

Public Protection

**Statement of Licensing Policy in
relation to Sex Establishments as
under Local Government
(Miscellaneous Provisions) Act 1982**

Published XXXXXXXXXXXX 2011

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Preface

Thurrock Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that we can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. In this policy, we refer to these as “sex establishments” unless we say otherwise.

We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate sex establishments, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to administer the licensing regime in accordance with the law.

This Statement of Licensing Policy sets out the council’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).

We consulted on this policy between XXXXXXXXXXXXX and XXXXXXXXXXXXX and it was approved by Full Council on XXXXXXXXXXXXX.

Consultation was conducted which took account of representations from local residents and community groups; existing and future potential holders of sex establishment licences in the Borough; relevant statutory bodies and representatives of holders of premises licences under the Licensing Act 2003 within the Borough.

In developing this policy, we took into account the legal requirements of the 1982 Act and our duties under

- a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- b) The Regulators’ Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) obligations 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) Proportionate to that public interest objective
 - iv) Clear and unambiguous
 - v) Objective

- vi) Made public in advance, and
- vii) Transparent and accessible.

Thurrock Council's aim is to become a **confident**, well managed and **influential** council regarded by residents, peers and partners as **ambitious** for the people of Thurrock and totally focused on meeting their current and future **aspirations**.

We want Thurrock to be at the **dynamic** heart of the Thames gateway, a place of **ambition, enterprise** and **opportunity**, where communities and businesses **flourish**.

Our priorities within the community are:

- to **improve** the education and skills of local people
- to **encourage** and **promote** job creation and economic prosperity
- to **ensure** a safe, clean and green environment
- to **provide** and **commission** high quality and accessible services that meet, wherever possible, individual needs
- to **build** pride, respect and responsibility in Thurrock's communities and its residents.

This policy which took effect on **XXXXXXXXXXXXXXXXXX** will be subject to periodic review.

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Foreword

The borough of Thurrock lies on the River Thames, just to the East of London. It covers an area of 165 sq km – more than half of which is green belt. It has over 18 miles of riverfront.

Thurrock has a wide-ranging economy, centred on logistics and the retail trade. There are a number of large and important industrial sites, including a large oil refinery and manufacturing industries. Thurrock is also home to the Lakeside shopping centre. With over 300 shops under one roof, this is one of the largest retail attractions in Europe.

In 2009 our population was estimated at 157,200 in 63,678 dwellings. The current population is relatively young, with 19.73% under 15 years, 12.64% between 14 -24 years, and with 6.13% over 75 years. The black and minority ethnic (BME) population in 2008 is estimated at 9%.

Over 30 different languages are currently spoken and this number is also expected to rise. The council recognises the benefits of a diverse community and the potential impact of these trends on shaping the future of Thurrock.

There are 3,634 commercial properties in Thurrock but the traditional manufacturing sector now only accounts for 11% of the business base.

Whilst Thurrock's ranking in deprivation has improved, but inequalities exist in parts of Tilbury, Belhus, Chadwell, Ockendon and West Thurrock with the gap biggest in health, crime, education and employment.

Thurrock Unitary Council was formed in the 1998 local government review. There are 20 electoral wards and 49 seats on the Council. Ordinarily, Members serve for a mandate of four years.

1 Introduction

- 1.1 Thurrock Council has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) in order to licence 'sex establishments' within the Borough.
- 1.2 This Statement of Licensing Policy for Sex Establishments sets out the council's requirements for premises to be licensed as 'sex establishments' within the meaning of the Act (as amended).
- 1.3 The advice and guidance contained in the appendices attached to this Statement of Licensing Policy is intended only to assist readers in consulting the policy and should not be interpreted as legal advice or as constituent of Thurrock Council's Statement of Licensing Policy.
- 1.4 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Local Government (Miscellaneous Provisions) Act 1982 or schedules issued under the Act.

2 Definition of 'sex establishment'

- 2.1 A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sex encounter establishment'. Full definitions of those terms can be found in Appendix A to this policy.
- 2.2 It includes any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

3 Location of Licensed Premises

- 3.1 The council acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.
- 3.2 Whilst the council have not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application upon its own merits, The Council is of the view that it is not appropriate to have a sex establishment situated within a 'relevant locality' of: -
 - (a) a residential area;
 - (b) a school, nursery or any other premises substantially used 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 place of religious worship.

