

BLABY DISTRICT COUNCIL

**Sex
Establishments
and Sexual
Entertainment
Venue Policy**

1. INTRODUCTION

- 1.1 This Policy sets out how Blaby District Council intends to administer the licensing scheme for sex establishments including sexual entertainment venues.
- 1.2 In developing this Policy, the Council has undertaken consultation with the groups set out below:
- Members of the Council;
 - Parish Councils;
 - Leicestershire Constabulary;
 - Council's Planning and Building Control Departments;
 - Leicestershire Chamber of Commerce;
 - Adult Industry Trade Association;
 - Leicestershire and Rutland Local Safeguarding Children Board;
 - Council's Community Safety Partnership.
- 1.3 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) gives local authorities power to regulate sex establishments which include sex cinemas and sex shops. The Policing and Crime Act 2009 (the 2009 Act) came into force on 6th April 2010 and section 27 reclassified lap dancing clubs and similar venues as sexual entertainment venues giving local authorities to power to regulate such venues as sex establishments under the 1982 Act.
- 1.4 This Licensing Authority adopted Schedule 3 of the 1982 Act on 24th February 2011.

2. AIMS

- 2.1 This Policy aims to ensure that the licensing regime in relation to sex establishments and sexual entertainment venues promotes:
- The licensing of premises which are suitable for the activity which it is intended to carry on there;
 - The proper management of premises so as to protect the public and persons employed;
 - The management of the premises by persons who are fit and proper and that the business is not run for the benefit of an unsuitable third party;
 - The licensing of premises in a location of suitable character;
 - The licensing of an appropriate number of premises in specific locations;
 - The licensing of premises which do not adversely affect other neighbouring premises;
 - The licensing of premises which do not detract from the image of the District or reduce the potential for successful regeneration;
 - The licensing of premises with an external appearance which is appropriate given the locality in which they are situated.

3. SEX CINEMAS AND SHOPS

- 3.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) gives local authorities power to regulate sex establishments which include sex cinemas and sex shops.
- 3.2 A 'sex cinema' is defined as 'any premises, vehicle, 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 sexual activity, acts of force or restraint which are associated with sexual activity or genital organs or urinary or excretory functions.' This will not include a dwelling house to which the public are not admitted.
- 3.3 A 'sex shop' is defined as 'any premises, vehicle, vessel or stall used to a significant degree for selling or hiring sex articles, which are articles used for stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.' Typically, this will include the sale or hiring of magazines, videos, sex toys and fetish/fantasy articles.
- 3.4 Due to the inclusion of the words 'significant degree' in the definition, this means that shops can sell a small proportion of sex articles without needing a licence. It will for the Licensing Officer to decide what constitutes 'significant degree'.

4. SEXUAL ENTERTAINMENT VENUES

- 4.1 The Policing and Crime Act 2009 (the 2009 Act) came into force on 6th April 2010 and section 27 reclassified lap dancing clubs and similar venues as sexual entertainment venues giving local authorities the power to regulate such venues as sex establishments under the 1982 Act.
- 4.2 The purpose of the 2009 Act was to give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.
- 4.3 A sexual entertainment venue is defined as 'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer'.
- 4.4 Relevant entertainment is defined 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 the audience (whether verbal or other means)'.
- 4.5 A premises includes any vessel, vehicle or stall but does not include a private dwelling to which the public are not admitted.
- 4.6 Audience includes an audience of one.

4.7 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 and anus.

4.8 This Licensing Authority determines that these definitions will apply to the following forms of entertainment:

- Lap dancing;
- Pole dancing;
- Table dancing;
- Strip shows;
- Peep shows;
- Live sex shows.

4.9 Premises that are not sexual entertainment venues include:

- Sex shops and cinemas;
- Premises which provide relevant entertainment on an infrequent basis. These are defined as premises where-
 - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - b) no such occasion has lasted for more than 24 hours; and
 - c) no such occasion has begun within a period of one month beginning with the end of the previous occasions;
- Any premises or types of performances or displays exempted by an order of the Secretary of State.

5. GENERAL PRINCIPALS

5.1 A licence must not be granted:

- To a person under the age of 18;
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- To a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State, or was not so resident throughout the period of 6 months immediately preceding the date when the application was made;
- To a body incorporate which is not incorporated in an EEA State; or
- To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel, or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

5.2 The 1982 Act allows the Licensing Authority to waive the requirement for a licence if it is deemed unreasonable or inappropriate to require a licence. This Licensing Authority does not consider that it would be appropriate to grant such waivers in any circumstances.

6. APPLICATION PROCEDURE

- 6.1 Applications are to be made in writing on the Council's application form together with the fee, plan of the premises to be licensed and basic criminal record certificate for every person named on the application. Documents confirming the identities of all people included on the application form will be required. Two pieces of identification will be required; one must be photographic ID and the other must confirm the address of the person. Passport and/or driving licences are accepted.
- 6.2 The applicant must send a copy of the application to the Chief Officer of Police not later than 7 days after the date of the application. On receipt of the application, the Licensing Authority will also consult with the Planning Department, Environmental Health Department and ward and parish councillors.
- 6.3 To advertise the application, the applicant is required to:
- display a notice on or near the premises subject to the application, where it can be easily seen by the public, for a period of 21 days beginning with the date of the application; and
 - publish a public notice in the local press, within 7 days of submitting the application, publicising the application.

