

Enquiries to:
Committee Services

Direct Dial: 024 7637 6204

Direct Email:
committee@nuneatonandbedworth.gov.uk

Date: 15th October 2024

**INDIVIDUAL CABINET
MEMBER DECISION**

Dear Sir/Madam,

The Cabinet Member for Planning and Enforcement (Councillor R. Roze) is to consider the following report and make a decision on **Wednesday, 23rd October 2024 at 2.00pm** in the Committee Room D, Town Hall, Nuneaton.

Yours faithfully,

TOM
SHARDLOW
Chief Executive

A G E N D A

PART 1

PUBLIC BUSINESS

1. EVACUATION PROCEDURE

A fire drill is not expected, so if the alarm sounds, please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside Lloyds Bank on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

2. PUBLIC CONSULTATION - Members of the public will be given the opportunity to speak on specific agenda items if notice has been received.

Members of the public will be given three minutes to speak on a particular item and this is strictly timed. The chair will inform all public speakers that: their comments must be limited to addressing issues raised in the agenda item under consideration: and that any departure from the item will not be tolerated.

The chair may interrupt the speaker if they start discussing other matters which are not related to the item, or the speaker uses threatening or inappropriate language towards Councillors or officers and if after a warning issued by the chair, the speaker persists, they will be asked to stop speaking by the chair.

The chair will advise the speaker that, having ignored the warning, the speaker's opportunity to speak to the current or other items on the agenda may not be allowed. In this eventuality, the chair has discretion to exclude the speaker from speaking further on the item under consideration or other items of the agenda.

3. DECLARATIONS OF INTEREST - To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda (**Page 4**). Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Committee Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is

engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and nature of the dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room. Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Audit & Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.

Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.

4. RE-ADOPTION OF THE SEX ESTABLISHMENT LICENSING POLICY a report of the Assistant Director – Environment and Enforcement attached **(Page 5)**

Councillor Roze - Schedule of Declarations of Interests – 2024/2025

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	R. Roze	Director – InfiniTEN Ltd	Representative on the following Outside Bodies: <ul style="list-style-type: none"> • A5 Member Partnership • Nuneaton and Bedworth Community Enterprises Ltd • PATROL (Parking and Traffic Regulations Outside of London) Joint Committee Services. • Building Control Partnership Steering Group • Bedworth Town Deal Board 	

Cabinet/Individual Cabinet Member Decision

Report Summary Sheet

Date: 23rd October 2024

Subject: Re-Adoption of the Sex Establishment Licensing Policy

Portfolio: Planning and Enforcement

From: Assistant Director-Environment and Enforcement

Summary: This report is to present the Sex Establishment Licensing Policy for re-adoption.

Recommendations:

1. To re-adopt the Sex Establishment Licensing Policy, attached in Appendix A

Options: To approve, amend or reject the policy document

If the Council does not have a policy in place there is a risk that decisions made to approve or object applications will not be consistent.

Reasons:

While there is no legal requirement for a local authority to produce either a policy in regard to sex establishments or specific licence conditions, it is recognised as best practice to publish a policy that sets out a general approach to the licensing of sex establishments.

This because the policy will assist the Council when it is required to consider applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities. It will inform applicants and objectors of the parameters under which the Council will make licence decisions as well as ensuring consistent decisions.

The policy was adopted in 2019 for a five year period, and after formal review is still considered fit for purpose

Consultation undertaken with Members/Officers/Stakeholders

The policy went out for consultation on the 1st August 2024 and concluded on 30th August 2024.

No comments were received from any interested party.

Subject to call-in: Yes

Ward relevance: All

Forward plan: No

Building a Better Borough Aim: One

Building a Better Borough Priority: Two

Relevant statutes or policy:

The Home Office Guidance confirms that Local Authorities are not required to publish a licensing policy relating to sex establishments.

However, if they do publish a policy it must not prevent any individual application from being considered on its merits at the time the application is made.

The provisions of the legislation, the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, and the Home Office guidance were taken into account when drafting the current Sex Establishments Licensing Policy.

Equalities Implications: None

(Does this require an Equalities Impact Assessment? If so please append.)

Human resources implications:

None

Financial implications:

None

Health Inequalities Implications: None

Section 17 Crime & Disorder Implications: None

Risk management implications: None

Environmental implications: None

Legal implications:

The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brought in a licensing regime for lap dancing, pole dancing and other “relevant entertainment”. The legislation enables local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

Contact details:

Alastair Blunkett-Assistant Director- Environment and Enforcement

Tel: 024 76 37 6064

Ricky Casserly-Team Leader (Licensing)

Tel: 024 7637 6150

AGENDA ITEM NO.4

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Councillor Rob Roze

From: Alastair Blunkett - Assistant Director, Environment and Enforcement

Subject: The re-adoption of the Sex Establishment Licensing Policy

Portfolio: Planning and Enforcement

Building a Better Borough Aim: One

Building a Better Borough Priority: Two

1.0 Purpose of Report

1.1 The purpose of this report is to present the Council's Sex Establishment Licensing Policy for consideration and approval.

2.0 Recommendation

2.1 That the Sex Establishment Licensing Policy, in Appendix A is approved.

3.0 Background

3.1 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues.

3.2 This brought a new licensing regime into force for lap dancing, pole dancing and other "relevant entertainment".

3.3 The provisions allow the Council to improve the regulation of sexual entertainment venues, as there are increased powers to control numbers and location of venues in the area.

