellaneous Provisions) Act 1982 and includes the giving of notice of application, publicity and the provision of certain particulars:-
- i) Applicants are required to make an application, in writing, on the Council's application form, to the licensing authority and not later than 7 days after the date of application, to send a copy to the Chief Officer of Police;
 - ii) Applicants must advertise their applications and this must be in a prescribed form. In all cases, public notice must be given by the publication of an advertisement in a local newspaper not later than 7 days after the date of the application and where the application relates to a premises also by notice attached on or near the premises, where it can be read. This notice must be displayed for 21 days beginning with the date of application.
- 3.13 When an application is made the licensing authority will undertake consultations with the following agencies/departments of the local authority:-
- a) Police;
 - b) Fire Authority;
 - c) Ward Members;
 - d) Planning Department;
 - e) Corporate Properties;
 - f) City Centre Manager (for City Centre Applications Only).
- 3.14 On receipt of representations and/or consultation responses, the application will be reported to the Licensing Committee for decision. Details of the representations and/or consultation responses will be

provided to the applicant. The names and addresses of the objectors will be redacted unless the objectors give their consent for this information to be released.

- 3.15 The Committee will receive observations on the issues outlined in paragraphs 3.1. – 3.3 of this policy guideline.
- 3.16 The Committee and the applicants will be made aware of any objections received and the applicant will be given the opportunity to address the Committee. Any objectors will also be given the opportunity to address the Committee.
- 3.17 Following consideration of all the relevant factors, the Committee will then determine the application.
- 3.18 All new applications and any contested renewals, transfers or variations will be determined by the Licensing Committee.
- 3.19 The Council may, from time to time and at a maximum period of 5 yearly, review the contents of this Policy, the “relevant localities” for the purposes of determining applications for sex establishments and the “appropriate number” for each relevant locality.
- 3.20 The relevant fees must accompany any application submitted. Details of the fees will be provided to the applicant with the application form.

City Centre Area



Relevant Localities for Sex Establishments
City Centre Area, and Outside City Centre Area

Pollution Control Division
Environment Department
City & County of Swansea

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REGULATIONS PRESCRIBING STANDARD CONDITIONS

The City and County of Swansea, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and of all other powers enabling them in that behalf make the following Regulations.

Definitions

1. (a) In these Regulations the following expressions that is to say “Sex Establishment”, “Sex Shop”, “Sex Cinema”, “Sexual Entertainment Venue”, “Sex Article”, and “Vessel” shall have the meanings respectively assigned to them by Schedule 3 of the Act.
- (b) In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely:

“the Act” - means the Local Government (Miscellaneous Provisions) Act 1982.

“the Council” - means City and County of Swansea.

“the licensed premises” - means any premises, vehicle, vessel or stall licensed under the Act.

“Licence Holder” - means a person who is the holder of a sex establishment licence.

“Sex Establishment” means a sexual entertainment venue, sex cinema or sex shop.

“Sex Establishment Licence” means a licence granted pursuant to Schedule 3 of the Act.

“Display of nudity” means in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus.

“Approval of the Council”,
or
“Consent of the Council” - means the approval or consent of the Licensing Authority.

“Approved” - means approved by the Licensing Authority in writing.

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 bye-law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. The Council reserves the right to amend, delete or add conditions at any time if deemed appropriate.
5. The holder of a Sex Establishment Licence shall observe such regulations and conditions as may be approved by the Council from time to time.
6. No person previously convicted of:
 - an offence connected to a Sex Establishment either licensed or unlicensed.
 - a sexual offence.
 - an offence relating to the sale of restricted 18 videos may be employed at the premises or be involved in supplying entertainment or goods at the premises.

Times of Operation

7. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9am and shall not be kept open after 8pm.
8. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays, Good Friday and Christmas Day.

Conduct and Management of Sex Establishments

9. 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 Licensing Authority within fourteen days of such change and such written details as the Licensing Authority may require in respect of any new director, secretary or manager are to be furnished within fourteen days of a request in writing from the Licensing Authority.