- 3.3 **Relevant Locality** - This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this covers is a matter for the local authority to decide. Thurrock Council has determined that each case will be judged upon its own merits base upon the area which, when considered sensibly as a whole, could be said to be affected by the presence of a sex establishment in it.
- 3.4 **Character of the relevant locality** – The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances. Thurrock Council will consider the effect of the sex establishment could or is having on the use of premises in the relevant locality. This may for example be demonstrated by objectors evidencing how the prominence of the premises, the reputation of the brand, or its operating style, or the size and nature of the clientele it is likely to attract, may be inappropriate to the character of the locality.
- 3.5 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.
- 3.6 The council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

4 Making an application

- 4.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the council in accordance with the requirements shown in Appendix B.
- 4.2 In keeping with the Council's policy on the introduction of e-Government, the council consents to applications and other notices being given electronically. The address at which the council will accept applications and notices is:-
- (a) by post/personal service to Licensing Department, Thurrock Council, Civic Offices, New Street, Grays, Essex, RM17 6SL;
 - (b) by e-mail to licensing@thurrock.gov.uk;
 - (c) on-line www.thurrock.gov.uk/licensing (when the facility becomes available).
- 4.3 A specimen application form and notice for public advertisement is attached in Appendix C.

- 4.4 A copy of the application must be submitted to the Chief Officer of Police within 7 days of submitting the application to the Licensing Authority.

5 Fees

- 5.1 The application process involves paying a non-returnable application fee, including costs for inspections of the premises and processing the application;
- 5.2 The fees are reviewed periodically against any rise in council costs of administering the licence regime.
- 5.3 A schedule of fees is shown in Appendix D

6 Advice and Guidance

- 6.1 The council will seek to liaise with applicants and/or mediate between applicants and others who may make objections, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit.
- 6.2 Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department and those from who they think objections are likely prior to submitting their application.

7 Grant, renewal or transfer of licences

- 7.1 The council may grant to any applicant and renew a licence for the use of any premises as a 'sex establishment' on such of the terms and conditions specified by the council in Appendix E.
- 7.2 A licence will remain in force for one year, or such shorter period specified in the licence, unless previously cancelled or revoked.
- 7.3 The council may, if they think fit, transfer a licence to any other person upon application by that person.
- 7.4 Where an application for renewal or transfer of a licence is made before the date of expiry of the existing licence, the licence shall remain in force until such time as the application has been determined.
- 7.5 Where applications for licences have been granted, the council will send the licence to applicants by post.

8 Waivers

- 8.1 We do not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by Licensing Sub Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

9 Exchange of Information

- 9.1 Thurrock Council may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange information with the police and other partners.
- 9.2 Details of applications and objections which are referred to a 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.
- 9.3 The name and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to Councillors on the Licensing Sub Committee.

10 Variation of licences

- 10.1 The holder of a licence may apply to the council to vary the terms, conditions or restrictions on or subject to which the licence is held.

11 Objections

- 11.1 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.
- 11.2 Objectors should have something to say which is relevant to consideration of the statutory grounds for refusal that is set out in the 1982 Act.
- 11.3 The Council takes the following approach to deciding applications:
 - (a) each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
 - (b) objectors can include residents'/tenants' associations, community associations, and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties, providing they do not also sit on the Licensing Sub Committee determining the application in question;
 - (c) we will give clear reasons for our decisions.
- 11.4 A report will be submitted in advance of any licence hearing that will outline the application and indicate the general grounds of representations.
- 11.5 Objections will be considered at a hearing by a Licensing Sub Committee of three Councillors. We give both applicants and objectors an equal opportunity to

state their case in accordance with the council's hearing procedure, which is available from Thurrock Council.

11.6 Objections should:

- Be made in writing, stating in general terms the grounds of the objection (this will include submissions electronically).
- Indicate the name and address of the person or organisations making the representation.
- Indicate the premises to which the objection relates.
- Indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this.
- Clearly set out the reasons for making the objections.

11.7 Objections may only be made within the period of 28 days following the date on which the application was given to the council.

11.8 The council will not consider any objection that does not contain the name and address of the person making it.

11.9 Where objections are made the council will provide copies to the applicant. The council will not divulge the identity of the objector/s to the applicant without their permission to do so.

11.10 Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held within 20 working days of the end of the period in which objections might be made, unless all parties agree a hearing is unnecessary.

11.11 Where no objections are made to the grant of a 'New' Licence, the application will still be referred to a Licensing Sub committee for consideration.

11.12 Where no objections are made the re grant of a "Renewal" of an existing licence the application will be granted subject to the terms and conditions shown at Appendix E.