3.4 The Council adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 8 September 2010 with effect from 1 June 2011.

4.0 Body of Report

- 4.1 The Council adopted the last Sex Establishment Licensing Policy in 2019 with the recommendation it be reviewed after five years. There has been no changes in legislation since then. As such the policy is still considered to be fit for purpose so no material changes have been made.
- 4.2 There are currently no licensed sexual entertainment venues in the Borough.
- 4.3 Although legislation does not require a local authority to produce either a policy in regard to sex establishments or specific licence conditions, it is however best practice to publish a policy setting out the general approach to the licensing of sex establishments.
- 4.4 It is a sensible extension to the legislation to highlight to applicants what is expected of them in order to obtain a licence or where it is likely that any application received by the local authority would not be successful e.g. the premises chosen for the sex establishment was within a specified distance of a school.
- 4.5 The Policy will assist businesses in making an application as it provides a background and rationale around the granting of a licence. The Council will use the policy as part of its decision process on whether or not to grant a licence.
- 4.6 The Policy therefore sets out Nuneaton and Bedworth Borough Council's approach to the regulation of sex establishments and the procedure relating to applications for sex establishment licences.
- 4.7 It covers applications for Sex Establishment Licences for:
- sex shops*
 - sex cinemas*
 - sexual entertainment venues, including lap dancing establishments*

*As defined by the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.

- 4.8 The Council is mindful of possible concerns within the local community with regard to applications for sex establishment licences and that there can be conflict between applicants and objectors. The policy will therefore assist the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities. It will inform applicants and objectors of the parameters under which the Council will make licence decisions as well as ensuring consistent decisions.

4.9 The Policy states that all applications received for sex establishment licences will still be considered by the Licensing Committee.

5.0 Conclusion

5.1 It is recommended the Sex Establishment Licensing Policy is approved.

5.2 This policy will be reviewed every five years or sooner if changes are necessary. All legislative amendments or minor clerical changes will be made automatically; all other changes will be subject to a minimum twenty eight day consultation period.

6.0 Appendices

Appendix A Sexual Establishments Licensing Policy

7.0 Background Papers (if none, state none) None



Period of Policy
2024 to 2029

SEX ESTABLISHMENT LICENSING POLICY

Sex Establishment October 2024
Prepared by R Casserly

Index		
1.0	Introduction	Page 2
2.0	Purpose and Aim of Policy	Page 2
3.0	Scope	Page 2
4.0	Policy and Procedures Statement	Page 2
5.0	Sex Establishment Licensing	Page 3
6.0	Waivers	Page 6
7.0	Application Process	Page 6
8.0	Commenting on Licence Applications	Page 8
9.0	Determination of Application	Page 9
10.0	Fees	Page 12
11.0	Definitions and Guidance	Page 12
12.0	Policy Details	Page 15
13.0	Engagement	Page 15
14.0	Communicating the Policy	Page 16
15.0	Exchange of Information	Page 16
Appendix A	Newspaper Advertisement example	Page 17
Appendix B	Standard Conditions Sex Shops & Cinemas	Page 18
Appendix C	Standard Conditions Sexual Entertainment Venues	Page 23
Appendix D	Application Forms	Page 32

1.0 INTRODUCTION

- 1.1 This policy has been drafted as a result of provisions contained in the Local Government (Miscellaneous Provisions) Act 1982 that allow the Council to regulate sex establishments and similar venues.
- 1.2 Nuneaton and Bedworth Borough District Council adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 subsequently called “the Act” with regard to Sex Cinemas and Sex Shops in 1982. The Council adopted the additional legislative provisions of “the Act” (as amended by Section 27 of the Policing and Crime Act 2009) on the 1st June 2011 so that sex shops, sex cinemas, and sexual entertainment venues can be licensed by the Council. In this policy, these are referred to collectively as “sex establishments” unless stated otherwise.

2.0 PURPOSE AND AIM OF THE POLICY

- 2.1 The policy is intended to set out clear and concise guidance, procedure and principals for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 2.2 The policy also contains standard conditions, which will be applied to the different types of sex establishment, which forms part of any licence granted.

3.0 SCOPE

- 3.1 This policy relates to any premises wishing to operate as a Sex Shop, Sex Cinema or Sexual Entertainment Venue in the Nuneaton and Bedworth Borough.
- 3.2 Not all premises will automatically require a licence. Where there is an exemption within the legislation this has been set out in this policy document.
- 3.3 In addition to matters contained within this Policy consideration will also be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.
- 3.4 When considering applications for a Sexual Entertainment Venue licence, the Licensing Authority must have regard to this Policy and the Home Office guidance issued in March 2010 entitled ‘Sexual Entertainment Venues – Guidance for England and Wales’.

4.0 POLICY AND PROCEDURES STATEMENT

- 4.1 This Policy became effective on 21 October 2024, and supersedes any previous policies.
- 4.2 The Council does not take a moral stance through the adoption of this policy. It recognises that Parliament has made it lawful to operate a sex establishment,

and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a licensing authority to regulate such premises in accordance with the law.

5.0 SEX ESTABLISHMENT LICENSING

Types of Sex Establishment

- 5.1 There are 3 types of sex establishments - Sex Shops, Sex Cinemas and Sexual Entertainment Venues. Not all of these premises automatically require a licence. This is due to certain provisions and exemptions within the legislation.

Sex Shop

- 5.2 The legislation defines a Sex Shop as:

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –

- (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- 5.3 No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

Sex articles are defined as:

- (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) 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
- (c) to any recording vision or sound, which –
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts 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.

Sex Cinema

5.4 The legislation defines a Sex Cinema as:

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
 - (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.

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

- (a) if they are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or
- (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

Sexual Entertainment Venue

5.5 “the Act” defines at Schedule 3, Sexual Entertainment Venue as:

- (1) Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means—
 - (a) any live performance; or
 - (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- (3) The following are not sexual entertainment venues for the purposes of this Schedule—
- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.