10. The Licensee or some responsible person nominated by the Licensee in writing for the purpose of managing the Sex Establishment in the Licensee's absence and of whom details have been supplied to and approved in writing by the Licensing Authority shall be in charge of and upon the Premises during the whole time they are open to the Public.
11. The name of the person responsible for the management of a Sex Establishment, whether the Licensee or a manager approved by the Licensing Authority shall be prominently displayed within the Sex Establishment throughout the period during which that person is responsible for its conduct.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment.
13. The register shall contain details of the age verification method to ensure that employees are aged 18 years or over.
14. 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 Licensing Authority.
15. Copies of the licence and the conditions attached to the licence shall be clearly displayed so that every person entering the premises can see a copy of both the licence and the conditions.
16. 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.
17. The Licensee shall maintain good order in the Premises. Any incidents, in particular assaults and violent crime, shall be recorded in an incident book and immediately reported to the Police.
18. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment.
19. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.
20. A Challenge 25 proof of age scheme, shall be operated at the premises where the only acceptable forms of identification shall bear their photograph, date of birth and a holographic mark.
21. A log shall be kept detailing all refused entries. The log shall include the date and time of the refused entry and the name of the member of

staff who refused the entry. The log shall be available for inspection at the premises by an Authorised Officer of the Council or the Police.

22. The Licensee shall keep up to date records of staff training in respect of age related matters. These records shall be available for inspection at the premises by an Authorised Officer of the Council or the Police.
23. The Licensee shall ensure that the public is not admitted to any part or parts of the Premises other than those which have been approved by the Licensing Authority.
24. 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.
25. No tickets shall be sold and no admission money taken in a place to which members of the public, other than permitted customers of the Sex Establishment, have access.
26. The licensee shall ensure that the premises are not used by prostitutes, of any gender, for soliciting or any immoral purposes.
27. No leaflet, card, paper, advertising sheet or similar matter promoting the establishment or any goods or service offered by the establishment shall be distributed in the vicinity of the establishment or published in newspapers or magazines for under 18's, unless authorisation/ consent is first granted in writing by the City and County of Swansea.
28. The licensee shall make staff available to ensure good order and free passage for customers on access and egress routes and car parks belonging to the licensee.
29. The licensee shall prevent the sale, display for sale or offer for sale of any article, goods or service on access or egress routes and car parks belonging to the licensee.
30. No dancing or other entertainment of a like kind shall be provided or permitted unless authorised by the Council.
31. Only merchandise which is legally available in Great Britain from retail outlets, mail order companies or party planners may be sold, hired, loaned or supplied, displayed, advertised or demonstrated at the establishment.

Use

32. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.

33. No change of use of any portion of the Premises from that approved by the Licensing Authority shall be made until the consent of the Licensing Authority has been obtained thereto.
34. No change from a sex cinema to a sex shop or from a sex shop to a sex cinema shall be effected without the consent of the Licensing Authority.
35. 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

36. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
37. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
38. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the Licensee by the Licensing Authority, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
39. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems, including available literature on sexual violence and domestic abuse, as may be published by the Family Planning Association and by such other similar organisations as may be specified and in particular any such material relating to AIDS as may be supplied by the Licensing Authority. Such literature is to be displayed in a prominent position.

External Appearance

40. Warning signs as specified in the Indecent Displays (Control) Act 1981 must be clearly exhibited at the entrance to the premises.
41. No display, advertisement, word, letter model, sign, placard, board, notice, device, representation, drawing, writing or similar matter shall be displayed outside the premises without the written permission of

City and County of Swansea, except for those signs or notices that are required to be displayed by these licence conditions.

42. Any charge for entering the premises shall be clearly and legibly displayed outside the premises so that all persons can read it before entering the premises.
43. The entrance to the premises shall be so designed and constructed as to prevent persons outside the premises having a view of the interior.
44. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
45. No window shall contain any sign, advertising material, goods or display likely to cause an offence to persons passing the window.

