

NORTH TYNESIDE COUNCIL

STATEMENT OF LICENSING POLICY (SEX ESTABLISHMENTS)



North Tyneside Council

Preface

This Statement of Licensing Policy sets out the Authority's requirements for premises to be licensed as sex establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

The Authority resolved on 20 January 2011 that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009) (the "1982 Act") would apply to the Borough of North Tyneside. By adopting Schedule 3 of the 1982 Act North Tyneside Council can license SEX SHOPS, SEX CINEMAS AND SEXUAL ENTERTAINMENT VENUES in the Borough. In granting such licences, the Authority will be able to set the terms and conditions of such licences, fees for the grant, renewal, transfer or variation of such licences and the number of licences that may be issued for a particular area within the Borough.

[The Authority has imposed a limitation on the number of sexual entertainment venue licences that can be issued in a specified area of Whitley Bay (see Section 10 of Part A)] See consultation questions. This will however not prevent an application being made for such a licence in that area even if that limit has been reached but there will be a presumption that no such licence will be granted. Outside of this area each application for a licence will be considered on its own merits in accordance with the 1982 Act. There may be further restrictions on the number of sex establishment licences issued in a particular area of the Borough in the future if it is considered necessary to do so. Before further restricting the number of licences to be issued or amending the current limitation, the Authority will consult on the issue before taking such a decision.

Definitions of the different types of 'sex establishment' and other important definitions as defined under the 1982 Act can be found at **Appendix B** of this policy.

This Statement of Licensing Policy for Sex Establishments sets out the requirements that will generally need to be met for premises to be licensed as a 'sex establishment' under the 1982 Act in the Borough. The policy was adopted by the Authority on xxxxx following a 6 week consultation process and comes into on xxxxx

This document has been produced for consultation purposes. If you have any comments please forward them to the following address by 31 December 2016.

Licensing
Killingworth Site
Harvey Combe
Killingworth
Newcastle upon Tyne
NE12 6UB

Liquor.licensing@northtyneside.gov.uk

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PART A **GENERAL**

1. Introduction

- 1.1 North Tyneside is one of five metropolitan districts that comprise the County of Tyne and Wear. It covers an area of 8,367 hectares and has a growing population of around 202,000. North Tyneside has met the challenge of regional decline and deprivation by rebuilding and stabilising communities. New high-tech industries have been attracted to the area and shipbuilding and the marine industry have made a partial revival. There are around 95,000 households in the Borough. A third of these households consist of a single person, with 25% of households comprised of persons of pensionable age. The total labour force of the Borough is 92,000 people working in industrial and international companies alongside the traditional industries that still exist connected with the fish quay.

The evening economy of the Borough is principally centred around Tynemouth and Whitley Bay. Activity is also centred in areas such as, North Shields and Wallsend. These activities support the cultural diversity of the Borough and contribute to its economy. However, they may have a negative impact in some areas where crime and disorder can affect residents.

2. Consultation

- 2.1 In preparing its Statement of Licensing Policy the Authority will take into account the views of:
- Northumbria Police
 - Tyne and Wear Fire and Rescue Service
 - Members of the trade
 - Local businesses, residents and any representative bodies of these.
- 2.2 The Authority will also consult with tourism organisations, performers, unions, Planning Services, Community Safety, Tyne and Wear Passenger Transport Executive, the Local Safeguarding Children Board, Primary Care Trusts and other organisations.

A full list of those consulted in preparing this Policy is set out at **Appendix D**.

- 2.3 The views of all of these persons and bodies have and will be given appropriate weight in determining this Policy.

3. Administration, Exercise and Delegation of Functions

- 3.1 Under the Act the Authority has responsibility for a wide range of licensing decisions and functions and has established a Regulation & Review Committee to administer some of them.
- 3.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, it is proposed that the Regulation & Review Committee will delegate certain decisions and functions and will establish a number of Panels to deal with them.

4. Regulation & Committee

4.1 The Council's Regulation & Review Committee is comprised of a membership of 18 Councillors. The Committee will be responsible for the discharge by the licensing authority of its licensing functions under the Act.

5. Hearings

5.1 A Panel of Councillors from the Regulation & Review Committee will sit to hear every application where representations have been received in relation to a particular application. Ward Councillors will not sit on a Panel involving an application in their ward. The hearings will generally be open to members of the public.