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

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

(14) In this paragraph—

“audience” includes an audience of one;

“display of nudity” means—

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

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

- (i) the relevant entertainment; or
- (ii) the premises;

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

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

6.0 WAIVERS

- 6.1 Applications can be made to waive the requirement for a sex establishment licence.
- 6.2 In relation to Sex Shops and Sex Cinemas the Council does not consider it would be appropriate to permit waivers from the requirement to hold a sex establishment licence. Waivers for these type of premises would only be granted in extreme circumstances *as determined* by the Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises or the necessity to licence a sex clinic for which the legislation was not intended to control).
- 6.3 Potential applications for the use of waivers goes wider. A proprietor may wish to obtain a waiver for the avoidance of doubt or where the necessity to hold a licence is unclear. Examples would be where there is a nude scene in a burlesque show, a lingerie shop with some shelves containing sex articles, or potentially a new mainstream cinema that wishes to show a festival of erotic films. The waiver is useful to deal with Borderline Cases, and Minor or temporary events – see paragraph 6.5
- 6.4 In all cases, the authority could legitimately decide that it requires the event to be licensed, but it is given a discretion to circumvent the licensing procedure / system where it considers it unreasonable or inappropriate.
- 6.5 The legislation allows relevant entertainment on an infrequent / temporary 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.

7.0 APPLICATION PROCESS

- 7.1 Applications must be submitted to the Licensing Authority together with the application fee. The application form can be used for grant, variation, transfer and renewal applications. The application must be copied by the applicant to the Chief Officer of the Warwickshire Constabulary within 7 days after the date the application was made.
- 7.2 Applicants must provide their name, address and, where the applicant is an individual, their age, plus the premises address and the proposed licensed name of the premises.
- 7.3 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that

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

In addition, applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises for consideration by the Licensing Authority. In the case of Sexual Entertainment Venues such plan must outline the area in which relevant entertainment will take place.

- 7.4 Applicants for Sexual Entertainment Venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers. Such House Rules may form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.
- 7.5 Applicants must make provision for all performers to sign documentation to confirm their knowledge of, and an undertaking to adhere to, the House Rules. Such documentation must be retained for the duration of the performers' employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.
- 7.6 Applicants (other than applicants for variation of licence) must also give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application. If the application relates to premises then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain the specified information.
- 7.7 With regard to online applications (when available), tacit authorisation **does not** apply to new grant applications for sex establishment licences. This means applicants must wait for the Licensing Authority to determine the application before they can operate a sex establishment.
- 7.8 If an application is for the renewal a sex establishment licence, the premises can continue to operate past the licence expiry date, provided that the renewal application has been submitted to the Licensing Authority before the licence expires. The Licensing Authority will notify the applicant of the decision.

Plan Requirements for all Applications

- 7.9 The plan shall show:-
 - i) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - ii) The location of points of access to and egress from the premises;
 - iii) The location of escape routes from the premises;
 - iv) In cases where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;

- v) Fixed structures (including furniture) in a fixed location which may impact on the ability of individuals on the premises to use exits or use escape routes without impediment;
- vi) In cases where the premises include a stage or raised area, the location and height of each stage or area relative to the floor;
- vii) In the case where the premises includes any steps, stairs, elevators or lifts the location of these items;
- viii) The location of all public conveniences and the numbers of urinals, wc's and wash hand basins in each one;
- ix) The location and type of any fire safety and any other safety equipment.
- x) The location of any kitchen on the premises

The plan shall be drawn to a scale of 1:100 unless the Licensing Authority agrees an alternative scale. The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

8.0 Commenting / Consultation on Licence Applications

- 8.1 Unlike some other licensing regimes (such as for alcohol, entertainment or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications.
- 8.2 Although applicants are only required to provide notice of the application to the police, the Licensing Service will publish any sex establishment premises applications on the Council's website, to allow the public to view basic details and provide contact number(s) for the office processing the application.
- 8.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. An objection must be made in writing and state the grounds on which the objection is made. Objections may only be made within the period of 28 days following the date on which the application was given to the Council. Guidance on making an objection can be obtained from the Council Web site www.nuneatonandbedworth.gov.uk or from the Licensing Section at Nuneaton and Bedworth Borough Council
- 8.4 The Council will not consider any objection that does not contain the name and address of the person making it. Where objections are made the Council will provide copies to the applicant. The Council **will not divulge the identity of the objectors**, to the applicant without their permission to do so [section 8(17), Schedule 3 of the 1982 Act].
- 8.5 Objectors can include residents'/tenants' associations, community associations and trade associations or business or statutory authorities. Councillors and MPs

may also raise objections. Elected Nuneaton and Bedworth Councillors may represent interested parties, providing they do not also sit on the Licensing Committee considering the application.

- 8.6 Valid objections will be considered by the Licensing Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case.
- 8.7 Objections must be made in writing (email is acceptable) and should include the following:
- the name and address of the person or organisation making the objection
 - the premises to which the objection relates
 - the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
 - the reasons for making the objections, which are clearly set out in relation to the grounds for refusal.
- 8.8 The Consultation period will be 28 days, starting from the first working day after the date a valid application is accepted by the Licensing Section.
- 8.9 The following organisations / persons will be notified and will be able to make representations on all applications:
- Local elected members;
 - Relevant Parish or Town Council;
 - Fire Authority;
 - Planning Authority;
 - Environmental Health Section;
 - Children and Young people's services
 - Licensing Section
 - The Warwickshire Constabulary

9.0 Determination of Applications

- 9.1 The Licensing Authority is NOT permitted to grant a licence on the following mandatory grounds:
- (a) a person under the age of 18;
 - (b) a person who is for the time being disqualified from holding a licence following revocation of such a licence;
 - (c) a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
 - (d) a body corporate which is not incorporated in the United Kingdom.

