

PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	27 JANUARY 2011
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	PROCEDURE IN RELATION TO THE LICENSING OF SEXUAL ENTERTAINMENT VENUES
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek adoption and approval of a procedure for the licensing of Sexual Entertainment Venues, which seeks to treat each case on its own merits, provide standard licence conditions, set a proposed scale of fees and delegate powers for considering certain applications to a Licensing Sub Committee.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Licensing Committee:
- (i) Adopt and approve the proposed procedure for the determination of applications for the licensing of sexual entertainment venues which includes the licence conditions to be attached to such licences and the Sexual Entertainment Venue application form and licence application procedure listed at Annex A and Annex C;
 - (ii) Approve the proposed scale of fees set out at Annex B, with immediate effect;
 - (iii) Adopt the procedure contained in this report that treats each application on an individual basis and on its own merits in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended);
 - (iv) Delegate the determination of all new, renewal and variation applications for Sexual Entertainment Venue Licences to a Licensing Sub Committee, constituted under the provisions of the Licensing Act 2003, and adopt the procedures as outlined in Annex 1 & 3 in relation to making a determination of an application for a Sexual Entertainment Venue licence;
 - (v) Other than the determination of either a new, renewal or variation application for a Sexual Entertainment Venue Licence, the determination of transfer applications and other matters pursuant to Part 2, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) be exercised by the Health and Environment Manager, unless the application or matter

- should, in the opinion of the Health and Environment Manager be determined by the Licensing Sub Committee;
- (vi) That the Council Solicitor be authorised to make any necessary consequential amendments to the Constitution.

3.0 REASON FOR RECOMMENDATIONS

- 3.1 Although Ryedale District Council has adopted procedures and conditions for the licensing of sex establishments (sex shops and sex cinemas) it does not currently have a procedure or any standard conditions in relation to the licensing of Sexual Entertainment Venues. If the Authority adopts this Procedure it will have the same powers to consider the licensing of Sexual Entertainment Venues e.g lap dancing clubs as the Authority currently has for the licensing of sex establishments.

4.0 SIGNIFICANT RISKS

- 4.1 If the Authority does not adopt this Procedure, it may allow prospective Sexual Entertainment Venues to take advantage of a perceived loophole in the Licensing Act 2003.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 Currently lap dancing premises require a Premises Licence under Section 1 of the Licensing Act 2003. No special provisions are made in the 2003 Act for lap dancing type venues. Unless relevant representations are made to the Authority the licence must be granted subject only to certain mandatory conditions.
- 5.2 Sex establishments (sex cinemas and sex shops) are currently licensed under Section 2 and Schedule 3 of the Local Government (Miscellaneous provisions) Act 1983. This allows local Councils to set fees, attach conditions and restrictions relating to sex establishments. The Council adopted a policy in relation to sex establishments on the 17th May 2007.
- 5.3 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government Act (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence "Sexual Entertainment Venues" e.g. lap dancing under the 1982 Act.
- 5.4 The aim of this new legislative control is to bring the licensing of lap dancing type premises in line with other sex establishments and to recognise that local people have legitimate concerns about where such premises are located.
- 5.5 Currently, Ryedale has no licensed sex establishments or Sexual Entertainment Venues.

6.0 POLICY CONTEXT

- 6.1 The Council on the 25th November 1982 agreed to adopt the provisions of Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in relation to Sex Establishments. On the 4th of November 2010 the Council agreed to adopt the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009, which introduced a licensing regime for Sexual Entertainment Venues (lap dancing type

venues).

7.0 CONSULTATION

- 7.1 Although no public consultation has taken place with regard to the proposed procedure, in order for each case to be determined on its merits, each application would have to be advertised inviting comments from the public to be made to the Council. This would enable a Licensing Sub Committee to make an informed decision in relation to an individual application.

8.0 REPORT DETAILS

- 8.1 Under the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009, Councils have powers to set fees and attach conditions and restrictions relating to Sexual Entertainment Venues. Ryedale does not at present have a procedure in relation to Sexual Entertainment Venue licensing and has never dealt with this type of licensing application before. It is therefore necessary to have a procedure in place should such an application be made to the Council.
- 8.2 One of the grounds for refusal of an application for a licence under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 is "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" and that nil may be an appropriate number. However, the Council have received information from Scarborough Borough Council, that their previous approach of setting the appropriate number of sex establishments (and thus also Sexual Entertainment Venues) in their borough as "nil" is open to legal challenge. This is because the legislation requires local authorities to consider individual applications on their own merits and on the basis of criteria set out in the legislation. Case law R v Bournemouth Borough Council Ex parte and Continental Books & Crownwell Ltd (TLR 19 May 1994) states that by pre-determining numbers it would not fall within the principles of natural justice before so much as hearing an application. This view is supported by the Council's Solicitor.
- 8.3 Consideration as to what are the relevant localities for Sexual Entertainment Venues in Ryedale should await the receipt of a particular application for a licence. The Sub Committee can then consider the locality in which the premises are situated and treat each application on its own merits. This is not considered capable of being decided on the basis of general Council policy laid down at an earlier date.
- 8.4 In addition to determining what is the "appropriate number" for the relevant locality the Licensing Sub Committee must also consider what is the character of the relevant locality, whether the grant or renewal of the licence would be appropriate having regard to the use to which other premises in the "vicinity" are put and the layout, character or condition of the premises in respect of which the application is made. These are all questions of fact to be decided on the particular circumstances of a particular application at the relevant time.
- 8.5 Members are requested to consider a procedure that is fair and conforms to the principles of natural justice. The availability of judicial review always remains open to guard against the possibility that an authority might exercise its powers unreasonably or without regard to all the relevant circumstances. Members are asked to consider a procedure that treats each application on an individual basis and includes the conditions that might be attached to any licence issued. In essence the procedure

would be to deal with each application on its own merits with the imposition and enforcement of the proposed conditions if a licence were granted.

- 8.6 Under the Local Government (Miscellaneous Provisions) Act 1982 Councils have the power to set fees and attach conditions and restrictions relating to sex establishments. Members are asked to consider Annex 1 and 2 that set out conditions to be attached to Sexual Entertainment Venue licences and the scale of fees to be charged. The scale of fees suggested is the same as those for sex establishments such as sex shops and sex cinemas. It is felt that applications for Sexual Entertainments Venues licences would attract a similar number of objections to those of sex establishments and thus the same scale of fee is necessary. The fees proposed in this report reflect the cost of providing an efficient licensing service. An authority nevertheless must not charge oppressively large fees.
- 8.7 A licence application procedure has been developed for adoption to assist persons applying for Sexual Entertainment Venue licences in the Ryedale district. These set out the Council's requirements for making, assessing and determining applications for licences, give details of standard conditions, grounds for refusal and provisions for enforcement in Sexual Entertainment Venues in the Ryedale area and are available in Annex 3.
- 8.8 It is recommended that due to the anticipated public interest in such an application that for the avoidance of doubt, the Licensing Sub Committee will determine all new, renewal and variation applications relating to Sexual Entertainment Venues and that the Health and Environment Manager be delegated all other functions unless in his opinion the matter should be determined by a meeting of the Licensing Sub Committee.