5.2 Where a Councillor who is a member of the Regulation & Review Committee or a Panel of the Committee is making or has made representations on behalf of an individual or business, in the interests of good governance they will disclose an interest and disqualify themselves from any involvement in the decision making process affecting the licensing application in question.

6. Partnership Working

6.1 The Authority will work in partnership with the following agencies and individuals

- Police authority
- Fire authority
- Planning authorities
- Environmental health
- Health authorities
- Crime and Disorder Reduction Partnerships
- Town centre managers
- Local businesses
- Agencies involved in child protection
- Local residents
- Local transport authorities and committees

6.2 The Authority will consider any relevant protocols made with the Police under the Crime and Disorder Act 1998. The Police have the right to make representations on licence applications and make reference to relevant strategies.

6.3 The Authority and partnership agencies will seek to comply with the LGR (Local Government Regulation) partnership working guidance.

7. Related Legislation and Strategies

7.1 There are a number of other local and national policies, strategies, responsibilities, and guidance documents which have been taken into account in drafting this policy. The Policy reflects the aim of the 2015-18 Our North Tyneside Plan. This policy will in particular contribute towards Our Places and Our People.

7.2 This Policy will also be integrated with local crime prevention, planning, transport, tourism, equality and cultural strategies, and any other plans introduced for the

management of the borough and night-time economy. The Authority will work in partnership with the agencies referred to in paragraph 6.1 above and through joint working and cross reporting the Authority will ensure that this Policy integrates with the policies of its partner agencies.

8. Interaction with Licensing Act 2003

- 8.1 Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is held do not also require a premises licence, club premises certificate or temporary events notice in order to provide 'relevant entertainment' under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.
- 8.2 However, if the premises also carry on other licensable activities as defined in the Licensing Act 2003 they will continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities.
- 8.3 In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 for the provision of 'relevant entertainment', and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment under the Licensing Act 2003.

9. Location of Licensed Premises

- 9.1 The Authority acknowledges that a concentration of premises licensed under the 1982 Act in a particular area could result in a potential fear of crime, anti-social behaviour, noise pollution and general disturbance to residents. In such cases, the amenity of local residents and businesses could be adversely affected.
- 9.2 [The Authority has imposed a limit of nil on the number of premises that may be licensed in a defined area of Whitley Bay (appendix G).See consultation Question]

Consultation Question:

Please comment on the current limit of nil and if you believe this should continue or give an alternative proposal.

In other areas of the Borough the Authority will determine each application on its own merits and will not generally grant a licence for a premises in close proximity to:-

- (a) a predominantly residential area
- (b) a school, nursery or other premises used primarily by or for children under 16 years of age
- (c) a park or other recreational area used by or for children under 16 years of age
- (d) a church or other place of worship
- (e) a community centre, day centre or other similar buildings

10. **Numerical Limits**

10.1 The Authority can refuse applications for licences (whether new or renewal applications) 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 is considered appropriate for that locality.

10.2 The Authority recognises that different parts of North Tyneside have different characteristics. The number of sexual entertainment venues considered appropriate for a specified area of Whitley Bay is set out below:

Numerical Limits	
Location	Limit
Whitley Bay - area bordered by Whitley Road, Park Avenue, the Promenade and the Esplanade (see Appendix E)	[Nil - sexual entertainment venues] Consultation question: Please comment on the current limit of nil and if you believe this should continue or give an alternative proposal.

10.3 This does not preclude an application for a licence being made within the specified area that would take the number of licences above the set limit. However, in such a situation the presumption will be to refuse such an application and the applicant will have to make their case as to why the licence should be granted in any particular location contrary to this policy.

10.4 Any application received outside the specified area will be considered on it's own merits taking into account the particular locality and reference to the Policy.

PART B **APPLICATION PROCESS**

1. Making an Application

- 1.1 An application for the grant, renewal or transfer of a licence must be made in writing. Any person, corporate body or incorporated body applying for either a grant, renewal or transfer of a licence must provide all of the information requested in the blank application form at **Appendix B** of this policy.
- 1.2 An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.
- 1.3 An application can be made:-
- i) by post or personal service by forwarding the completed application form and appropriate fee to:

Licensing
North Tyneside Council
Harvey Combe
Killingworth
Newcastle upon Tyne
NE12 6UB
 - ii) on-line by forwarding the application and appropriate fee to www.northtyneside.gov.uk
 - iii) by e-mail to liquor.licensing@northtyneside.gov.uk. On receipt of the appropriate fee the application will be progressed.
 - iv) by facsimile transmission to 0191 643 6914. On receipt of the appropriate fee the application will be progressed.
- 1.4 An applicant seeking the grant, renewal of transfer of a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper circulating within the Borough no later than 7 days after the date of the application. The notice shall identify the premises.
- 1.5 An example of a public advertisement is attached to the policy at **Appendix C**.
- 1.6 If the application relates to a premises, notice of the application must be displayed for 21 days from the date of the application on or near the premises in a place where the notice can be conveniently read by the public. The notice shall identify the premises.
- 1.7 In relation to applications posted or delivered to the Authority, the applicant will be required to provide a copy of the application to Northumbria Police within 7 days of the date of the application. The Authority will confirm with Northumbria Police that they have received a copy of the application.
- 1.8 The Authority on receipt of an application by electronic means will forward a copy of the application to Northumbria Police no later than 7 days after receipt.

1.9 Any person wishing to object to the grant, renewal or transfer of a licence shall give notice to the Authority in writing stating in general terms the grounds for objection no later than 28 days after the date of the application.

1.10 On receipt of an application, Officers will carry out an inspection of the premises.

2. Commenting on a licence application

2.1 A wide range of people can raise objections to an application, the police being the only statutory consultee.

2.2 The identity of any person making an objection will not be given to the applicant without the consent of the person making the objection.

2.3 If a valid objection is received to the grant, renewal or transfer of a licence, the Authority will not consider the application until the applicant has been given notice in writing of the general terms of the objection received. A hearing will then be arranged before a Committee who will be provided with a report from a licensing officer concerning the application. The general terms of the objection will be made known to the Committee.

2.4 The applicant and objectors, or their representatives, who attend before the Committee, will be given an equal opportunity to state their case before the Committee.

2.5 In determining an application for the grant, renewal or transfer of a licence, the Committee will have regard to any observations made by the Chief Officer of Police in addition to what the applicant and objector has to say.

2.6 Before refusing to transfer a licence, the licence holder and proposed licence holder will be given an opportunity to appear before the Committee and be heard as well as any objector.

2.7 Clear reasons will be given for any decision made by the Committee to the parties.

3. Fees

3.1 The fees for applying for the grant, renewal or transfer of a sex establishment licence or sexual entertainment venue are available from the Authority and at www.northynteside.gov.uk

3.2 The fees are paid in two parts. The first fee is for the processing of the application and any associated costs of appearing before a Committee. If the application is successful the licence holder will be required to pay an additional fee for the maintenance of the licence.

3.3 The fees will be reviewed annually against any rise or reduction in cost of administering the licensing regime.

4. Advice and Guidance

4.1 The Authority will, when appropriate, liaise with applicants and if appropriate mediate between applicants and those who have made objections where resources permit.

5. Determining applications for grant, renewal or transfer of licences

5.1 There are certain grounds on which the Authority must refuse to grant a licence under the 1982 Act. These grounds are:-

- (a) that the applicant is under 18 years of age
- (b) that the applicant is disqualified from holding or obtaining a licence
- (c) that the applicant is a person who has not been resident in the European Economic Area for the preceding 6 months before the application was made.
- (d) that the applicant is a body corporate which is not incorporated in the European Economic Area
- (e) that the applicant is a person who has within 12 months of making an application been refused the grant or renewal of a licence in respect of the premises, vehicle, vessel or stall subject to the application, unless the decisions was reversed on appeal.

5.2 The Authority has discretionary grounds for refusing a licence. Such grounds are:-

- (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 granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality at the time of the application is equal to or exceeds the number which the Authority consider is appropriate for that locality – “nil” may be considered an appropriate number by the Authority under the 1982 Act.
- (d) That the grant or renewal of the licence would be inappropriate having regard to:-
 - the character of the relevant locality, or
 - the use to which any premises in the vicinity are put
 - the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

5.3 In determining an application for the grant, renewal or transfer of a licence the Authority will have regard to:-

- (a) The Local Government (Miscellaneous Provisions) Act 1982
- (b) Any Regulations or Orders arising from the 1982 Act.
- (c) The Home Office Guidance on sexual entertainment venues (or any guidance that supersedes that guidance)
- (d) This Statement of Licensing Policy
- (e) Any other legislation or guidance as considered appropriate

5.4 In granting, renewing or transferring a licence the Authority may attach such terms and conditions as considered appropriate.