- (e) a person who had, within a period of 12 months immediately preceding the date when the application was made, 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;

There is no right of appeal against refusal on these grounds.

- 9.2 The Licensing Authority may refuse an application for the grant, variation or renewal of a licence on one or more of the following discretionary grounds:
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted, 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 of such a licence if he made the application himself;
 - (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
 - (e) *NOTE: Nil may be an appropriate number for the purposes of paragraph 9.3(c) above.*
- 9.3 The Licensing Authority will not apply a rigid rule to its decision making and therefore each application will be decided on its own merits..
- 9.4 When issuing a Sex Establishment Licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.
- 9.5 In addition to this the council has the power to make standard conditions applicable to all licences for sex establishments.
- 9.6 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.
- 9.7 Details of the standard conditions and examples of Public Notices Forms and newspaper advertisements relating to each type of licence are contained in Appendices A - E. Should these standard conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.

- 9.8 All standard conditions will be reviewed as part of the full Policy review every 5 years or if any substantial changes are required to the Policy, due to legislative changes or other reasons.

Length of licence

- 9.9 The Licensing Authority will, unless there are exceptional reasons otherwise, grant licences for a maximum duration of one year.

Right to appeal a decision

- 9.10 If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.

- 9.11 Appeals must be made to the local Magistrates' Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision. The notice will advise the address of the appropriate Magistrate's Court to which such an appeal should be submitted. It should be noted that a fee may be payable to the magistrates to lodge such an appeal.

- 9.12 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.

- 9.13 Applicants cannot appeal against the Licensing Authority's decision if the application was refused on the grounds that:

- the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
- the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' Court will determine the appeal application.

10.0 Fees

- 10.1 The appropriate fees for applications can be found on the Council's website. Application fees must be paid in full at the time of submission of the application.

11.0 Definitions & Guidance Documentation

Relevant Localities

- 11.1 In considering the characteristics of a locality the Licensing Authority shall particularly take account of the density and proximity of:

- (1) schools, nurseries, crèches and other similar educational or recreational facilities attended by children,
 - (2) parks and children's play areas,
 - (3) residential and sheltered accommodation,
 - (4) religious and community buildings,
 - (5) alcohol or entertainment licensed premises,
 - (6) other retail units (and their uses).
 - (7) any other factor that it considers appropriate
- .11.2 In considering whether granting a licence would be inappropriate the Council will specifically consider whether the Character of the locality is predominantly residential, high profile retail, of historic importance or iconic in nature or one of family entertainment or leisure.
- 11.3 The look of premises themselves or the nature of the service offered can be, by a majority of people in a locality, associated with the characteristics which are inappropriate in a general family setting and use of the locality. This is particularly the case where the character of a locality includes elements which are attractive to, and involve children and families. However well managed a premises may be, the visual impact of sexual entertainment premises, whether in the form of signs, shop front design, promotional material, staff or customer queuing, can give rise to particular concern especially in the day time unless these are satisfactorily mitigated by the applicant / operator through operating procedures.
- 11.4 Sexual entertainment venues cater for a particular adult audience and by attracting those customers can affect the character of the locality in which they are situated
- 11.5 The nature of the clientele that sexual entertainment venues may attract, and their behaviour outside the premises, may also be inappropriate in the context of the character of the locality in which the premises are situated.
- 11.6 The council is also aware of the potential for crime and antisocial behaviour associated with the location of sexual entertainment venues, such as prostitution, touting and "clipping" which would be particularly inappropriate to introduce in localities of the character identified in paragraph 11.1 and 11.2
- 11.7 Localities characterised as areas of family entertainment or leisure, for instance areas with a concentration of shops, restaurants, open spaces are likely to attract parents and children especially in the day time and evening.
- 11.8 The previous existence of a licence permitting sexual entertainment at a premises or previous premises should not of itself give rise to any expectation that a sexual entertainment venue licence will be granted or renewed. In considering

the appropriateness of a sexual entertainment venue the council is entitled to change its view about the character of the locality in which the sexual entertainment venue is situated, whether or not there has been a change in the character of the locality. Equally, the character of the locality in which the sexual entertainment venue is situated, or proposed to be situated, may have changed or is likely to change in the future since the grant of previous sexual entertainment venue licences for premises in that locality, which would now make a grant or renewal of a licence inappropriate.

Numerical Limits

- 11.9 The Licensing Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which it considers appropriate for that locality;
- 11.10 For the avoidance of doubt, the 1982 Act specifically states that nil may be an appropriate number for the purpose of the above paragraph.

ID Checks

- 11.11 To ensure customers are over the age of 18 premises should operate a "Challenge 25" policy, whereby if a customer appears to be under that age an adequate ID check is carried out. This would require photographic ID to be checked and only current passports and driving licences should be accepted for this purpose or other such system as agreed with the Warwickshire Constabulary. If customers are unable to provide such forms of ID to establish their age then they must be refused entry.

Protection of Children and Vulnerable Persons from Harm

- 11.12 This includes protection from physical, mental or emotional harm.

SIA Registered Door Supervisors

- 11.13 Where required only door supervisors who hold a valid Door Supervisors licence issued by the Security Industry Authority (SIA) should be employed.

SEX SHOPS

Significant Degree & Sex Articles

- 11.14 Licences for sex shops are required where there 18R films are being sold, or where there is a "significant degree" of "sex articles".
- 11.15 The phrase "sex articles" is defined in the 1982 Act, but the phrase "a significant degree" is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the Authority will consider:
- (1) the ratio of sex articles to other aspects of the business
 - (2) the absolute quantity of sales

- (3) the character of the remainder of the business
- (4) the nature of the displays in the business
- (5) turnover
- (6) other factors which appear to be materially relevant.