12 Determining applications

12.1 When considering applications, the council will have regard to:

- (d) the Local Government (Miscellaneous Provisions) Act 1982
- (e) any supporting regulations;
- (f) this Statement of Licensing Policy.

- 12.2 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.
- 12.3 When determining applications, the council will take account of any comments made by the Chief Officer of Police and any objections made.
- 12.4 In all cases, the council reserves the right to consider each application on its own merit.

13 Conditions

- 13.1 The council recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises.
- 13.2 No condition will be imposed that cannot be shown to be necessary.
- 13.3 The conditions that may be attached to a licence where appropriate are shown in Appendix F.

14 Refusal of licences

- 14.1 Except where the council are prohibited from granting, renewing, varying or transferring a licence, the council will not refuse a licence without first: -
- Notifying the applicant or holder of the licence in writing of the reasons;
 - Giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.
- 14.2 The circumstances in which the council must or may refuse a licence are shown in Appendix F

15 Revocation of licences

- 15.1 The council may revoke a licence: -
- on any of the grounds specified in paragraph 1 of Appendix F of this policy;
 - on either of the grounds specified in paragraph 3 (a) and (b) of Appendix F of this policy.
- 15.2 The council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

16 Cancellation of licences

- 16.1 The licence-holder may surrender the licence at any time and may request the council in writing to cancel the licence.
- 16.2 In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.
- 16.3 Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

17 Complaints

- 17.1 Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

18 Enforcement

- 18.1 The council is responsible for the administration and enforcement of the licensing regime and will have regard to the Public Protection Enforcement Policy, Department of Business Enterprise & Regulatory Reform's Regulators' Compliance Code and the Better Regulation Commission's five Principles of Good Regulation. The council will carry out its regulatory functions in a fair, open and consistent manner.
- 18.2 Specifically, the council is committed to:
 - (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
 - (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
 - (c) be consistent – to implement rules and standards fairly;
 - (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
 - (e) target its regulatory action at cases in which action is needed.
- 18.3 The council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.

- 18.4 However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.
- 18.5 The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.
- 18.6 This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website: www.thurrock.gov.uk

Appendix A

Definitions – Local Government (Miscellaneous Provisions) Act 1982

'Sex Cinema' (paragraph 3, schedule 3)

- 1) A sex cinema is 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
 - iii) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions

But does not include a dwelling house to which the public is not admitted.

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

- a) If they may be used for an exhibition of a film (within the meaning of paragraph 15 of schedule 1 of the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation.

'Sex Establishment' (paragraph 2, Schedule 3)

In this schedule 'sex establishment' means a sexual entertainment venue, a sex cinema or a sex shop.

Meaning of 'Sexual entertainment venue'

2A (1) in this Schedule, 'sexual entertainment venue' means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

- 2 In this paragraph 'relevant entertainment' means –
 - i) any live performance; or
 - ii) 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
 - (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.

'Sex Shop' (paragraph 4, schedule 3)

- 1) A sex shop means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating
 - a) sex articles; or
 - b) other things intended for use in connection with, or for the purpose of stimulating or encouraging
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity.

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

Sex Article

- 3) A sex article means
 - a) anything made for use in connection with, or for the purpose of stimulating or encouraging
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity;

 - b) anything to which sub-paragraph 4 below applies.

- 4) This sub-paragraph applies to:
 - a) 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) 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.

'Sex Entertainment Venue' (paragraph 2A, schedule 3)

1) In this schedule, 'sex encounter venue' means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

2) In this paragraph relevant entertainment means

- a) Any live performance; or
- b) Any live display of nudity;

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

3) The following are not sex encounter venues:-

- a) Sex cinemas and sex shops;
- b) Premises at which the provisions 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 subparagraph (1));
- c) Premises specified or described in an order made by the relevant national authority.

4) The relevant national authority may by order amend or repeal sub-paragraph (3) (b).

5) But no order under sub-paragraph (4) may:

- a) increase the number or length of occasions in any period on which subparagraph (3) (b) as originally enacted would permit relevant entertainment to be provided; or
 - b) provide for shorter intervals between such occasions.
- 6) The relevant national authority may by order provide for descriptions of performances, or of nudity, which are not to be treated as relevant entertainment for the purposes of this schedule.
- 7) Any power of the relevant national authority to make an order under this paragraph
- a) is exercisable by statutory instrument;
 - b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- 8) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- 9) For the purposes of this schedule references to the use of any premises as a sex encounter venue are to be read as references to their use by the organiser.
- 10) Other definitions:

‘audience’ includes an audience of one;

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

‘display of nudity’ means

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

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

- a) The relevant entertainment; or

b) The premises;

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

“relevant national authority” means- in relation to England, the Secretary of State;

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.”