- 5.5 The Authority in addition to specifying the terms or conditions that shall apply to a particular sex establishment licence has prescribed that there be standard conditions applicable to sex establishment licences in the Borough. Such conditions are made under Paragraph 13 of Schedule 3 of the 1982 Act and are prescribed by the Authority's Regulation and Review Committee.
- 5.6 On the grant, renewal or transfer of a licence, the Authority will forward to Northumbria Police a copy of such licence.
- 5.7 Any sex establishment licence issued by the Authority will normally remain in force for one year. The Authority does however have a discretion to issue a licence for a shorter period should this be considered appropriate.

6. Revocation of Licence

- 6.1 A licence can be revoked by the Authority at any time on any one of the grounds set out in 5.1 (a) to (e) or any one of the grounds set out in 5.2 (a) or (b) of the policy.
- 6.2 The Authority will not revoke a licence without the licence holder being given an opportunity to appear before a Committee and be heard.
- 6.3 Where a licence is revoked, its holder will be disqualified from holding or obtaining a licence in the Borough for a period of 12 months from the date of revocation.

7. Cancellation of Licences

- 7.1 If a licence holder dies, then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death, and will then expire.
- 7.2 The Authority can however on the application of the licence holder's personal representatives extend the three month period if the Authority is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Authority will only do so where there are no circumstances that make such an extension undesirable.
- 7.3 The Authority may at the written request of the licence holder cancel the licence.

8. Variation of Licences

- 8.1 A licence holder may at any time apply to vary a term, condition or restriction of a licence. On receiving such an application, the Authority can either:-
- a) make the variation as requested
 - b) make such variations as it thinks fit
 - c) refuse the application.
- 8.2 The applicant will be given an opportunity to attend before a Committee - before a decision is made to make a variation other than that being applied for or to refuse the application.

9. Enforcement

- 9.1 The Authority will seek to administer the licensing regime in a fair, open and consistent manner having regard to the Regulators' Code published by the Department for Business Innovation and Skills and will have regard to the statutory principles of good regulation as required by the Legislative and Regulatory Reform Act 2006 and The Authority's Enforcement Policy.
- 9.2 The Authority will act in a proportionate manner and will only intervene when necessary. Any remedies sought by the Authority will be necessary and proportionate.
- 9.3 The Authority would hope to work closely with its partners, businesses and public so as to ensure as far as possible that licence holders comply with the law and conditions attached to a licence. Where there is a breach of the law or breach of conditions identified then the Authority will take appropriate action which may include prosecution having regard to the facts, seriousness of the offence and Authority's enforcement protocol.
- 9.4 The Authority will risk-rate all premises and any inspection will be on the following basis:

Type of premises	Frequency of inspections*
High risk (e.g. sex entertainment venues)	Every 3-6 months
Medium risk (e.g. sex cinema)	Every 6-12 months
Low risk (e.g. sex shop)	Every 12 months

*This column only gives an indication of the likely frequency of inspections. The frequency may be altered depending on factors such as the Authority's confidence in the management of the premises, the number of complaints received and any other relevant factor.

10. Appeals

- 10.1 Any decision made by the Authority can be appealed against to North Tyneside Magistrates' Court. Any such appeal must be made within 21 days of the decision of the Authority.
- 10.2 Those who can appeal are:-
- an applicant where the application for the grant, renewal or transfer of a licence is refused.
 - an applicant for the variation of the terms, conditions or restrictions of a licence which is refused.
 - a holder of a licence who is aggrieved by any term, condition or restriction imposed on the licence by the Authority.
 - a holder of a licence that has been revoked.

PART C **SEX SHOPS**

1. Significant Degree

- 1.1 A licence for a sex shop is required when 18R films are being sold from the premises or where there is a 'significant degree' of 'sex articles' being sold from the premises.
- 1.2 The term 'sex article' is defined by the 1982 Act (see **Appendix A**) but the phrase '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 have regard to:-
- The ratio of sex articles to other aspects of the business
 - The absolute quantity of sales
 - The character of the remainder of the business
 - The nature of the displays in the business
 - The turnover of the business
 - Any other factors that appear to be materially relevant

2. Relevant Localities

- 2.1 There are specific discretionary grounds that the Authority has for refusing to grant or renew licences including the locality of the premises as specified in paragraph 5.2. The Authority in determining an application may have regard to whether:-
- (a) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider appropriate for that locality
 - (b) the character of the relevant locality, or
 - (c) the use to which any premises in the vicinity are put, or
 - (d) to the layout, character or condition of the premises.
- 2.1 In considering the characteristics of a locality the Authority will have regard to the density and proximity of:-
- (a) residential accommodation
 - (b) parks and children's play areas
 - (c) other retail units (and their uses)
 - (d) schools
 - (e) religious and communal buildings
 - (f) alcohol or entertainment licensed premises

3. Length of Licence

- 3.1 Any licence will usually be granted for a year although the Authority in exceptional circumstances may grant a licence for such shorter period as considered appropriate.