11.16 Sex articles are defined as:

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging-
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph 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.

SEXUAL ENTERTAINMENT VENUES

Relevant entertainment

- 11.17 Licences for sexual entertainment venues are required for “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.
- 11.18 “Relevant entertainment” is defined in schedule 3 (as amended by Section 27 of the Policing and Crime Act 2009) as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).” An audience can consist of just one person, e.g. in a private booth.
- 11.19 In deciding whether entertainment is “relevant entertainment” the Licensing Authority will judge each case on its merits, but the definition will generally apply to:
- (1) lap dancing
 - (2) pole dancing

- (3) table dancing
- (4) strip shows
- (5) peep shows
- (6) live sex shows

Adult entertainment not classed as “relevant entertainment” may still require regulation under the Licensing Act 2003.

Nudity

11.20 Section 27 of The Policing and Crime Act 2009 defines the “display of nudity” as:-

- (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.

For further information in relation to regulation of Sexual Entertainment Venues please refer to the Home Office Guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales”.

GUIDANCE DOCUMENTATION

11.20 Form of Notice – Indecent Displays (Control) Act 1981

The Council’s Standard Conditions require that a warning notice be displayed in accordance with the above legislation.

- (a) The warning notice must contain the following words, and no others-

“WARNING

Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age.”

- (b) The word “WARNING” must appear as a heading.
- (c) No pictures or other matter shall appear on the notice.
- (d) The notice must be so situated that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access.

Notice of application

11.21 The notice can be downloaded from the Council's website. A copy of the newspaper advertisement is attached at Appendix A and the Public Notice affixed to the premises is included with the application pack at Appendix E.

12.0 Policy Details

12.1 In developing this policy the Council have had regard to the legal requirements of the 1982 and 2009 Acts and our duties under:

- (a) Section 17 of the Crime and Disorder Act 1998 to take due regard to reduce crime and disorder within the County;
- (b) the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- (c) the Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory
 - (ii) justified by an overriding reason relating to the public interest
 - (iii) clear and not unduly complicated
 - (v) objective and impartial, and
 - (vi) made public in advance,

13.0 Engagement

13.1 The Council consulted on this policy and conditions and it was approved on the on 21st October 2024. The policy will be reviewed every five years or sooner if changes are necessary. All legislative amendments or minor clerical changes will be made automatically; all other changes will be subjected to a minimum twenty eight day consultation period.

13.2 Details of applications and objections which are referred to the Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. It should, however, be noted that certain items or information may have to be excluded from the public domain as permitted by Local Government Act 1972.

13.3 The names and address of objectors (without their permission) will not be disclosed to applicants or published in public reports in accordance with Section 8 (17) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to Councillors on the Licensing Committee.

14.0 Communicating the Policy

- 14.1 This policy will be available on the Council's website and will be made available at Council offices. In addition any responsible authorities will be provided with a copy of this policy document.
- 14.2 The adoption or any amendment of the policy will be communicated to the community by way of press release and on the Council's website. Persons having been actively involved in any consultation on the policy will be notified directly.

15.0 Exchange of Information

- 15.1 The Council 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.

SITE NOTICE AND NEWSPAPER ADVERTISEMENT [Delete]

SEX ESTABLISHMENT LICENCE APPLICATION

Notice of Application for grant/ renewal /transfer [delete as applicable] of a sex establishment licence pursuant to Schedule 3 Local Government Miscellaneous Provisions Act 1982

TAKE NOTICE that on [date] [name(s) of Applicant(s)] applied to Nuneaton and Bedworth Borough Council for the grant / renewal / transfer / [delete as applicable] of a sex establishment licence.

NAME AND ADDRESS OF PREMISES / LOCATION OF VEHICLE / VESSEL /STALL [delete as appropriate]

[note, the precise address or location, sufficient to identify the location and extent of the premises, vehicle, vessel or stall, must be given]

DAYS AND HOURS OF OPERATION

ACTIVITY: Sex shop/sex cinema/ sexual encounter venue [delete as applicable]

INSPECTING THE APPLICATION: The application may be inspected at Nuneaton and Bedworth Borough Council Offices, Town Hall, Coton Road, Nuneaton, CV11 5AA

OBJECTIONS: Any person wishing to make objections on the application shall do so in writing at the Council Offices at Nuneaton and Bedworth Borough Council, Town Hall, Coton Road, Nuneaton, CV11 5AA or by e mail at licensing@nuneatonandbedworth.gov.uk The grounds of the objection must be stated in general terms. The objection must be received by the Council no later than [insert 28 days after the date of application]

Signed.....Date.....

Name..... Organisation.....

Address.....

Notes:

1. Enter full details of the application on this form.
2. Affix a copy of the completed form on pink A3 paper in Black 20 Point Times Roman Font. to the exterior of the premises, to which the application relates, in a prominent position for public viewing on the day of making application. You must ensure that the completed form remains in position for 21 days.
3. The content of the form, as completed, must be published in a local newspaper within 7 days of making the application.

APPENDIX B

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS

Introduction

1. In these Conditions “The Council” shall mean Nuneaton and Bedworth Borough Council and all enquiries concerning this licence shall be directed to the Licensing Section, Nuneaton and Bedworth Borough Council, Town Hall, Coton, Road, Nuneaton, CV11 5AA
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to “Sex Shop and Sex Cinema” premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. 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 written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and of these Regulations / special conditions are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. It shall at all times be displayed in a conspicuous position, in clear view of the public and reproduced to the same scale as those issued by the Council, and available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the 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.