Appendix B

Requirements for applying for grant, variation, transfer or renewal of a sex establishment licence

Grant of a licence

- 1) To apply for the grant of a sex establishment licence an applicant must: -
 - a) send the council: -
 - i) a completed application form;
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) a site plan showing where the premises is situated in relation to other premises (scale 1/500);
 - iv) a non refundable application fee
 - b) display a notice on or near the premises;
 - c) advertise the application in a local newspaper;
- 2) The applicant(s) shall, not later than 7 days after the date of the application, send a copy of the application and any plans, supporting documents etc to the Licensing Officer, Wickford Police Station, 14 London Road, Wickford, Essex, SS12 0AN.

Plan requirements

- 3) The plan shall show: -
 - a) 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;
 - b) the location of points of access to and egress from the premises;
 - c) the location of escape routes from the premises;
 - d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
 - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
 - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
 - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
 - j) the location of a kitchen, if any, on the premises.

- 4) 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.

Public notices

- 5) A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.
- 6) Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 7) The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 8) The notice must state: -
 - a) details of the application and activities that it is proposed will be carried on or from the premises,
 - b) the full name of the applicant,
 - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
 - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
- 9) A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the council.

Variation of a licence

- 10) The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 11) The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

Renewal of a licence

- 12) The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
- 13) The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

Transfer of a licence

14) A person may apply for transfer of a licence at any time.

15) The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

Appendix C



Licensing Department

Local Government (Miscellaneous Provisions) Act 1982, Part II, Schedule 3

Application for the Grant/Renewal/Transfer of a Licence for a Sex Establishment Licence

Type of application (please tick):

Grant	<input type="checkbox"/>	Renewal	<input type="checkbox"/>	Transfer	<input type="checkbox"/>
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1. If application is made on behalf of an individual please state:

Full name:		
Permanent Address:		
Age	Date of birth	Place of birth

If application is made on behalf of a corporate or unincorporated body please state:

Full name of body:
Address of registered or principal office:

2. Give full names and private addresses of all directors or other persons responsible for the management of the establishment (please continue on a separate sheet if necessary):

Full name:		
Permanent Address:		
Age	Date of birth	Place of birth

Full name:		
Permanent Address:		
Age	Date of birth	Place of birth

Full name:		
Permanent Address:		
Age	Date of birth	Place of birth

3. Have you any convictions recorded against you? If you are applying as a body corporate or unincorporated body, has that body or any of its directors or other persons responsible for its management any convictions recorded against them? If so please state (please continue on a separate sheet if necessary):

Date of Conviction	Offence	Sentence (including suspended sentences)

Please note:

- a) All live convictions must be disclosed
 - b) Convictions which are now spent (as defined in table 1 in the accompanying guidance notes) should not be included.
4. Have you been resident in the United Kingdom throughout a period of six months immediately preceding the date of this application?
YES/NO
5. If the application is made on behalf of a body corporate, is that body incorporated in the United Kingdom?
YES/NO

If 'YES' please give registration number:	
-------------------------------------------	--

6. Full address of premises to be used as a sexual entertainment venue:

Address:	
Post Code:	

7. If this application relates to a vehicle/vessel/stall please give a description and state where it is to be used as a sexual entertainment venue.

8. During which hours do you intend to trade?

Monday:	Tuesday:	Wednesday:
Thursday:	Friday:	Saturday:
Sunday:		

9.

Are the premises to be used as a sex shop? **YES/NO**

Are the premises to be used as a sex cinema? **YES/NO**

Are the premises to be used as a sexual entertainment venue? **YES/NO**

10.

Are you (or, if a corporate or unincorporated body, that body) **YES/NO** disqualified from holding a licence for a sexual encounter venue?

Have you ever been refused a licence for a sexual encounter venue? **YES/NO**

If YES, please give details:

11. I declare that I have checked the information given on this application for and to the best of my knowledge and belief it is correct.