4. Waivers

- 4.1 The Authority do not consider that it would be appropriate to permit waivers from the requirements to hold a sex shop licence except in extreme circumstances that would be considered by the Licensing Committee.

5. Application Form and Notices

See **Appendices B and C**

6. Licence Conditions

See the Authority's prescribed conditions for sex shops [link].

7. Fees

- 7.1 The fees for applying for the grant, renewal or transfer of a sex shop are available from the Authority and at www.northtyneside.gov.uk
- 7.2 The fees are paid in two parts. The first fee is for the processing of the application and any associated costs of appearing before a Committee. If the application is successful the licence holder will be required to pay an additional fee for the maintenance of the licence.
- 7.3 The fees will be reviewed annually against any rise or reduction in cost of administering the licensing regime.

PART D

SEXUAL ENTERTAINMENT VENUES

1. Relevant Entertainment

- 1.1 A licence for a sexual entertainment venue is required in relation to 'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer'.
- 1.2 'Relevant entertainment' is defined in Schedule 3 of the 1982 Act 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.
- 1.3 In deciding whether entertainment is 'relevant entertainment' the Authority will judge each case on its merits, but such entertainment will generally apply to:-
- lap dancing
 - pole dancing
 - table dancing
 - strip shows
 - peep shows
 - live sex shows

Adult entertainment that is not classed as 'relevant entertainment' under the 1982 Act may still require licensing under the Licensing Act 2003.

2. Relevant Localities

- 2.1 There are specific discretionary grounds that the Authority has for refusing to grant or renew licences including the locality of the premises as specified in paragraph 5.2. The Authority in determining an application may have regard to whether:-
- (a) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider appropriate for that locality
 - (b) the character of the relevant locality, or
 - (c) the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises
 - (d) the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider appropriate for that locality
 - (e) the character of the relevant locality, or
 - (f) the use to which any premises in the vicinity are put, or
 - (g) to the layout, character or condition of the premises.
- 2.2 In considering the characteristics of a locality the Authority will have regard to the density and proximity of:-
- (a) residential accommodation

- (b) parks and children's play areas
- (c) other retail units (and their uses)
- (d) schools
- (e) religious and communal buildings
- (f) alcohol or entertainment licensed premises

3. Length of Licence

Any licence will usually be granted for a year although the Authority in exceptional circumstances may grant a licence for such shorter period as considered appropriate.

4. Waivers

The Authority do not consider that it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than 11 occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

5. Application Form And Notices

See **Appendices B and C**

6. Licence Conditions

See the Authority's prescribed conditions applying to sexual entertainment venues at www.northtyneside.gov.uk

7. Fees

- 7.1 The fees for applying for the grant, renewal or transfer of a sexual entertainment venue are available from the Authority and at www.northtyneside.gov.uk
- 7.2 The fees are paid in two parts. The first fee is for the processing of the application and any associated costs of appearing before a Committee. If the application is successful the licence holder will be required to pay an additional fee for the maintenance of the licence.
- 7.3 The fees will be reviewed annually against any rise or reduction in cost of administering the licensing regime.

PART E
SEX CINEMAS

1. Significant Degree

‘Sex cinema’ means a premises, vehicle or vessel or stall used to a ‘significant degree’ for the exhibition of moving pictures, by whatever means produced which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –

- (a) sexual activity; or
- (b) acts of force or restraint which are associated with sexual activity; or
- (c) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

There is no definition of the term ‘significant degree’ in the 1982 Act and when considering whether or not a business or individual is exhibiting moving pictures that requires a sex cinema licence the Authority will have regard to:-