State, Condition and Layout of the Premises

46. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sex establishments.
47. The premises shall be maintained in good repair and condition.
48. All parts of the Premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
49. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
50. 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.
51. 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 establishment who are disabled.
52. All exhibits, displays, demonstrations and like activities must be open and available to all customers at no charge other than any initial entrance fee to the establishment and there shall be no individual cubicles or rooms designed to accommodate individual persons or groups of persons where exclusive demonstrations, displays, exhibits or similar activities may take place, unless authorisation/consent is first granted by the Council.
53. The Licensee shall take all reasonable precautions for the safety of the public and employees.

54. The Licensee shall comply with any fire prevention and safety measures that may be required by the Council and or Mid and West Wales Fire Authority and shall maintain and keep available for use all specified fire fighting equipment and extinguishers.
55. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall be made except with the prior approval of the Licensing Authority.

Appendix B (cont'd)

CONDITIONS OF LICENCE RELATING TO A SEXUAL ENTERTAINMENT VENUE PROVIDING ENTERTAINMENTS INVOLVING THE PROVISION OF LAP DANCING, TABLE SIDE DANCING AND ANY OTHER ENTERTAINMENT INVOLVING STRIPTEASE AND/OR NUDITY

1. Total nudity shall only be permitted on a designated stage and at no other place in the premises.
2. No sex act shall take place.
3. The area proposed for striptease (involving complete nudity) shall:
 - a. be in a position where the performance cannot be seen from the street.
 - b. Be in a designated area of the premises with segregation from the audience.
 - c. Be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.
4. The area proposed for lap dancing, table side dancing (involving partial nudity) shall be in a position where the performance cannot be seen from the street.
5. There shall be no physical contact between persons appearing on stage and the audience. The entertainment shall be given only by performers/entertainers and the audience shall not be permitted to participate.
6. Persons appearing on stage should have direct access to the dressing room without passing through or in close proximity to the audience.
7. Lap dancers/table side dancers must immediately dress at the conclusion of each performance.
8. The licensee, performer and any person concerned in the organisation or management of the entertainment shall not encourage, or permit encouragement of the audience to throw money at or otherwise give gratuities to the performers (except as permitted by condition 10 below).
9. Entertainment provided by topless dancers to customers seated at tables may only take part in those parts of the premises approved by the Council. No audience participation shall be permitted.
10. There shall be no physical contact between customers and the dancers except for the placing of money or tokens into the hands of the dancer at the beginning or conclusion of the performance. Whilst

the dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers. Notices to this effect shall clearly be displayed at each table and at the entrance to the premises.

11. Should a customer attempt to touch a dancer, the dancer must withdraw and report the matter to her/his manager/supervisor.
12. There shall be no physical contact between dancers whilst performing.
13. The topless dancers shall at all times wear a g-string or similar piece of clothing that covers the appropriate part of the body.
14. The Licensee will immediately deal with any report of contact, misconduct or provocation by a customer or dancer.
15. No telephone number, address or information leading to any further meeting may be passed from customer to dancer or vice versa.
16. No dancer may perform if they are intoxicated.
17. No member of the public shall be admitted or allowed to remain in the dance area if they appear to be intoxicated.
18. All members of the public shall remain seated in the dance area other than when they arrive, depart, visit the toilet or go to the bar.
19. Members of the public should not be permitted to congregate in the bar area.
20. Signs must be displayed at the entrance to the dance area stating:

"Any customer attempting to make physical contact with a dancer will be asked to leave."
21. No dancer shall perform any sexually explicit or lewd act.
22. Whilst dancing takes place not less than... (insertion of an agreed number)... of licensed door supervisors shall be employed in the part of the premises used for dancing unless alternative arrangements are approved by the Council.
23. a. CCTV shall be installed to cover all areas where dancing will take place. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.

- b. Tape recordings shall be made available to an authorised officer of the Council or a Police Officer together with facilities for viewing.
 - c. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice.
24. External smoking areas for customers and performers shall be located at the premises where there is no access by the public. Smoking areas for customers shall be separated from smoking areas for performers to avoid any physical and verbal contact.