9.0 IMPLICATIONS

9.1 The following implications have been identified:

a) Financial

The Council can charge reasonable fees to cover this cost, the proposed fees in relation to Sexual Entertainment Venue licensing for 2010/11 are as follows:

For new application to grant a licence	£4160
Licence Variation	£3740
For annual renewals	£3740
For transfer	£570
Change of name	£52

Fees for 2011/12 are recommended as detailed in Annex B.

b) Legal

Case law has determined that the Council may not refuse a sex establishment (and hence a Sexual Entertainment Venue) Licence solely on the grounds that the said establishment may cause offence. There are certain grounds where the local authority must refuse a licence e.g. to a person under the age of 18 and certain grounds where the local authority may refuse a licence e.g. the grant or renewal of the licence would be inappropriate, having regard to the character of

the relevant locality. Grounds for granting or refusing an application are available in Annex D.

- c) Other
None

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Background Papers:

Local Government (Miscellaneous Provisions) Act 19882
Licensing Act 2003
Ryedale District Councils Policy for the licensing of Sex Establishments 2007.

RYEDALE DISTRICT COUNCIL

Procedure for the Determination of Applications for Sexual Entertainment Venues

1. Unlike some other licensing regimes (such as alcohol, entertainment or gambling) a wide range of people can raise objections about Sexual Entertainment Venues licences. The police shall be a consultee for all applications.
2. All new, renewal and variation applications shall be referred to a hearing of the Council's Licensing Sub Committee for determination.
3. Both applicants and objectors will be given equal opportunity to address and state their case before a hearing of the Licensing Sub Committee. This Licensing Sub Committee hearing will follow the same procedure that currently applies to applications under the Licensing Act 2003.
4. Upon application all premises will be visited and inspected by an authorised officer of the Council. The applicant will also be interviewed by the authorised officer to fully discuss their proposals. Following on from both of these the authorised officer will prepare a report for submission to the members of the Licensing Sub Committee for consideration. Objections received will also be included within this report.
5. Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that are set out in the 1982 Act (see later). Objectors can include residents/tenants associations, community associations and trade associations. Elected District Councillors and MP's may also raise objections. Elected District Councillors may represent interested parties providing they do not also sit on the Licensing Sub Committee determining the application in question.
6. 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 the Health and Environment Manager in conjunction with the Council solicitor and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason. A vexatious objection will generally be taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection will generally be taken to be one that is lacking in seriousness.
7. In determining applications for Sexual Entertainment Venue licenses the Licensing Sub Committee shall treat each application on an individual basis, on its own merits, in accordance with both this procedure and the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and having regard to the following matters.

Grounds for Granting or Refusing the Application

A decision to refuse the licence may not be made solely on the ground that the establishment may cause offence.

A licence must be refused any of the grounds listed in paragraph 12(1) of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, that is to say:-

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months;
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom or who 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 that was not incorporated in the United Kingdom; 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.

A licence may be refused where any of the following matters mentioned in paragraph 12(2) and (3) applies:

- (a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) That if the licence were to be granted, renewed, varied 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, variation or transfer of such a licence if he made the application himself.

With regard to the unsuitability of an applicant to hold a licence (see **a** above), officers will make diligent enquiries by interviewing the applicant and by utilizing information from the application form to establish :-

- That the operator is honest
- That the operator is qualified by experience to run the type of sex establishment in question
- That the operator understands the general conditions
- That the operator is proposing a management structure which delivers compliance with the operating conditions, eg through:- managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers
- That the operator can be relied upon to act in the best interests of performers, e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- That the operator can be relied upon to protect the public, e.g. transparent charging, freedom from solicitation.
- That the operator can show a track record of management of compliant premises, or that s/he will employ individuals who have such a track record.

With regard to **(b)** above by interviewing the applicant and the questions asked in the application form officers will try to establish that there would be no third party beneficiary.

- (c) That the number of Sexual Entertainment Venues 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.

Consideration will be given to the relevant locality, and to the number of Sexual Entertainment Venues suitable for it. The locality cannot include for example the whole of the administrative area or an entire town. The relevant locality might cover the area of a ward, specific estates, shopping areas or areas bounded by rivers and major roads or the Committee may wish to consider a distance x metres from the

applicant premises or some other nearby landmark as comprising the relevant locality. When considering the number of premises that is appropriate for the locality, the Committee will take into account the following factors:-

- The character of the locality-e.g. family residential / family leisure / educational
- Presence of sensitive uses-e.g. places of worship, schools, youth clubs, community centre, library, park, swimming pool
- The suitability of the applicant
- Gender equality-will this use deter female users of the locality ?
- In planning, fear of crime, as well as actual crime, is a land-use consideration
- Regeneration/tourism efforts hampered by sex-related uses
- Views of other authorities e.g. police, environmental health, planning
- Level of genuine demand. Excess supply may drive down standards and encourage non-compliant conduct

The number can be nil, but this decision needs to be rationally underpinned.

- (d) That the grant or renewal of the licence would be inappropriate, having regard to:
- The character of the relevant location; or
 - The use to which any premises in the vicinity are put; or
 - The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Consideration will be given to the following in this regard

- (i) the character of the relevant locality:

Regard will be given to the following points when addressing relevant locality:-

- Uses of the area e.g. commercial, industrial, mixed commercial, residential
- Users of the area e.g. adults, children, shoppers
- How the area is perceived e.g. tourist attraction, shopping centre ?
- Is there a local vision/plan for the area ?
- What type of area would not be acceptable in character terms e.g. predominantly residential areas and small communities with little commercial activity ?
- What areas might be acceptable e.g. In the larger towns on commercial streets later at night when other commercial activities have closed, or on mixed commercial sites out of towns ?

- (ii) the use to which any premises in the vicinity are put

Regard will be given to the proximity of the proposed establishment to schools, places of worship and premises such as nurseries, playgroups, village halls and playgrounds.

- (iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

The premises should meet or can be made to meet the layout and structural requirements set out in the "standard conditions for a Sexual Entertainment Venue licence" which forms part of this procedure document.