- (a) The ratio of exhibitions of moving pictures shown at the premises, vehicle, vessel or stall that portray or primarily deal with or relate to material that is designed to stimulate or encourage activity described in (a) to (c) in paragraph 1 above to the other types of moving pictures shown at that location.
- (b) The number of exhibitions of such moving pictures shown at the premises, vehicle, vessel or stall that portray or primarily deal with or relate to material that is designed to stimulate or encourage activity described in (a) to (c) in paragraph 1 above
- (c) The overall character of the business
- (d) The turnover of the business
- (e) Any other factors that appear to be materially relevant

2. Relevant Localities

There are specific discretionary grounds that the Authority has for refusing to grant or renew licences including the locality of the premises as specified in paragraph 5.2 of Part B. The Authority in determining an application may have regard to whether:-

- (a) The number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider appropriate for that locality
- (b) The character of the relevant locality, or
- (c) The use to which any premises in the vicinity are put, or to the layout, character or condition of the premises
- (d) The number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider appropriate for that locality
- (e) The character of the relevant locality, or
- (f) The use to which any premises in the vicinity are put, or
- (g) To the layout, character or condition of the premises.

In considering the characteristics of a locality the Authority will have regard to the density and proximity of:-

- (a) residential accommodation
- (b) parks and children's play areas
- (c) other retail units (and their uses)
- (d) schools
- (e) religious and communal buildings
- (f) alcohol or entertainment licensed premises

3. Length of Licence

Any licence will usually be granted for a year although the Authority may in exceptional circumstances grant a licence for such shorter period as considered appropriate.

4. Waivers

The Authority do not consider that it would be appropriate to permit waivers from the requirements to hold a sex cinema licence, given the nature of the material contained in the exhibitions of moving pictures shown at the premises, vehicle, vessel or stall.

5. Application Form and Notices

See **Appendices B and C**

6. Licence Conditions

See the Authority's prescribed conditions applying to a sex cinema at www.northynteside.gov.uk

7. Fees

- 7.1 The fees for applying for the grant, renewal or transfer of a sex cinema are available from the Authority and at www.northynteside.gov.uk
- 7.2 The fees are paid in two parts. The first fee is for the processing of the application and any associated costs of appearing before a Committee. If the application is successful the licence holder will be required to pay an additional fee for the maintenance of the licence.
- 7.3 The fees will be reviewed annually against any rise or reduction in cost of administering the licensing regime.

APPENDIX A

DEFINITIONS

of terms found within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and North Tyneside Council's Statement of Licensing Policy for Sex Establishments.

"Sex Establishment"	means a sex cinema, sex shop or sexual entertainment venue
"Sexual Entertainment Venue"	means any premises at which, "relevant entertainment" takes place before a live audience for the financial gain of the organiser or entertainer.
"Relevant Entertainment"	means any live performance or any display of nudity which is of 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).
"Audience"	this includes an audience of one.
"Display of nudity"	means in the case of a woman, exposure of her nipples, pubic area, genitals or anus and in the case of a man exposure of his pubic area, genitals or anus.
"Organiser"	means in relation to the provision of relevant entertainment at a premises of any person who is responsible for the organisation or management of the relevant entertainment or the premises.
"Premises"	includes any vessel, vehicle or hall but does not include any private dwelling to which the public is not admitted.
"Sex Cinema"	means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures by whatever means produced and are concerned primarily with the portrayal of, or primarily deal with or relate to or are intended to stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity or are covered primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions. It does not include a dwelling house to which the public is not admitted.
"Sex Shop"	means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating 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.

“Sex Article”	means anything made 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 and to any article containing or embodying matter to be read or looked at or anything intended to be used either alone or of one of a set, for the reproduction or manufacture of such article and to any recording of vision or sound, connected 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 is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs, or urinary or excretory functions.
“Appropriate Authority”	means in relation to any area for which a resolution has been passed under Schedule 3 of the 1982 Act, the local authority who passed it.
“Chief Officer of Police”	means the Chief Officer of Police for the police area in which the locality is situated.
“Vessel”	includes any ship, boat, raft, hovercraft or other apparatus constructed or adapted for floating on water.
“Standard Conditions”	means the regulations made prescribing the standard conditions applicable to sex establishments.