A copy of the public notice, including the date of publication and name of the newspaper, is to be provided to the Licensing Authority.

- 6.4 There will be a 28 day representation period for any persons to raise objections to the grant of the application. Representations must be submitted in writing to the Licensing Authority within the 28 day period. Any representations made should not be based on moral grounds or values as these will not be considered.
- 6.5 If any representations are received, the Licensing Authority will provide the grounds of the objection to the applicant prior to the determination of the application. However, the name and address of the objector will not be revealed to the applicant unless the objector consents to their details being disclosed.
- 6.6 The Licensing Authority does have the discretion to consider representations received after the expiry of the 28 day period but this will be assessed on a case by case basis.

7. DETERMINATION OF APPLICATIONS

- 7.1 Following the expiry of the representation period, the application will be considered by the Licensing Committee who will determine the application on its own individual merits. The hearing procedure in place to determine applications under the Licensing Act 2003 will be followed in determining sex establishment applications.
- 7.2 Persons who have made representations about the application will be entitled to speak at the hearing as well as the applicant.

- 7.3 The Licensing Committee will also take into account the written representations from people including those who do not wish to attend the hearing.
- 7.4 When determining the application, the Licensing Committee can either grant the application or refuse to grant. If the decision is to grant the application, the licence will be granted for one year and the relevant standard conditions will be attached to the licence. Additional conditions may be imposed on a licence if the Licensing Committee decides that this is required.
- 7.5 Paragraph 12 of Schedule 3 of the 1982 Act sets out the grounds for refusing an application which are:
- The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
 - If the licence were to be granted, the business to which it related would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
 - The number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality;
 - That the grant 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 or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 7.6 Any decision to refuse a licence must be relevant to one or more of the above grounds. Full reasons for the refusal of the application will be provided to the applicant within 7 days of the date of the Licensing Committee. A right of appeal against a refusal of an application is only permitted on the first two grounds detailed above.
- 7.7 In determining the application, the Licensing Committee is likely to take into account the following issues:
- The proximity and position of the premises in relation to any schools, or other establishments for the education, training or care of young persons;
 - The proximity and position of the premises in relation to leisure centres used for sporting and similar activities, and play areas;
 - The proximity and position of the premises in relation to any youth club or similar establishment;
 - The proximity and position of the premises in relation to any residential dwellings;
 - The proximity and position of the premises in relation to any establishments for religious worship;
 - The proximity and position of the premises in relation to community centres and similar establishments;
 - The general nature and character of the locality;

- The number of any licensed sex establishments already in the locality and what maximum number of such establishments might be permitted in the locality.

This list is intended for guidance only and does not restrict the Licensing Committee from taking into account any other factors which it considers relevant to the application.

7.8 The Licensing Committee will also consider the suitability of the applicant and may refuse an application if it considers that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.

7.9 When determining whether the applicant is unsuitable, the Licensing Committee will give consideration as to whether the applicant:

- Is honest;
- Has any relevant convictions detailed on their criminal record certificate;
- Has sufficient appropriate experience of running a sex establishment;
- Understands the conditions that will be attached to the licence;
- That the operator is proposing a credible management structure and operating plan that will ensure compliance with all conditions and legal requirements;
- Can be relied upon to protect the public;
- Does not operate as an agency for unsuitable controllers or beneficiaries.

7.10 This Licensing Authority will treat each case on its own merits but it is unlikely to approve applications for sex establishments in areas that are predominately residential or close to 'sensitive premises' such as schools or places of worship.

8. REVOCATION OF LICENCES

8.1 A sex establishment licence may be revoked by the Licensing Authority in relation to any of the reasons set out in paragraph 7.5 above.

8.2 Where a local resident, a person with interest in a business in the vicinity of the premises, a police officer or an officer of the District Council considers that any of the grounds referred to above are relevant, they may request that the Licensing Authority considers revocation of the licence.

8.3 Before revoking a licence for a sex establishment, the Licensing Authority will hold a hearing to consider the matter. At the Licensing Committee, the holder of the licence and any person who has requested revocation of the licence will be entitled to be heard.

9. THE PROVISIONS OF SERVICES REGULATIONS 2009

9.1 The Provision of Services Regulations 2009 requires that applications are processed as quickly as possible and within a reasonable period. The Licensing Authority aims to deal with applications within a period of 3 calendar months from the date of application to allow for consultation,

consideration of any representations, preparation of documents for and arrange a hearing and to determine the application.

- 9.2 The Regulations also specify that in the event of a failure to process the application within the period set or extended in accordance with the preceding provisions of this regulation, authorisation is deemed to have been granted by a competent authority. The Licensing Authority considers that it would not be in the public interest for applications of sex establishments to be deemed granted due to the potential impact on communities and because persons who wish to make representations would be denied the opportunity to have their representations considered. If the application cannot be dealt with within 3 calendar months, the Licensing Authority will notify the applicant of the reason for this and give a revised deadline by which it intends to have processed the application.

10. CONTACT DETAILS

Anybody wishing to contact the Licensing Authority with regard to this Policy can do so as follows:

In writing to Licensing Department
 Blaby District Council
 Desford Road
 Narborough
 Leicestershire
 LE19 2EP

By email to licensing@blaby.gov.uk

By telephone 0116 272 7555

By fax 0116 272 7596

DOCUMENT HISTORY

Issue 1 (draft) – June 2013