8. A standard set of licence conditions will be attached to each licence that is granted. The conditions recommended can be seen in Annex A1 (following point 14 below). The Sub Committee may consider the addition of further conditions as it considers necessary.
9. The Licensing Sub Committee will always strive to ensure that when it is considering an application that all persons get a proper and fair hearing through:
 - a) Considering each case on its own merits
 - b) Having regard to this procedure when assessing applications
 - c) Dealing with each application in a balanced and impartial manner
 - d) Ensuring that the rules of natural justice are applied in any hearing held
 - e) Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Sub Committee and present information for consideration in support of their application or objection.
10. Waivers:-We do not consider it would be appropriate to permit waivers from the requirements to hold a Sexual Entertainment Venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.
11. The authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
12. Details of applications and objections which are referred to a Licensing Sub Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and Freedom of Information Act 2000. The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act.
13. Our approach to enforcement is set out in the Departments Enforcement Policy.
14. We do not take a moral stand in adopting this procedure. We recognise that Parliament has made it lawful to operate sexual entertainment venues, and that such businesses are a legitimate part of the leisure industries. It is our role as a Licensing Authority to administer the licensing regime in accordance with the law.

**STANDARD CONDITIONS APPLICABLE TO
LICENCES FOR SEXUAL ENTERTAINMENT VENUES**

- i. 'The Council' shall mean Ryedale District Council.
- ii. 'Sexual Entertainment Venue' means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (ie a person who is responsible for organisation of management of the entertainment or the premises).
- iii. 'Authorised officer' means an officer employed by Ryedale District Council and authorised by Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- iv. 'Premises' includes any vehicle, vessel, or stall but does not include any private dwelling to which the public is not admitted.
- v. 'Special Conditions' shall mean any terms, conditions or restrictions contained or referred to in the Schedule to a licence granted under Schedule 3 aforesaid, but does not include any private dwelling to which the public is not admitted.
- vi. 'Licence' means any Sexual Entertainment Venue licence that the Council can grant under this Act. This includes any associated consent or permission.
- vii. 'Licensee' means the holder of a Sexual Entertainment Venue licence.
- viii. These conditions may be dispensed with, added to or modified by the Council in any special case.
- ix. Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- x. If the licensee wishes any of the terms of the licence to be varied, an application must be made to the Council.
- xi. "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 (whether by verbal or other means). The following are not Sexual Entertainment Venues for the purpose of this Schedule
 - sex cinemas and sex shops
 - premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time:

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;

no such occasion has lasted more than 24 hours; and

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 above)

- premises specified or described in an order made by the relevant national authority.

xii. 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.

Exhibition of the Licence	1	The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the Conditions attached to the Licence shall be kept on the premises and be available for inspection by an Authorised Officer of the Council, or the Police or Fire Authority.
Hours of Opening	2	a) Except with the written consent of the Council, the premises shall not remain open to the public outside the hours of 18:00 and 23:59.
Conduct on the Premises	3	a) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises. b) Relevant entertainment shall only be performed by the entertainer, there must be no audience participation. c) Entertainers shall be aged not less than 18 years and be accompanied and monitored by a member of security staff licensed by the Security Industry Authority to protect the entertainer from harm. d) Entertainers shall only perform on the stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed with the Licensing Authority. e) The licensee shall not permit the display outside the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises to be offensive. f) There must be no physical contact between performers and no photography on the premises. g) There must be no physical contact between performers and customers before, during or after the performance, (other than the transfer of money or tokens to the hands of the entertainer at the beginning or conclusion of the performance). Notices to this effect shall be clearly displayed at each table and at each entrance to the premises.

- h) Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the audience.
- i) Any performance will be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity or stimulation.
- j) No performance shall be visible to any person outside the premises (e.g. through windows or open doors).
- k) Sex toys must not be used and penetration of the genital area by any means must not take place.
- l) Podium dancers must not entice other dancers onto the podium.
- m) Patrons shall not be permitted to throw money at the performers.
- n) Patrons will not be permitted to arrange contacts or liaisons with the dancers whilst on the licensed premises or exchange telephone numbers or other means of making future contact with each other.

External Appearance 4

- a) There shall be displayed in each entrance or doorway premises a notice which states the following ; -

“WARNING”

“STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE. THIS PREMISES OPERATES A CHALLENGE 21 POLICY AND PERSONS UNDER THE AGE OF 21 SHALL BE REQUIRED TO SHOW PROOF OF THEIR AGE”

The word “WARNING” must appear as a heading and no pictures or other matter shall appear on the notice.

- b) No other words or signs, or any displays or advertisements, shall be displayed on the outside or in the vicinity of the premises except those mentioned in conditions 4(a) above or otherwise approved by the Council in writing. Leafleting is not permitted
- c) The licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.
- d) The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by whilst “relevant entertainment” is being performed.
- e) Windows and any form of openings to the premises other than entrances shall either be obscured by

blinds, or a material approved by the Council. Door entrances shall also be obscured by blinds or material approved by the Council so as to prevent any member of the public from seeing through to the premises whilst "relevant entertainment" is being performed.

State, condition and layout of the premises

- 5**
- a) 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 provide for their automatic closure and such devices shall be maintained in good working order.
 - b) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
 - c) No alterations (including temporary alterations) shall be made to the structure and installations of the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee shall seek advice from the Council.
 - d) Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

Management of the premises

- 6**
- a) The licensee, or a responsible person nominated by him for the purpose of managing the Sexual Entertainment Venue ('the Manager') shall have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination shall be produced on demand to an authorised officer of the Council or police.

The licence holder shall ensure that any person nominated by him under the above: -

- (i) Has been provided with a copy of the conditions relating to the premises and is fully conversant with them;
 - (ii) Is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
- b) Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such details as the Council may require in respect of

the change of personnel shall be furnished within 14 days of a request in writing from the Council.

- c) The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
- d) The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
- e) The licensee shall ensure that the public is not admitted to any part or parts of the premises that has not been approved by the Council.
- f) No person under the age of 18 shall be admitted to the premises and a Notice to this effect, in accordance with condition 4a) shall be displayed on the outside of the premises.
- g) The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID. A notice to this effect, in accordance with Condition 4a) shall be displayed on the premises.
- h) The licensee shall not employ any person under 18 years of age in the business of the establishment.
- i) The licensee shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.
- j) The licensee shall comply with all statutory provisions and any regulations made thereunder.