I understand that I must (please tick):

Advertise the application in a local newspaper (within 7 days of application)	
Place a public notice on or near the premises for 21 days	
Send a copy of the application to the police (within 7 days of application)	

I have included the appropriate fee for my application	
--------------------------------------------------------	--

Signed _____ Date _____

Please return your completed application to:

Licensing Department, Thurrock Council, Civic Offices, New Road, Grays, Essex, RM17 6SL



NOTE:

One complete copy of the newspaper containing the advertisement together with the relevant declaration certificate must be sent to: -

**Licensing Department, Thurrock Council, Civic Offices, New Road, Grays, Essex,
RM17 6SL**

Appendix D



Sex Establishment Fees

Licences are required under Part II of the Local Government (Miscellaneous Provisions) Act 1982 for the following establishments:

- Sex shops
- Sex cinemas
- Sexual entertainment venues

Schedule 3 of the 1982 Act allows local authorities to set fees for licences of this kind. An applicant for the grant, renewal or transfer of a sex establishment licence is required to pay a reasonable fee determined by the Council. There is no fee for an application to vary the terms, conditions or restrictions on or subject to which a licence is held.

Schedule of Fees

New Application fee*	£3000
Renewal Application Fee*	£2000
Transfer of Licence	£100

The fee for making any application is non-refundable, regardless of outcome of the application. All fees are payable at the time of making and together with an application.

Please note that existing lap dancing establishments usually have a Premises Licence in place and pay an annual fee. An operator in this position will have to continue to pay this fee in addition to fees for the grant and subsequent renewal of a sexual entertainment venue licence.

Appendix E

Thurrock Council – Sex Establishment Conditions

General Conditions

1. The licence holder shall retain control over all portions of the premises as defined on the approved premises plan, and shall not let, license or part with possession of any part of the licensed premises.
2. The public shall not be permitted to have access to any part or parts of the licensed premises other than those which have been approved by the Thurrock Council.
3. No person under the age of eighteen shall be admitted to the licensed premises whilst the Sex Establishment Licence is being used and prominent notices shall be displayed at each entrance to the premises to that effect.
4. No person aged under eighteen shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
5. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.
6. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.
7. No display or advertisement of the activities permitted by the Sex Establishment Licence shall be exhibited so as to be visible from outside of the premises except:-
 - any notice required to be displayed by law, by these regulations or by any condition of a licence granted by the Council
 - the name of the premises as specified in the Sex Establishment Licence
 - the hours of opening of the premises
 - notice of any admission charge to the premisesunless the Council has given its prior consent in writing that such display or advertisement may be used.
8. The premises layout shall allow all public parts of the premises to be easily supervised by premises management, staff and door supervisors at all times save for public toilet areas which shall be checked at least at hourly intervals to ensure such areas are not being used for any improper purposes and are in a clean and useable condition.

9. No change of use of any portion of the licensed premises from that approved by the Council shall be made until the Council's consent in writing has been obtained.

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

11. No alterations or additions, either internal or external, and whether permanent or temporary, shall be made to the structure, lighting or layout of the licensed premises except with the prior written approval of the Council.

12. The windows and openings of the licensed premises shall be of material or covered with material which will render the interior of the premises invisible to passers by.

13. The external doors to the licensed premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

14. The licence holder shall ensure that the sex establishment licence or a certified copy shall be prominently exhibited at the premises in a position where it can be clearly seen by patrons of the premises. For the purposes of this section, a certified copy of the licence shall be a copy certified as a true copy by the holder of the licence and appropriately signed and dated with the date the copy was certified.

Premises Appearance

15. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.

CCTV Conditions

16. A CCTV system shall be installed and working to the satisfaction of the Police and the Council. The system shall cover the whole of the parts of the premises to which the public have access with the exception of individual toilet cubicles. This shall include external areas of the premises including the area immediately outside any entrance to, or exit from, the premises.

17. CCTV monitors covering the premises must be available in the foyer or reception area of the premises where they can immediately be viewed by Police and Council officers during an inspection of the premises. This does not preclude further monitors being located in other parts of the premises.

18. Notices shall be displayed at the entrance to the premises, and in prominent positions throughout the licensed premises, advising that CCTV is in operation.

19. The CCTV shall record continuously the entire time that any member of the public is present on the licensed premises.

20. Recordings shall be of a sufficient quality to clearly identify persons on the recordings

21. Recordings shall be maintained for a minimum period of 31 days.

22. Copies of the recordings shall be made available to the Police and the Council on request.

23. Any defect in the operation of the CCTV system shall be notified immediately to the Council Licensing Team in writing and by telephone, and the licence holder shall ensure that repairs to the CCTV system are effected as soon as reasonably practicable.