APPENDIX B
APPLICATION FORM



North Tyneside Council

**LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982
APPLICATION FOR GRANT/RENEWAL/TRANSFER
OF LICENCE FOR (A) SEX ESTABLISHMENT
(B) SEX SHOP
(C) SEX CINEMA**

PLEASE COMPLETE IN BLOCK CAPITALS

SECTION A – ABOUT THE APPLICANT

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

If the applicant's interest in the premises is leasehold, please supply the following information:	a) Is the lease headlease <input type="checkbox"/> underlease? <input type="checkbox"/> b) Landlord's name and address:
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Has the applicant been resident in the UK throughout the period of 6 months preceding the date of this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>
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Does the applicant or any persons named in this form have any Convictions/Cautions?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If the answer to the above is yes, please give details below:	

Convictions

Forename	Surname	Former name (if any)	Court	Date	Offence	Penalty or Sentence

Cautions

Forename	Surname	Former name (if any)	Court	Date	Offence	Penalty or Sentence

SECTION B – ABOUT THE PREMISES

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

SECTION C – ABOUT THE LICENCE

FIRST APPLICATION Choose this option if this is the first time this premises has been licensed or if the previous licence held by the premises has lapsed. You MUST provide a copy of a plan of the premises with the application to enable it to be processed	
RENEWAL APPLICATION Choose this option if you already hold a licence for the premises that is due to expire	
VARIATION APPLICATION Choose this option if you are proposing to change the hours of operation, or the premises layout etc	
TRANSFER APPLICATION Choose this option to transfer the licence from one licence holder to another	

SECTION D – ABOUT THE PREMISES

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

SECTION E – OTHER PARTICULARS TO BE PROVIDED

Scale plan of the premises in respect of which the licence is sought with relevant licensed area highlighted		<input type="checkbox"/>
Copy of the newspaper in which the notice of the application has been published (this must be sent within 7 working days of making the application)		<input type="checkbox"/>

SECTION F - DECLARATION

I/We enclose the requisite fee	<input type="checkbox"/>
I/We confirm that a copy of this application has been served on the Chief Officer of Police at Wallsend Police Station within 7 days of the application being submitted	<input type="checkbox"/>
I/We confirm that a Notice publicising this application will be displayed for 21 days beginning with the date of the application on or near the premises and in a place where it can be conveniently be read by the public	<input type="checkbox"/>
I/We confirm that a Notice of application has been given by publishing an advertisement in a Local Newspaper circulating in the local area. The	

publication of the Notice shall not be later than 7 days after the date of application



DECLARATION BY APPLICANT FOR LICENCE

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

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

Where the application is made on behalf of a limited company, the company secretary or director(s) should sign this form, in the case of a partnership each partner should sign.

Signed	Signed	
Name	Name	
Capacity	Capacity	
Date	Date	

ONCE COMPLETED, THIS FORM SHOULD BE RETURNED TO:-

Licensing, Block C, Killingworth Site, Harvey Combe, Killingworth, Newcastle upon Tyne, NE12 6UB

APPENDIX C
NOTICES

Notice to be displayed at Premises

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1982 (AS AMENDED)

NOTICE OF APPLICATION FOR GRANT/RENEWAL/TRANSFER OF A LICENCE

Application today been made to North Tyneside Council in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) for the grant/renewal/transfer of a sexual entertainment venue/ sex shop / sex cinema licence in respect of the premises named below

Address of Premises

.....

Name of Applicant

Signature of Applicant

Date

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

**Licensing
Block C
North Tyneside Council
Harvey Combe
Killingworth
Newcastle upon Tyne
NE12 6UB**

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

THIS NOTICE IS TO BE PROMINENTLY DISPLAYED ON THE OUTSIDE OF THE PREMISES FOR A PERIOD OF 21 DAYS AFTER THE DATE HEREON

Newspaper Notice

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1982 (AS AMENDED)

NOTICE OF APPLICATION FOR GRANT/RENEWAL/TRANSFER OF A
LICENCE

Take notice that on

I/We

Of

Made application to North Tyneside Council for the grant/renewal/transfer of
a sexual entertainment venue/ sex shop / sex cinema licence at (address of
proposed premises)

Any objections to this application should be made to:

**Licensing
Block C
North Tyneside Council
Harvey Combe
Killingworth
Newcastle upon Tyne
NE12 6UB**

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

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

APPENDIX D

LIST OF CONSULTEES

Residents and businesses council website
All licence holders within North Tyneside
All pub watch schemes within North Tyneside
Specialist trade organisations
Councillors/MP's/MEP's
Elected Mayor of North Tyneside
Northumbria Police
Director of Public Health
Tyne & Wear Fire & Rescue Service
Relevant Council Officers