Safety and Security 7

- a) The licensee shall install a CCTV system covering all of the licensed area. This system shall be linked to a date and time recording facility and the system shall provide a high standard recording facility that will be admissible in court. This CCTV system shall be maintained in good working order and shall operate at all times when the premises are open.
- b) The licensee shall comply with fire prevention and safety measures that the Council may require.

		c)	The licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.
Vessels, Stalls and Vehicles	8	a)	In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days' written notice is given to the Council of such intended removal. The Council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application. This requirement shall not apply to a vessel, vehicle or stall, habitually operating from a fixed location, which is regularly moved (whether under its own propulsion or otherwise) from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that which is specified in the licence.
Variation of Conditions	9	a)	The Council may at any time waive, modify or vary these conditions or impose additional conditions in any particular case as it thinks fit.
		b)	Applications to vary conditions of the Licence shall be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.
Change of Licensee name	10		An application in respect of a change of licensee name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to permit or refuse such change.
General	11	a)	The licence hereby granted shall operate for one year from the date on the Licence, after which it will cease to be in effect unless an application for renewal is submitted in accordance with the Schedule of the Act and in the manner prescribed by the Council.
		b)	The licence may be revoked by the Council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions)

Act 1982(as amended).

- c) The licensee shall afford all reasonable assistance to authorised officers in connection with these conditions and other licensing requirements.
- d) In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sexual entertainment venue, the special conditions shall prevail.
- e) The grant of a Licence for a Sexual Entertainment Venue should 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.
- f) The Licensee shall provide (subject to the approval of both the Police and Licensing Authority) a code of conduct for dancers and rules of conduct for customers.
- g) Licensees shall ensure performers have secure dressing rooms and proper sanitation facilities available to them.
- h) Suitable numbers of SIA registered doorstaff (numbers to be subject to police and licensing Authority approval) will be present on the premises during the performance of relevant entertainment.
- i) Suitable and sufficient training to be provided to all staff including the Licensee. The training of all staff to be to be recorded and these documents to be made available upon request to both the police and authorised Council Officers.
- j) All club rules (customer conduct, dispersal policies etc) to be prominently displayed on the premises.

ANNEX B

<u>Fees</u>	<u>2010/11</u>	<u>2011/12</u>
Grant	£4160	£4320
Variation	£3740	£3900
Annual Licence Fee	£3740	£3900
Transfer Fee	£570	£590
Change of Name	£52	£54

An administration fee of £20 will be made for replacement of lost documentation or dealing with dishonoured cheques. If a cheque is dishonoured by a bank this will result in the revocation of the Sexual Entertainment Venue Licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fee (fee plus administration fee) within 5 working days of the initial contact from the Council.

An administration fee of 50% will be levied on licence applications that are withdrawn.

RYEDALE DISTRICT COUNCIL

RYEDALE
DISTRICT
COUNCIL



Sexual Entertainment Venue

Application Form & Licence Application Procedure

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SEXUAL ENTERTAINMENT VENUE – LICENCE APPLICATION PROCEDURES

INTRODUCTION

These procedures set out the Council's standards for determining applications for, and enforcement of, Sexual Entertainment Venues in the Ryedale area.

Ryedale District Council has adopted Section 27 of the Policing and Crime Act 2009 which amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence Sexual Entertainment Venues, where relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. The Council will apply these guidelines to Sexual Entertainment Venues in its area to ensure consistency of decision making, however, each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration. Applicants should also ensure that all necessary planning permissions and alcohol/entertainment licences etc have been sought.

Section 1 Interpretation

In these guidelines:

Act means the Local Government (Miscellaneous Provisions) Act 1982

Applicant means the applicant for the grant, variation, renewal or transfer of a licence as appropriate.

Application means an application for one or more of the following, as the case may be:

- a) grant of a licence;
- b) transfer of a licence;
- c) renewal of a licence;
- d) variation of a licence

Audience includes an audience of one

Authorised Officer means an officer employed by Ryedale District Council and authorised by Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

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.

Financial gain for the purposes of the meaning of sexual entertainment venue and relevant entertainment it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

Licence means any Sexual Entertainment Venue licence that the Council can grant under the Act. This includes any associated consent or permission.

Licensee means the holder of such a Sexual Entertainment Venue licence.

Objector means any person who has given Notice of Objection in accordance with Paragraph 10 (15) of the Schedule.

Observations means the giving of views by the statutory authorities such as the Police Authority.

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

Parties means the applicant(s) and any objector(s) to the grant of the application. In the case of revocation proceedings it means the licensee and the persons seeking revocation.

Premises includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

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 (whether by verbal or other means). The following are not sexual entertainment venues for the purpose of this Schedule

- sex cinemas and sex shops
- premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time:
 - 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;
 - no such occasion has lasted more than 24 hours; and
 - 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 above)
- premises specified or described in an order made by the relevant national authority.

Relevant National Authority means in relation to England, the Secretary of State

Revocation means the revocation of a licence under Paragraph 17 of the Schedule or a proposal to revoke the licence.

Sexual Entertainment Venue means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (ie a person who is responsible for organisation of management of the entertainment or the premises).