24. Where any part of the CCTV system is non operational, the licence holder shall comply with any direction from the Police or the Council not to use certain parts of the licensed premises for the purposes of the Sex Establishment Licence.

Additional Conditions for Premises Operating as Sex Shops

25. The licensee shall ensure that no employee or any other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.

26. Every person employed on the premises in a capacity where he / she has or will have contact with members of the public in the course of carrying on any activity authorised by the licence, must have first been approved by the council.

Any change of staff employed at the licensed premises shall be notified in writing to the Council within 14 days of the change.

An approved person for the purposes of this condition shall be a person approved in writing in advance by the licensing authority following the submission of: -

- a) a criminal conviction certificate issued under section 112 or a criminal record certificate issued under section 113A of the Police Act 1997 or the results of a subject access search under the data Protection Act 1998 of the Police National Computer by the National Identification Service that has been issued no earlier than one calendar month before submitting it to the council;
- b) a passport sized photograph in colour.

A person shall only be approved for the purposes of the foregoing condition if the council considers him or her to be a suitable person to have control of the premises.

Every person employed on the premises in the furtherance of the business shall wear a form of visible identification of a type approved by the council indicating his/her name and position.

27. All sex articles and other things displayed within the licensed premises shall be clearly marked to show to persons who are inside the premises the respective prices

being charged (inclusive of VAT). All goods offered for sale, hire, exchange or loan shall be available for inspection prior to supply and a notice to this effect is to be prominently displayed within the premises.

28. Hours of Opening:

- The hours that premises may open to the public are from 0930 – 1800hrs on weekdays (Monday to Saturday).
- The premises shall not open on Sundays, Christmas Day or Good Friday.

29. There shall be no touting for business for the venue by way of flyer, persons holding advertising boards, branded vehicles or personal solicitation outside or in the vicinity of the licensed premises.

Additional Conditions applicable to Venues Providing Sexual Entertainment

30. The Council shall expect the layout of the premises to be such that performers cannot be seen from outside the premises.

31. Performers may not stand in lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.

32. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.

33. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises, or otherwise by persons using the venue.

34. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.

35. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.

36. Door supervisors registered with the Security Industry Authority shall be provided at the premises in sufficient numbers to ensure that:

- each entrance and exit at the premises used by the public are manned by at least two door supervisors
- all public areas of the premises can be continually monitored to ensure the Dancers and Customers Codes of Conduct and any licence conditions are being complied with
- persons breaching the Customers Code of Conduct or otherwise behaving in a disorderly fashion can be safely ejected from the premises

Requirements for a Code of Conduct for Dancers

37. There shall be a Code of Conduct for Dancers in place at the venue that has been agreed in writing by the licence holder, the Council and Essex Police.

38. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Sexual Entertainment Venues - Code of Conduct for Dancers".

39. No change shall be made to the Dancer's Code of Conduct without the prior written consent of the Council and Essex Police.

40. The Dancers Code of Conduct must state that dancers who do not comply with the Code of Conduct will face disciplinary proceedings.

41. The licence holder shall require all dancers to sign an acknowledgement that they have been provided with a copy of the Dancer's Code of Conduct and have read and understood its contents and shall comply with such Code of Conduct at all times they are working at the premises as dancers.

42. The licence holder shall retain original records showing that each dancer has signed to acknowledge receipt of the Dancer's Code of Conduct and Disciplinary Procedure as described above.

43. A copy of the Dancer's Code of Conduct shall be prominently displayed in each area of the premises to which the public have access, including toilet areas, and in any area used as a changing/dressing room for dancers.

44. The premises management and staff (including security staff) shall be aware of the content of the Dancer's Code of Conduct and shall ensure it is complied with.

Requirements for a Code of Conduct for Customers

45. There shall be a Code of Conduct for Customers in place at the venue that has been agreed in writing by the licence holder, the Council and Essex Police.

46. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Sexual Entertainment Venues - Code of Conduct for Customers".

47. The Code of Conduct for Customers shall be displayed in prominent positions throughout the premises where it is visible to all customers.

48. No change shall be made to the Customers Code of Conduct without the prior written consent of the Council and Essex Police.

49. The Customer's Code of Conduct must state that customers who do not comply with the Code of Conduct will be ejected from the premises.

50. The premises management and staff (including security staff) shall be aware of the content of the Dancer's Code of Conduct and shall ensure it is complied with.

51. Where a customer breaches the Customer Code of Conduct, this shall be recorded in the incident log.

52. If management are made aware of a customer repeatedly breaching the rules of the Customers Code of Conduct, they shall ensure the customer is ejected from the premises.