8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. 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.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the Premises.
11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
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. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. No person under the age of 18 shall be admitted to the Premises and in accordance with the main Policy the applicant should operate a "Challenge 25".Policy.
15. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
16. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council and Warwickshire Constabulary, in accordance with the Policy. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
17. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.
18. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. A dedicated member of staff or security personnel must monitor the CCTV system at all times that the premises are in operation.

19. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

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

Monday – Saturday 09:00 Hrs – 18:00 Hrs

21. The Premises shall not, without the written consent of the Council, be opened and used for the purposes, for which the licence is granted on Sundays, or Bank or Public Holidays.

Operation of the Premises

22. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, or change from sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
23. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.
24. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

External Appearance

25. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
26. The exterior design of the premises shall be such that the interior of the premises is not visible to persons outside of the premises.
27. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
28. No items should be stored on the premises so that they can be viewed from any external window or door.
29. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
 - (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.
30. The lettering used in respect of such permitted items:-
- In the case of the permitted items at paragraph 24 & 28 the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
- 31. (i) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 24 and 28 or otherwise approved by the Council in writing;
 - (ii) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

- 32. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
- 33. 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.
- 34. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. All exit doors shall be clearly marked exit on the inside and doors or opening which the public are not allowed access should be clearly marked "private"
- 35. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
- 36. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

37. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
38. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
39. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Goods Available in Sex Establishments

40. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
41. All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this is effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
42. No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

Information for Customers

43. The Licensee shall make available in the Sex Establishment free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and or other similar organisations. Such literature should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

Licensed Name

44. (i) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (ii) An application in respect of a change of licence 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 allow or refuse such change.

APPENDIX C

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES

Introduction

1. In these Conditions "The Council" shall mean Nuneaton and Bedworth Borough Council, and all enquiries concerning this licence shall be directed to the Licensing Section Town Hall, Coton, Road, Nuneaton, CV11 5AA
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a "Sexual Entertainment Venue" premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") with the authority to direct activities within the Premises, shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. 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 written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the 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.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. 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.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the Premises.
11. 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. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
12. The Licensee shall take all reasonable precautions for the safety of the public and employees.
13. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers. A suitable and sufficient number should be determined by carrying out a risk assessment of activities carried out, design of the premises including accessibility to all areas, number of performers and should be linked to the capacity of the premises.
14. No person under the age of 18 shall be admitted to the Premises and in accordance with the main policy the applicant should operate a "Challenge 25".Policy.
15. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. Persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
17. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.
18. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

19. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this licence relates where the Council or Warwickshire Fire / Police Authority has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
20. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
21. Operation of CCTV to the Council's / Warwickshire Constabulary satisfaction
 - (i) CCTV REQUIREMENT – The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Warwickshire Constabulary and Licensing Officers and shall ensure:
 - (ii) Closed-circuit television system is installed internally and externally appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
 - (iii) A minimum of one high resolution colour day/night camera is installed and operational, for all external entry and exit points.

A minimum of one high-resolution colour camera shall be fitted to each public entrance/exit. Door entrance cameras must be capable of providing good quality frontal identification images of every person entering / leaving the premises in all light conditions.
 - (viii) There must be sufficient cameras located within the premises to cover all public areas, that are capable of providing good quality frontal identification images of persons within the premises (in order to provide assistance with identification of patrons, if required). These cameras must be able to operate within the normal operational lighting levels of the premises and record continually whilst the premises are open for all licensable activities.
 - (ix) All equipment shall have constant time/date generation. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a manual facility is available to carry out this update as an alternative
 - (x) There shall be sufficient members of trained staff available during the hours of operation of the premises to be able to download evidence at the request of the Police or an Authorised Officer of the Council.

- (xi) CCTV warning signs shall be fitted in public areas of the premises.
- (xii) Recordings **must** be kept for a minimum of 31 days.
- (xiii) An Authorised Officer may, at any time, request a recording copy. Failure to comply with this request will be regarded as a serious breach of this condition. Copies of such recordings must be provided upon request.
- (xiv) CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.

Incident Log

22. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
- all crimes reported to the venue;
 - all ejections of patrons;
 - any complaints received;
 - any incidents of disorder;
 - seizure of drugs or offensive weapons;
 - any faults in the CCTV system or searching equipment or scanning equipment;
 - any refusal of the sale of alcohol;
 - any visit by a relevant authority or emergency service;
 - any breach of licence conditions reported by a performer;

Opening of the Premises

23. Relevant entertainment may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the Sex Establishment Licence permits otherwise.

Operation of the Premises

24. Any change from a sex entertainment venue to either a sex cinema or a sex shop shall only be granted via consideration of an appropriate application, and approval of the Council.
25. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or a sex cinema.

External Appearance

26. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age will be requested.
27. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.
28. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.
29. The Licensee shall not permit the display outside of the Premises of photographs, advertisements of any form or other images which indicate or suggest that relevant entertainment takes place on the Premises.
30. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises (as explained in paragraph 57 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) A notice stating the opening hours of the establishment.
31. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 29 & 31 the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
32.
 - (i) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 29 or otherwise approved by the Council in writing;
 - (ii) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

33. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
34. 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.

35. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
36. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
37. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
38. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
39. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one client person and one employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Provision of Relevant Entertainment

40. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council or indicated on the plan
41. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
42. At the conclusion of performances the performer must redress immediately.
43. Performers may not accept or give out any telephone number, email address, address or contact information. Any contact information given by the customer must be surrendered to the Licensee or their representative before leaving the Premises.
44. Whenever Relevant entertainment is being provided there shall be no physical contact between performers and customers or between customers and performers. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
45. The Licensee must ensure that during performances of relevant entertainment:
 - (i) Performers may not perform any act that clearly simulates any sexual act;
 - (ii) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;

- (iii) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (v) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (vi) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
46. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All performers shall sign the Code of Conduct in their proper name acknowledging that they have read understood and are prepared to comply with the Code and a signed copy retained by the licence holder and shall be readily available for inspection by the Police and / or Authorised officer of the Council upon request.
47. Individual records shall be kept at the premises of the real names, stage names and present addresses of all performers working at the premises. The record will include photocopies of the performers birth certificate, current passport, EU / GB Driving licence and must include details of the performers home address. Details of all work permits and / or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Police and / or Authorised officer of the Council upon request.
48. The Licensee must ensure that during performances of relevant entertainment:
- (i) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (ii) Customers must remain appropriately clothed at all times.
49. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-
- The payment of an entry fee by customers to authorised members of staff.
 - The payment of a fee for relevant entertainment.
 - The purchasing of drinks by customers from authorised members of staff.
 - The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
 - SIA door staff in the execution of their duties.
50. At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer.

51. Notices outlining condition 51 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.
52. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

53.
 - (i) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
 - (ii) An application in respect of a change of licence 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 allow or refuse such change.



LOCAL GOVERNMENT (MISCELLANEOUS PROVISION ACT 1982

Application for a Licence for a Sex Establishment

(Please read the notes, requirements relating to public notices and guidance for applicants at the end of this form)

1. Is this application for Grant, Renewal, Transfer, Variation of Licence?

Grant	<input type="checkbox"/>	Renewal	<input type="checkbox"/>	Transfer	<input type="checkbox"/>	Variation	<input type="checkbox"/>
-------	--------------------------	---------	--------------------------	----------	--------------------------	-----------	--------------------------

2. Is the application being made by an individual on behalf of a partnership or corporate body?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

3. Give the full name of the applicant (i.e. the individual, corporate body or unincorporated body to whom the licence is to issued). If the applicant is an individual, any former names must also be given:

Name(s):

4. Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

If yes please give full details

5. Is there in force against the applicant, or any of the persons whose names appear in this application form, a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?

Yes	<input type="checkbox"/>
-----	--------------------------

No	<input type="checkbox"/>
----	--------------------------

6. Give a telephone number at which the applicant may be contacted during normal office hours and the address to which communications are to be sent:

Telephone:
Address:
Post Code:

7. Give the applicant's permanent residential address (if an individual or principal office) (if a corporate body or an un-incorporated body)

Address:
Post Code:

8. If the applicant is an individual, the following information is to be supplied:

1. Date of Birth :
2. Place of Birth:
3. Date became resident of the UK :

9. Under what names are or will the premises be known?

--

10. Where the licence is sought in respect of premises, give the full address of the premises:

Address:

Post code:

11. Is the application for a Sex Shop, Sex Cinema or Sexual Encounter Venue?

Sex Shop	<input type="checkbox"/>	Sex Cinema	<input type="checkbox"/>	Sexual Encounter venue	<input type="checkbox"/>
----------	--------------------------	------------	--------------------------	------------------------	--------------------------

12. State whether the application is in respect of premises, a vehicle, a vessel, or a stall

Premises	<input type="checkbox"/>	Vehicle	<input type="checkbox"/>	Vessel	<input type="checkbox"/>	Stall	<input type="checkbox"/>
----------	--------------------------	---------	--------------------------	--------	--------------------------	-------	--------------------------

13. Where the licence is sought in respect of a vehicle, vessel or stall. State where it is to be used as a sex establishment?

--

14. Are the whole of the premises described above to be used under the licence?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

15. If the answer to question 14, above is "No" please state:

<p>1. Which part of the premises is to be used for the purpose of the licence:</p> <p>2. The use to which the remainder of the premises are to be put:</p> <p>3. The name of those who are responsible for the management of the remainder of the premises</p>
--

--

16. Are the premises, vehicle, or stall in use as a sex establishment at the date of this application?

Yes	<input type="checkbox"/>
-----	--------------------------

No	<input type="checkbox"/>
----	--------------------------

17. If the applicant is a corporate body or an un-incorporated body, complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

In the case of a partnership, details of all the partners must be given.

Name (In Full): Mr/Mrs/other	Address of permanent residence throughout six months immediately preceding application	Date became resident of UK (if applicable)

18. Companies only:

<p>1. What type of company is applicant (e.g. public or private, limited by share or guarantee, etc ?</p> <p>2. In which country is the company incorporate?</p> <p>3. What is the date of the incorporation of the company?</p>
--

19. Has the applicant a financial interest in the business which is the subject of this application ?

Yes

No

If "yes" to what extent?

20. Is the whole of the business owned by the applicant?

Yes

No

21. If the applicant's interest in the premises is a lease hold one, please state:

1. Whether a head-lease or a sub lease

2. The name and address of the landlord

3. The length of the unexpired term:

22. What means are taken to prevent the interior of the premises being visible to passers by?

23. Give details of the times during which it is proposed to open the premises (please see conditions)

Days of the week:

Hours of the Day:

24. In respect of the individual who is to be responsible for the management of the premises in the absence of the licence holder, please supply the following details:

Forename:

Surname:

Former name (if any)

Permanent Address:	
Post Code:	Date of Birth:
Place of Birth	

25. has the applicant or any persons named in the form **any convictions?**

Detail below:

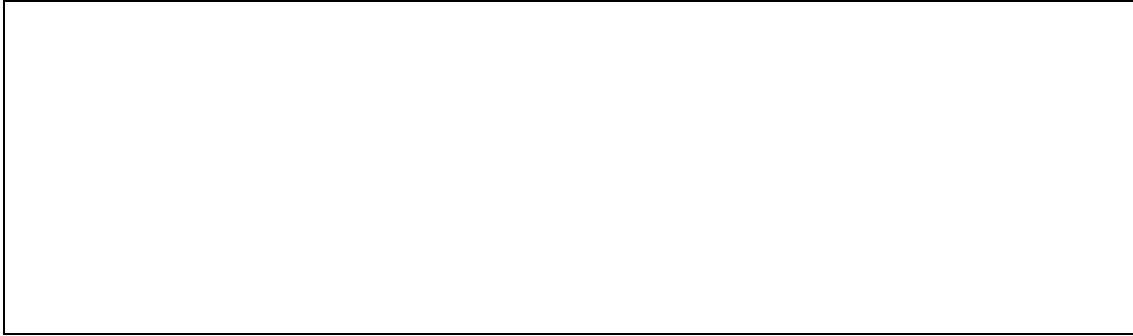
Yes	<input type="checkbox"/>
-----	--------------------------

No	<input type="checkbox"/>
----	--------------------------

Forenames	Surname	Former Name (if any)	Date of Conviction	Place of conviction	Nature of Offence	sentence

Is there any further information that the applicant would wish the Council to take into account when considering the application?

--



Application for a Licence for a Sex Establishment

DECLARATION

I _____ declare that the information given above is true and complete in every respect.

Dated this _____ day of _____ 20

Signature _____

Name of Signatory _____

Designation of Signatory _____

APPLICANTS ARE INFORMED 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, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000

PLEASE NOTE THE APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING:

1. The appropriate fee
2. Scale plan (1:100 scale or other agreed by licensing authority) of the premises in respect of which the licence is sought showing all means of access and egress from the premises, parts used in common with any other building, details of how the premises lie in relation to the street and the front elevation of the building.
3. A copy of the notice of application which has been (or is to be) published in the local press in accordance with paragraph 10(8) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. (The advert should be legible and clear to view.)
4. Confirmation that a copy of the application has been served on the Chief Officer of Police as required by Paragraph 10 (4) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

NB the Confirmation certificate relating to the posting of notice on or near the premises and the copy of the actual newspaper advert need not accompany the application but should be forwarded as soon as possible.

The completed application should be returned to Licensing Section, Town Hall, Coton, Road, Nuneaton, CV11 5AA and Copied to Chief Constable of Police :
XX

PUBLIC NOTICE REQUIREMENTS

NOTE

1. A suitable Public Notice (example appears at Appendix A) must be published in a local newspaper circulating within the council's area, no later than 7 days after the date of the application.
2. The notice overleaf, or one in a similar form, must be displayed **CONTINUOUSLY** for a period of **21 DAYS** beginning with the date of your application, on or near the premises to be licensed and in a place where the notice may be conveniently be read at all times by the passing public

CERTIFICATE

(to be completed by all applicants)

I certify that a copy of the notice overleaf (or similar) was displayed on or near the premises to be licensed, in a place where the notice may conveniently be read by the public, for a period of not less than 21 days from the date of the application.

From (date) _____ to (date) _____

Signature of Applicant _____ date _____

Name of Signatory _____

Designation of Signatory _____

Note: This form must be completed, signed and returned to the licensing section at the address overleaf as confirmation that the public notice requirements have been complied with.

Please also attach a copy of the actual notice which appeared in a local newspaper to this application. This should indicate the date of publication at the top of the page.

PUBLIC NOTICE

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Licensing of Sex Shop / Sex Cinema / Sexual Encounter Venue

ADDRESS OF PREMISES

.....
.....
.....
.....

I/We*
Hereby give notice that I/We* have applied to Nuneaton and Bedworth Borough Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for a licence to use the premises referred to above as a sex shop / sex cinema / sexual encounter venue. Delete as appropriate*

Any person wishing to make representation about the application should make them in writing to the Head of Environmental Services, Licensing Section, Town Hall, Coton, Road, Nuneaton, CV11 5AA or by e-mail licensing@nuneatonandbedworth.gov.uk within 28 days of the date of this notice.

Signed : Date**

On Behalf of:.....

* delete as appropriate.

**The date to be inserted shall be the date on which application is made to the Council.

NUNEATON AND BEDWORTH BOROUGH COUNCIL

SEX ESTABLISHMENTS

GUIDANCE TO APPLICANTS ON THE DETERMINATION OF LICENCE APPLICATIONS

The Council when considering an application for a Sex Establishment Licence are likely to take into account the following issues specifically in relation to paragraph 12 (3) (c) and paragraph 12 (3) (d) (i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982:

1. The proximity and position of the premises in relation to any schools, or other establishments for education, training, or care of young persons.
2. The proximity and position of the premises in relation to any youth club or similar establishment.
3. The proximity and position of the premises in relation to leisure centres used for sporting and similar activities, and play areas.
4. The proximity and position of the premises in relation to any residential dwellings
5. The proximity and position of the premises in relation to any establishments of religious worship.
6. The proximity and position of the premises in relation to Community and similar establishments.
7. The general nature and character of the locality
8. The number of any licensed sex establishments already in the locality, and what maximum number of such establishments might be permitted in the locality.

NB this list is intended for guidance only and does not restrict the Council from taking into account any other factors which it considers to be relevant to any particular application.

SPENT CONVICTIONS

Sentence

Becomes spent after:

Imprisonment of between
6 months and 2 1/2 years

10 years

Imprisonment up to 6 months

7 years

Borstal training;

7 Years

A fine or other sentence not otherwise
Covered in this table:

5 years

Absolute Discharge

6 Months