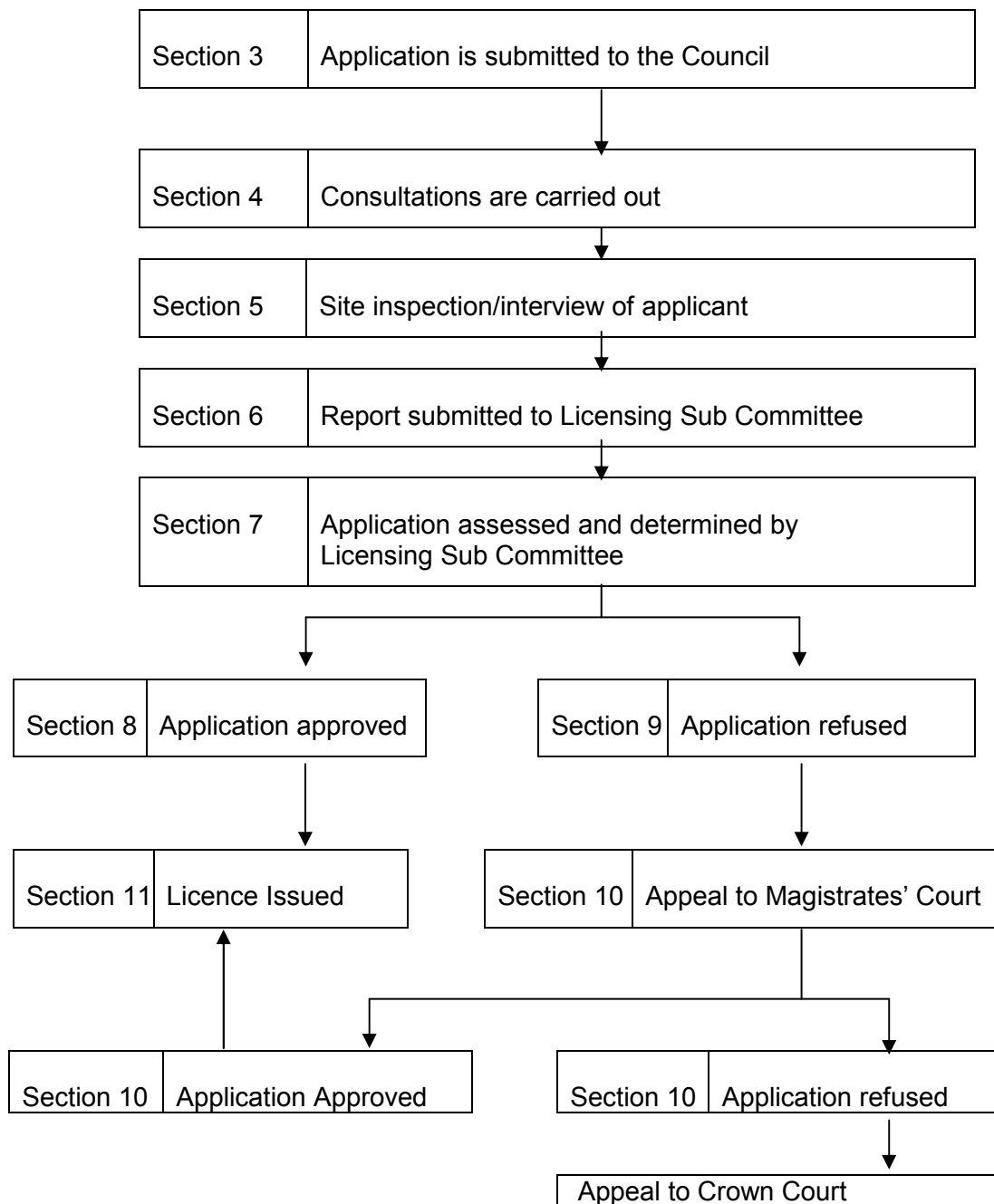
The Council means Ryedale District Council.

The Sub Committee means Ryedale District Council's Licensing Sub Committee.

The Schedule means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.

Section 2 Procedure for Determining Sexual Entertainment Venue Licence Applications

The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



Section 3 Submission of the Application

An application for a Sexual Entertainment Venue licence must be made to Ryedale District Council on the form shown in **Appendix 1** and include:

- A site plan (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed Sexual Entertainment Venue by marking the site/premises boundary with a red line.
- A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to license as a Sexual Entertainment Venue. All areas requiring to be licensed should be outlined in red on the plan.
- Full Licence Fee and completed application form. This will be rejected and returned to the applicant if all the relevant boxes are incomplete or if additional documentation is not enclosed.

The application must be complete and all information provided otherwise it will be rejected.

Additionally, public notice of the application shall be given by:

- Displaying a prescribed notice in, on or near the premises, in a place where it can be conveniently read by the public, continuously for 21 days beginning with the date of the application. The Notice shall be of a size equal or larger than A4, of a green colour and printed legibly in black ink or typed in a font of a size equal to or larger than 11. The format of the approved notice is given in **Appendix 2(a)**.
- By publishing an advertisement detailing the above notice in a local newspaper circulating in the area not later than 7 days after the date of the application, see **Appendix 2(b)**.
- By sending Ryedale District Council one complete copy of the newspaper containing the Advertisement to the Council as soon as is reasonably practicable.

Nb Templates of both Notice and advert are available from the authority upon request.

As well as sending a complete copy of the application together with the appropriate fee to Ryedale District Council, the applicant must also send a copy of the completed application form to the Chief Officer of North Yorkshire Police, Malton Police Station, Old Malton Road, Malton, North Yorkshire, YO17 7YD within 7 days of the application being made.

Help in completing the application form can be obtained from the Council's Licensing team on 01653 600666 or by contacting licensing@ryedale.gov.uk.

Section 4 Consultations on Applications Made

Before a Sexual Entertainment Venue licence is granted or renewed the applicant has to serve a copy of the application on the Chief Officer of North Yorkshire Police. Further, a Notice of the application has to be displayed on the premises for 21 days and another Notice advertised in a local newspaper, this forms the necessary consultation required (**see Section 3 above**). Details of all such applications will be posted on the Councils website at www.ryedale.gov.uk for residents and local people to comment on.

Objections to the application must be made in writing and be received by the licensing authority within 28 days of the application being made. The objection should state in general terms the grounds of objection

Section 5 Inspection and interview of Sexual Entertainment Venue / applicant

On receipt of an application the premises will be visited and inspected by an Authorised Officer of the Council to determine suitability for compliance with the Sexual Entertainment Venue licence conditions given in **Appendix 3**. In addition, the applicant will be invited to attend an interview with the authorised officer to fully discuss their proposals. Following on from both of these the authorised officer will prepare a report for submission to a hearing of the Council's Licensing Sub Committee. The applicant will be notified in writing of the date and time of the hearing when their application is to be considered. The date of this hearing will normally be within 30 working days from the day following the end of the consultation period. One extension, for a limited period of time can be made to this timescale but notice will be given to the applicant with reasons for the extension before the expiry of the original time period. **NB please note that tacit consent will not apply for public interest reasons.**

Section 6 Report Submitted to the Licensing Sub Committee

Following inspection of the proposed establishment and interview of the applicant, a report will be prepared by the authorised officer for consideration by the Council's Licensing Sub Committee. **NB All new, renewal and variation applications shall be referred to the Council's Licensing Sub Committee.**

If objections are received against the granting of a Sexual Entertainment Venue licence, copies of such objections will be included in the authorised officers report to the Licensing Sub Committee for consideration when determining the application.

Persons making written objections will also be informed of the date and time of the Licensing Sub Committee hearing where they will be invited to address the Sub Committee and ask questions relating to the application. The Council shall not, without the written consent of the person making the objection, reveal his/her name or address to the applicant.

Sections 7 & 8 Determining and Granting an Application

In determining applications for Sexual Entertainment Venues, the Licensing Sub Committee shall have regard to the relevant matters of the Schedule shown in **Appendix 4** and licence conditions contained in **Appendix 3**. Each case though will be assessed on its merits and individual circumstances where appropriate, may be taken into consideration.