Disciplinary Procedure

53. A disciplinary procedure shall be in place to deal with dancers who breach the Dancer's Code of Conduct. The disciplinary procedure shall be detailed in writing and a copy of it provided to each dancer who works at the premises.

54. The licence holder shall require all dancers to sign an acknowledgement that they have been provided with a copy of the house Disciplinary Procedure and have read and understood its contents.

55. No disciplinary procedure shall include provision to "fine" dancers or otherwise impose pecuniary penalties. Any action to be taken shall only include verbal or written warnings, suspension of the dancer's right to perform at the premises or revocation of the dancer's right to perform at the premises.

Sexual Entertainment Venues - Code of Conduct for Dancers

56. The Dancer's Code of Conduct shall include the following conditions as a minimum:

- a. Dancers may not intentionally touch a customer during a performance.
- b. Dancers may not permit a customer to touch them during a performance.
- c. Dancers may not straddle the customer.
- d. If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer persists in inappropriate behaviour the dancer shall stop the performance and inform premises management immediately.
- e. Dancers may not intentionally touch the genitals, anus or breasts of another dancer, nor knowingly permit another dancer to touch their genitals, anus or breasts.
- f. Dancers shall not solicit for gratuities or payment for sexual favours.
- g. Dancers shall not engage in any act of prostitution, i.e. the receiving of gratuities or payment for sexual favours.

- h. Dancers may not perform any act which simulates masturbation, oral sex or sexual intercourse, including the insertion of any object including their own finger in to the anus or vagina.
- i. Dancers may not touch their own breasts with their fingers, lips or tongue, nor touch the breasts of another dancer.
- j. Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public.
- k. Dancers shall not perform if under the influence of alcohol or drugs.
- l. If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.
- m. Dancers shall use the dressing room facilities provided for their exclusive use to change for their performance and dress again after a performance.
- n. Dancers shall only use the smoking area provided specifically for their use.
- o. Dancers shall only use the sanitary facilities specifically provided for their use.
- p. Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire, e.g. outerwear consisting of coat or top and skirt or trousers so lingerie or other performance costume is not visible.
- q. All dancers shall comply with this Code of Conduct. Any failure to adhere to the Code of Conduct shall result in the dancer becoming subject to the house Disciplinary Rules, a copy of which have been provided to each dancer.

Sexual Entertainment Venues - Code of Conduct for Customers

57. The Customers Code of Conduct shall include the following conditions as a minimum:

- a. Customers may not touch dancers during a performance.
- b. Customers may not make lewd or offensive remarks to dancers.
- c. Customers may not harass or intimidate dancers.
- d. Customers may not ask dancers to perform any sexual favour.
- e. Customers may not perform acts of masturbation or indulge in other sexual behaviour.
- f. Any customer failing to adhere to the Customers Code of Conduct will be ejected from the premises.

Private Booths

58. Private booths shall not be provided at the licensed premises.

Dancers Private Work Areas

59. A secure dressing room area shall be provided for dancers' use. Such dressing room must be secured so as not to be accessible by members of the public.

60. Dancers shall be provided with their own sanitary facilities separate from those used by customers.

61. A secure external area shall be provided for dancers to smoke without coming into contact with customers.

Dancers Welfare Policy

62. The licence holder shall have a Dancers Welfare Policy in place at the premises.

63. The Policy shall, as a minimum, state that

- any dancer concerned about the behaviour of a customer shall report the incident immediately to the Duty Manager who shall take immediate action to resolve the matter
- staff members must constantly supervise the behaviour of customers at the premises and shall intervene where any customer is breaching the Code of Conduct for Customers or is otherwise causing alarm or distress to a dancer
- any customer behaving inappropriately will be ejected from the venue
- dancers shall be provided with free drinking water on request

General Provisions

64. The licence holder shall obtain a photocopy of the passport of each dancer that works at the premises and shall certify the copy as being a true copy by signing and dating the photocopy together with their name and job title.

65. The licence holder shall undertake reasonable checks to ensure each dancer is eligible to work in the United Kingdom and shall not allow dancers ineligible to work in the UK to work at the premises.

66. The licence holder shall maintain written records of all dancers working at the premises. The records shall show the dancer's full name, home address, date of birth and a certified photocopy of their passport and the date the dancer was provided with the Dancers Code of Conduct and Disciplinary Procedure.