The Licensing Sub Committee has been established to consider applications for all types of sexual entertainment licences. The Licensing Sub Committee consists of three elected members of Ryedale District Council and is supported by the Council's Solicitor and Licensing Officer. Licensing Sub Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

The role of the Licensing Sub Committee is to determine application for :

- the grant, renewal or variation of sexual entertainment licences, or
- if necessary the transfer of a sexual entertainment licence.

As stated above once arrangements have been made for the application to be heard by the Licensing Sub Committee, the applicant will be advised, in writing, of the date, time and place where the application will be heard.

The applicant will be expected to attend the hearing and can be accompanied by a solicitor, or supported by a friend or colleague. The Licensing Sub Committee hearing will follow the same procedure that currently applies to applications under the Licensing Act 2003. Copies of this procedure will be sent to the applicant in advance of the hearing, along with the officers reports that will be presented at the hearing.

In determining an application the Licensing Sub Committee will consider the applicants presentation and the Council's authorised Officers report. Either side may use witnesses and supporting documentation may be submitted to the Licensing Sub Committee for consideration.

The Licensing Sub Committee will consider all the evidence presented to it during the hearing and members may ask questions of officers and the applicant. After hearing the evidence presented to it, the Licensing Sub Committee will retire and come to a decision on the application. When a decision has been reached the Licensing Sub Committee will inform the applicant of their decision and the reasons for coming to that particular decision. The decision of the Licensing Sub Committee will be confirmed, in writing, to the applicant within 5 working days of the meeting at which the application was considered giving reasons for the decision.

Where objections have been raised to the granting of a Sexual Entertainment Venue licence the Licensing Sub Committee will consider the objections made. Persons who have raised objections to the application will be allowed the opportunity to address the Licensing Sub Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be circulated to members of the Licensing Sub Committee (contained in the authorised officers report) in advance of a meeting where a contested application is being considered. NB all names and addresses of objectors will be withheld unless they specifically consent to their release. However, the letters of objection will also be sent to the applicant but without any information that would identify the person submitting the objection. The applicant will be given a broad indication of the proximity of the objector's property in relation to the proposed Sexual Entertainment Venue.

The Licensing Sub Committee will always strive to ensure that when it is considering an application that all persons get a proper and fair hearing through:

1. Considering each case on its own merits.
2. Having regard to the Councils procedure for determining applications for Sexual Entertainment Venues when assessing such applications and in accordance with the Local Government (Miscellaneous Provisions) Act 1982(as amended)
3. Dealing with the application in a balanced and impartial manner.
4. Ensuring that the rules of natural justice are applied in any hearings held.
5. Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Licensing Sub Committee and

present information for consideration in support of their application or objection at any hearing.

When a Sexual Entertainment Venue licence is granted by the Licensing Sub Committee, the Licence will be provided to the applicant as soon as possible.

Section 9 Criteria for Refusal of an Application

The grounds for refusal are given in **Appendix 4**. The Council will also consider its own procedure for the determination of applications for Sexual Entertainment Venues when determining any such application.

Section 10 Appeals Against Decisions

The Local Government (Miscellaneous Provisions) Act 1982, Section 27 permits appeals against the decisions of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates' Court. An appeal should be made within 21 days of the decision to the Magistrates Court, Northway, Scarborough.

An appeal can be made in the following circumstances:

1. Refusal of an application for the grant, renewal or transfer of a licence.
2. Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held.
3. A grievance relating to any term, condition or restriction on or subject to which a licence is held.
4. Revocation of a licence.
5. There is no right of appeal for objectors

There is a right of appeal against refusal on mandatory grounds, only where appellant alleges the grounds for refusal did not apply to them. There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the relevant locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

A person wishing to appeal against a Council decision on a Sexual Entertainment Venue licence is strongly advised to seek assistance from a solicitor, prior to commencing action in a Court of Law.

Section 11 Issue of Sexual Entertainment Venue Licences

Sexual Entertainment Venue licences will be issued for a maximum period of 12 months following payment of the full fee and will be renewable on the date specified in the Licence. Details of fee charges are available from either the Councils Website or by contacting Ryedale District Council on 01653 600666 Ext 250/253.

Please note that an administration fee of £20 will be made for the replacement of lost documentation or dealing with dishonoured cheques. If a cheque is dishonoured by a bank this will result in the revocation of the Sexual Entertainment Venue licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fee (fee plus administration fee) within 5 working days of the initial contact from the Council.

An administration fee of 50% will be levied on licence applications that are withdrawn.

Section 12 Enforcement of Sexual Entertainment Venues

Ryedale District Council will actively enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) in relation to Sexual Entertainment Venues within its area in a fair and consistent manner and in line with the Department's Enforcement Policy.

Complaints Against the Service

Ryedale District Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to make a complaint you should, in the first instance, contact The Health and Environment Manager at the Council Offices, Old Maltongate, Malton, North Yorkshire, YO17 7HH, telephone 01653 600666.

If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

Appendix 1

For Office Use	
Licence Ref. No.	
Visited	
Officer	
Licence Issued	

Licensing Team
 Environmental Health Services
 PO Box 67
 Ryedale House
 Old Malton Road
 Malton
 YO17 7ZG

Local Government (Miscellaneous Provisions) Act 1982
 Please complete in **BLOCK CAPITALS** and **BLACK INK**

Form of Application for a Sexual Entertainment Venue Licence

SECTION A – ABOUT THE APPLICANT	
Is the applicant:	a) An individual <input type="checkbox"/> b) A partnership or other unincorporated body <input type="checkbox"/> c) A body corporate <input type="checkbox"/>
Give the full name of the applicant(s,) or body applying for the licence. If an individual or partnership, please state any previous name(s), date name changed together with date and place of birth.	
Telephone number on which the applicant can be contacted during office hours	
Address to which any communications for the applicant are to be sent	
Applicants permanent address. If a company, please give the registered or principal address	
If the applicant is a company, please supply the following information on a separate sheet in respect of each Director and persons who will manage or otherwise be involved in running the establishment or who have an interest/will benefit	Forename, Surname, Former Names (and date name changed), Address, Date of Birth, Place of Birth.
What is the nature of the applicant's interest in the premises? Please state whether it is:	Freehold <input type="checkbox"/> Leasehold <input type="checkbox"/>
If the applicant's interest in the premises is leasehold, please supply the following information:	a) Is the lease headlease <input type="checkbox"/> underlease? <input type="checkbox"/> b) Landlord's name and address:

<p>Has the applicant been resident in the United Kingdom throughout the period of 6 months preceding the date of this application?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>Does the applicant or any persons named in this form have any Convictions/Cautions?</p> <p>If the answer to the above is yes, please give details below:</p>		<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Convictions						
Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Cautions						
Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

SECTION B – ABOUT THE PREMISES

<p>Trading name, address, telephone number and internet address (where applicable) of premises to be licensed</p>	<p>Name:</p> <p>Address:</p> <p>Tel: Internet address:</p>
<p>Part of premises to be licensed (e.g. ground floor, first floor etc)</p>	
<p>Please provide details of what form of relevant entertainment will be performed on the premises</p>	
<p>If only part of the premises are to be used, to what use are the other parts of the premises put?</p>	
<p>Please state the name(s) of the person(s) responsible for running the part(s) of the premises that are <u>not</u> to be used as a sexual entertainment venue.</p>	
<p>If the premises are already used as a sexual entertainment venue, please give the name and address of the persons or body who now operate the business, and the date on which the premises were first used as a sexual entertainment venue</p>	
<p>Is the application in respect of a premises, vehicle or vessel?</p>	<p>Premises <input type="checkbox"/></p>
	<p>Vehicle <input type="checkbox"/></p>
	<p>Vessel/Stall <input type="checkbox"/></p>
<p>If the application is in respect of a vehicle, stall or vessel , please state where it is to be used as a sexual entertainment venue</p>	
<p>Are the premises fitted with a CCTV system</p>	
<p>Please confirm the number of SIA doorstaff to be present on the premises whilst relevant entertainment is being performed</p>	

SECTION C – ABOUT THE LICENCE

<p>FIRST APPLICATION Choose this option if this is the first time this premises has been licensed or if the previous licence held by the premises has lapsed. You MUST provide copies of plans of the premises with the application to enable it to be processed</p>	
<p>RENEWAL APPLICATION Choose this option if you already hold a licence for the premises that is due to expire shortly</p>	
<p>VARIATION APPLICATION Choose this option if you are proposing to change the hours of operation, or the premises layout (new plans may be required depending on the scale of alterations) etc</p>	
<p>TRANSFER APPLICATION Choose this option to transfer the licence from one licence holder to another</p>	

SECTION D – ABOUT THE BUSINESS

Under what name is or will the business be known?		
What means are to be taken to prevent the interior of the premises being viewed by passers by?		
State which days and hours you intend to open the premises	Monday	
	Tuesday	
	Wednesday	
	Thursday	
	Friday	
	Saturday	
	Sunday	

SECTION E – OTHER PARTICULARS TO BE PROVIDED

A site plan, with the premises outlined in red – Scale 1:500	<input type="checkbox"/>
Scale plan of the premises (1:50) in respect of which the licence is sought including all means of ingress and egress to an from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.	<input type="checkbox"/>
A complete copy of the newspaper in which the notice of the application has been published (this must be sent within seven working days of making the application)	<input type="checkbox"/>

SECTION F – DECLARATION

I/We enclose the requisite fee	<input type="checkbox"/>
--------------------------------	--------------------------

I/We confirm that a copy of this application has been served on the Licensing Police Officer, North Yorkshire Police, Malton Police Station, Old Malton Road, Malton, YO17 7YD within 7 days of the application being submitted	<input type="checkbox"/>
I/We confirm that a notice publicising this application will be displayed for 21 days beginning with the date of the application on or near the premises and in a place where it can conveniently be read by the public	<input type="checkbox"/>
I/We confirm that a Notice of application has been given by publishing an advertisement in a Local Newspaper circulating in the local area. The publication of the notice shall not be later than seven days after the date of application	<input type="checkbox"/>

DECLARATION BY APPLICANT FOR LICENCE

I understand that any person who, in connection with an application for the grant, renewal or transfer of a licence makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence punishable on summary conviction by a fine not exceeding £20,000.

I declare that the information I have given in this form is true and complete in every respect.

Where the application is made on the behalf of a Limited Company, the Company Secretary or Director(s) should sign this form, In the case of a Partnership each Partner should sign.

Signed		Signed	
Name		Name	
Capacity		Capacity	
Date		Date	

Appendix 2(a)

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
(as amended)

SCHEDULE 3-CONTROL OF SEXUAL ENTERTAINMENT VENUES

**APPLICATION NOTICE FOR THE GRANT OF A SEXUAL
ENTERTAINMENT VENUE LICENCE**

Application has today been made to Ryedale District Council in accordance with Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) for a Sexual Entertainment Venue licence in respect of the premises named below.

Address of Premises

Signature of Applicant

Name of Applicant

Date

Any objections to this application should be made not later than 28 days after the date hereon in writing stating in general terms the grounds for objection to:

**The Licensing Team
PO Box 67
Ryedale District Council
Ryedale House
Old Maltongate
Malton
North Yorkshire
YO17 7ZG**

This notice to be prominently displayed on the outside of the premises for a period of twenty-one days after the date hereon.

NB Objections will be sent to the applicant and will become public documents. However, personal details such as name, address and telephone number will be removed.

SEXUAL ENTERTAINMENT VENUE LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (as amended)

APPLICATION FOR GRANT OF A LICENCE

Take notice that on _____ (the application date)

I/We

Of

Made application to Ryedale District Council for the grant of a Sexual Entertainment Venue Licence at (address of proposed premises):

Any objections to this application should be made to :

**The Licensing Team
PO Box 67
Ryedale District Council
Ryedale House
Old Maltongate
Malton
North Yorkshire
YO17 7ZG**

Within 28 days from the date of application stating in general terms the grounds of objection.

NB: Objections will be sent to the applicant and will become public documents. However, personal details such as name, address and telephone number will be removed.

Appendix 3

STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES

Notes:

- i. 'The Council' shall mean Ryedale District Council.
- ii. 'Sexual Entertainment Venue' means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (ie a person who is responsible for organisation of management of the entertainment or the premises).
- iii. 'Authorised officer' means an officer employed by Ryedale District Council and authorised by Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- iv. 'Premises' includes any vehicle, vessel, or stall but does not include any private dwelling to which the public is not admitted.
- v. 'Special Conditions' shall mean any terms, conditions or restrictions contained or referred to in the Schedule to a licence granted under Schedule 3 aforesaid, but does not include any private dwelling to which the public is not admitted.
- vi. 'Licence' means any Sexual Entertainment Venue licence that the Council can grant under this Act. This includes any associated consent or permission.
- vii. 'Licensee' means the holder of a Sexual Entertainment Venue licence.
- viii. These conditions may be dispensed with, added to or modified by the Council in any special case.
- ix. Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- xi. If the licensee wishes any of the terms of the licence to be varied, an application must be made to the Council.
- xi. 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 (whether by verbal or other means). The following are not sexual entertainment venues for the purpose of this Schedule
 - sex cinemas and sex shops
 - premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time:

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;

no such occasion has lasted more than 24 hours; and

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 above)

- premises specified or described in an order made by the relevant national authority.

xii. 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.