67. Dancers under the age of eighteen shall not be permitted to work at the premises.

68. Dancers shall not be permitted to perform if they are clearly under the influence of alcohol or drugs.

69. The licence holder shall ensure that an incident log is maintained at the premises. Such incident log shall, as a minimum, give details of:

- any ejections from the premises
- any refused admissions
- any refused sales
- any breaches of the Dancers Code of Conduct
- any inappropriate behaviour by guests
- any failure in the CCTV system
- any incidents of crime or disorder
- any complaints made by the public, guests or dancers
- any disciplinary action taken against dancers

70. The record shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved/name of dancer where appropriate and brief details of the incident and any action taken by the staff.

71. The incident log shall be completed as soon as reasonably practicable after any incident has occurred.

72. The incident log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the location of the incident log and the need to complete it in the case of any of the circumstances described above.

73. The licence holder shall ensure the incident log is checked periodically and at least on intervals of one month apart to ensure that staff are completing the incident log.

74. The incident log shall be made available for inspection to Police or authorised Council officers on request.

75. There shall be no touting for business for the venue by way of flyer, persons carrying advertising boards, the use of branded vehicles, or personal solicitation.

Additional Rules for Premises Used as Sex Cinemas

76. No film shall be exhibited unless:

- (i) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council, or
- (ii) the film has been passed by the Council as U, PG, 12, 15, 18 or RESTRICTED (18) with Thurrock being the name of the Council.

77. If the licence holder is notified by the Council in writing that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.

78. Not less than 28 days notice in writing shall be given to the Council of any proposal to exhibit any film which has not been classified as specified above. Such a film may only be exhibited if consent has been obtained from the Council in writing and in accordance with the terms of any such written consent.

79. When the programme includes a film in the 12, 15 or 18 category no person appearing to be under the age of 12, 15 or 18 as appropriate shall be admitted to any part of the programme.

80. If the Council does not agree with the category of any film as passed by the British Board of Film Classification, it may alter the category or prohibit the showing of the film.

81. On notice of alteration of category being given by the Council to the licence holder, the film shall thereafter be treated as being in the altered category and the conditions applicable to the exhibition of films in the altered category shall be observed.

82. Immediately before each exhibition at the premises of a film (other than a current news-reel) passed by the British Board of Film Classification there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer, of the statement approved by the Board indicating the category of the film.

83. For a film passed by the Council, notices shall be conspicuously displayed both inside and outside the premises so patrons entering can easily read them. The notices shall state without the addition of any other words:

Thurrock Council

(Here insert title of film)

has been passed by Thurrock Council as

(here insert the definition of the category and the category

assigned)

84. Where a trailer is to be exhibited advertising a film passed by the Council, the notice shall state:

Thurrock Council

*.....trailer advertising +.....film

*(*Here insert the category of the trailer)*

(+Here insert the category of the film)

85. Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the *premises*, shall indicate clearly the category of the film.

86. The licence holder shall ensure that an incident log is maintained at the premises. The log shall, as a minimum, give details of:

- a. any ejections from the premises
- b. any refused admissions
- c. any refused sales
- d. any inappropriate behaviour by guests
- f. any failure in the CCTV system
- g. any incidents of crime or disorder
- h. any complaints made by the public or guests

87. The record shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved where appropriate and brief details of the incident and any action taken by the staff.

88. The incident log shall be completed as soon as reasonably practicable after any incident has occurred.

89. The incident log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the location of the incident log and the need to complete it in the case of any of the circumstances described above.

90. The licence holder shall ensure the incident log is checked periodically and at least on intervals of one month apart to ensure that staff are completing the incident log.

91. The incident log shall be made available for inspection to Police or authorised Council officers on request.

92. There shall be no touting for business for the venue by way of flyer, persons holding advertising boards, the use of branded vehicles or personal solicitation.

Appendix F

Refusals and revocations of licences

1. The council must refuse to grant or transfer a licence to: -
 - (a) A person under the age of 18;
 - (b) A person who is for the time being disqualified from holding a licence;
 - (c) A person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
 - (d) A body corporate which is not incorporated in the United Kingdom;
 - (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
2. The council may refuse
 - (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below;
 - (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 3 (a) and (b) below.
3. The grounds for refusal are: -
 - (a) That the applicant is unsuitable 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, 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 that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality;
 - (d) That the grant or renewal of the licence would be inappropriate having regard to: -
 - i. The character of the relevant locality;
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
4. Nil may be an appropriate number for the purposes of paragraph (3)(c) above.