Exhibition of the Licence

1 The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the Conditions attached to the Licence shall be kept on the premises and be available for inspection by an Authorised Officer of the Council, or the Police or Fire Authority.

Hours of Opening

2 a) Except with the written consent of the Council, the premises shall not remain open to the public outside the hours of 18:00 and 23:59.

Conduct on the Premises

3 a) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises.
b) Relevant entertainment shall only be performed by the entertainer, there must be no audience participation.
c) Entertainers shall be aged not less than 18 years and be accompanied and monitored by a member of security staff licensed by the Security Industry Authority to protect the entertainer from harm.
d) Entertainers shall only perform on the stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed with the Licensing Authority.
e) The licensee shall not permit the display outside the premises of photographs or other images that indicate or suggest that striptease or similar entertainment takes place on the premises to be offensive.
f) There must be no physical contact between performers and no photography on the premises.
g) There must be no physical contact between performers and customers before, during or after the performance, (other than the transfer of money or tokens to the hands of the entertainer at the

beginning or conclusion of the performance). Notices to this effect shall be clearly displayed at each table and at each entrance to the premises.

- h) Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the audience.
- i) Any performance will be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity or stimulation.
- j) No performance shall be visible to any person outside the premises (e.g. through windows or open doors).
- k) Sex toys must not be used and penetration of the genital area by any means must not take place.
- l) Podium dancers must not entice other dancers onto the podium.
- m) Patrons shall not be permitted to throw money at the performers.
- n) Patrons will not be permitted to arrange contacts or liaisons with the dancers whilst on the licensed premises or exchange telephone numbers or other means of making future contact with each other.

External Appearance 4

- a) There shall be displayed in each entrance or doorway premises a notice which states the following ; -

“WARNING”

“STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE. THIS PREMISES OPERATES A CHALLENGE 21 POLICY AND PERSONS UNDER THE AGE OF 21 SHALL BE REQUIRED TO SHOW PROOF OF THEIR AGE”

The word “WARNING” must appear as a heading and no pictures or other matter shall appear on the notice.

- b) No other words or signs, or any displays or advertisements, shall be displayed on the outside or in the vicinity of the premises except those mentioned in conditions 4(a) above or otherwise approved by the Council in writing. Leafleting is not permitted
- c) The licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.
- d) The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by whilst “relevant entertainment” is being performed.

- e) Windows and any form of openings to the premises other than entrances shall either be obscured by blinds, or a material approved by the Council. Door entrances shall also be obscured by blinds or material approved by the Council so as to prevent any member of the public from seeing through to the premises whilst “relevant entertainment” is being performed.
- State, condition and layout of the premises** **5**
- a) 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 provide for their automatic closure and such devices shall be maintained in good working order.
- b) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
- c) No alterations (including temporary alterations) shall be made to the structure and installations of the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee shall seek advice from the Council.
- d) Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.
- Management of the premises** **6**
- a) The licensee, or a responsible person nominated by him for the purpose of managing the Sexual Entertainment Venue (‘the Manager’) shall have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination shall be produced on demand to an authorised officer of the Council or police.
- The licence holder shall ensure that any person nominated by him under the above: -
- (iii) Has been provided with a copy of the conditions relating to the premises and is fully conversant with them;
- (iv) Is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
- b) Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the

management of the body shall be notified in writing to the Council within 14 days of such change and such details as the Council may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

- c) The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
- d) The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
- e) The licensee shall ensure that the public is not admitted to any part or parts of the premises that has not been approved by the Council.
- f) No person under the age of 18 shall be admitted to the premises and a Notice to this effect, in accordance with condition 4a) shall be displayed on the outside of the premises.
- g) The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID. A notice to this effect, in accordance with Condition 4a) shall be displayed on the premises.
- h) The licensee shall not employ any person under 18 years of age in the business of the establishment.
- i) The licensee shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.
- j) The licensee shall comply with all statutory provisions and any regulations made thereunder.

Safety and Security 7

- a) The licensee shall install a CCTV system covering all of the licensed area. This system shall be linked to a date and time recording facility and the system shall provide a high standard recording facility that will be admissible in court. This CCTV system shall be maintained in good working order and shall operate at all times when the premises are open.

		b)	The licensee shall comply with fire prevention and safety measures that the Council may require.
		c)	The licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.
Vessels, Stalls and Vehicles	8	a)	In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days' written notice is given to the Council of such intended removal. The Council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application. This requirement shall not apply to a vessel, vehicle or stall, habitually operating from a fixed location, which is regularly moved (whether under its own propulsion or otherwise) from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that which is specified in the licence.
Variation of Conditions	9	a)	The Council may at any time waive, modify or vary these conditions or impose additional conditions in any particular case as it thinks fit.
		b)	Applications to vary conditions of the Licence shall be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.
Change of Licensee name	10		An application in respect of a change of licensee name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to permit or refuse such change.
General	11	a)	The licence hereby granted shall operate for one year from the date on the Licence, after which it will cease to be in effect unless an application for renewal is submitted in accordance with the Schedule of the Act and in the manner prescribed by the Council.
		b)	The licence may be revoked by the Council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions

of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(as amended).

- c) The licensee shall afford all reasonable assistance to authorised officers in connection with these conditions and other licensing requirements.
- d) In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sexual entertainment venue, the special conditions shall prevail.
- e) The grant of a Licence for a Sexual Entertainment Venue should 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.
- f) The Licensee shall provide (subject to the approval of both the Police and Licensing Authority) a code of conduct for dancers and rules of conduct for customers.
- g) Licensees shall ensure performers have secure dressing rooms and proper sanitation facilities available to them.
- h) Suitable numbers of SIA registered doorstaff (numbers to be subject to police and licensing Authority approval) will be present on the premises during the performance of relevant entertainment.
- i) Suitable and sufficient training to be provided to all staff including the Licensee. The training of all staff to be to be recorded and these documents to be made available upon request to both the police and authorised Council Officers.
- j) All club rules (customer conduct, dispersal policies etc) to be prominently displayed on the premises.

Appendix 4

Grounds for Granting or Refusing the Application

A licence must be refused on any of the grounds listed in paragraph 12(1) of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, that is to say:-

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom or who 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 that was not incorporated in the United Kingdom; 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.

A licence may be refused where any of the following matters mentioned in paragraph 12(2) and (3) applies:

- (a) That the applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason
- (b) That if the licence were to be granted, renewed, varied 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, variation or transfer of such a licence if he made the application himself.
- (c) 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.
- (d) That the grant, variation 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.