



# **Blackburn with Darwen Borough Council**

## **Sexual Entertainment Venue and Sex Establishment Policy**

## 1 **DEFINITION OF SEX ESTABLISHMENTS**

- 1.1 The Policy applies to sex shops, sex cinemas and sexual entertainment venues.
- 1.2 Sex shops are premises whose business consists of, to a significant degree, the selling, hiring, exchanging, lending displaying or demonstrating of sex articles or other things intended for the use in connection with or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.
- 1.3 Sex cinemas are premises (except dwelling house) which, to a significant degree are used for the exhibition of moving pictures concerned primarily with;
- a) the portrayal of/primarily deal with/relate to/intend to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity; or
  - b) the portrayal of /primarily deal with /relate to genital organs or urinary or excretory functions.
- A premises shall not be treated as a sex cinema if the premises are used for the exhibition of films under the use and authorization of the Licensing Act 2003.
- 1.4 A Sexual Entertainment Venue (SEV) 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.
- 1.5 Relevant entertainment is “any live performance or live display of nudity which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of an audience (whether by verbal or other means)”. An audience can consist of just one person (eg where the entertainment takes place in private booths).
- 1.6 Blackburn with Darwen Borough Council considers that the definition of relevant entertainment applies to, although not exclusively, the following forms of entertainment:
- Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows

## 2. **PREMISES THAT ARE NOT SEXUAL ENTERTAINMENT VENUES**

- 2.1 Paragraph 2A(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out those premises that are not sexual entertainment venues. These are:
- Sex shops and sex 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 begun with a period of one month beginning with the end of the previous occasions; and
- c) no such occasion has lasted longer than 24 hours.

- Other premises or types of performances or displays exempted by an order of the Secretary of State.

### 3 **WAIVER OF THE NEED FOR A SEXUAL ENTERTAINMENT LICENCE**

The Authority can grant a waiver for the requirement to hold a sexual entertainment licence if it considers that to require a licence would be unreasonable or inappropriate. Where a waiver is granted, this may last for such a period the Authority thinks fit, but can be terminated by the Authority at any time with 28 days notice.

### 4 **APPLICATION PROCESS**

- 4.1 An application must be made, by completing the prescribed form, giving the full address of the premises, the name, permanent address and age of the Applicant or, where the Applicant is a business, the name and registered or principal office address of the company and the names and private addresses of its directors or others responsible for the management of the company.
- 4.2 In addition to completing the prescribed form, Applicants for a licence must also give public notice of the application by publishing an advertisement in a local newspaper that is circulated within the borough of Blackburn with Darwen no later than 7 days after the application is made, together with displaying a notice on the premises where it can be conveniently read by members of the public. The notice shall be displayed for a period of 21 days beginning with the date the application was made. The Authority will prescribe the Notice, which will be size A3.
- 4.3 Where an application is submitted electronically, the Authority will serve the Chief Officer of Police a copy of the application within 7 days of the application being submitted, where the application is not submitted electronically, the Applicant must serve notice on the Police no later than 7 days after the date of the application.

### 5 **OBJECTIONS**

- 5.1 Objections can be made, in writing, within 28 days from the date of the application. Any person is entitled to object. The objection should be relevant to the grounds set out in paragraph 7.2 below for refusing a licence. Moral grounds or values will not be considered relevant.
- 5.2 The Authority shall notify the Applicant in writing of the general terms of the objections received within 28 days, though shall not, without the express consent of the objector, make public the personal details of the objector.

## 6 **HEARINGS**

- 6.1 Where objections are received, the application shall be referred to the Licensing Hearing Sub Committee for determination, except where the objections received are frivolous or vexatious. Each application will be determined on its individual merit.
- 6.2 Where the Committee decides to refuse an application, the Applicant will be provided with reasons for the decision in writing.
- 6.3 The Sub Committee has the power to attach conditions to any grant which it deems necessary, non-discriminatory and proportionate.

## 7 **REFUSAL OF LICENCE**

- 7.1 A licence **must not** be granted:

- a) To a person under the age of 18;
- b) 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;
- c) To a person, other than a body corporate, who is not resident in the EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) To a body corporate which is not incorporated in an EEA State; or
- e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

- 7.2 A licence **may be** refused on one or more of the following grounds:

- a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- b) If the licence were to be granted, renewed or transferred the business to which it relates would be managed 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) The number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time of application is determined is equal to, or exceeds the number which the authority consider is appropriate for that locality;
- d) That the grant or renewal of the licence would be inappropriate, having regard –
  - i) To the character of the relevant locality; or
  - ii) To the use to which any premises in the vicinity are put; or
  - iii) To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

## 8 **RELEVANT LOCALITY**

- 8.1 When determining an application, the Authority will have regard to the character of the relevant locality, the use of the premises in the vicinity and the layout, character, condition or location of premises.
- 8.2 The Authority shall have a general policy presumption against the granting of licences which are:
- a) Adjacent to, or in the vicinity of places of worship; or
  - b) Adjacent to, or in the vicinity of schools or other educational establishments; or
  - c) Adjacent to, or in the vicinity of a family leisure area;
  - f) Adjacent to, or in the vicinity of public buildings or community facilities; or
  - g) In an area earmarked for regeneration of a particular kind.
- 8.3 Each application will be considered on its own merit taking into consideration the above, as the Authority consider there may be some suitable locations for sex establishment licences within the Borough.

## 9 **PRE-APPLICATION DISCUSSIONS**

- 9.1 The Authority recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. Pre-application discussions between the applicants, the Authority and the other relevant agencies will be encouraged so that the licensing process itself can be as trouble free as possible.
- 9.2 Premises wishing to permit entertainment involving striptease and or sexual stimulation must gain the consent of the Licensing authority prior to performances.
- 9.3 Applications for approval will be in writing and will detail together with a plan of the premises-
- a) Information on the layout and location of the premises including the performance areas
  - b) Information on the access and egress to and from the performance area
  - c) Information on the dressing room arrangements.
  - d) Information on the standard of fittings and fixtures used in the premises
  - e) Information on the public access to the premises
  - f) Information on the charges for entrance, drinks and performances
  - g) The premises written and signed Security policy.
  - h) A copy of the house rules
  - i) Information on the appearance and content of advertising material outside and inside the premises. All promotional material must not be pictorially explicit.
  - j) Information on the means by which potential customers will be made aware of the nature of the performance.
- 9.4 Guidance notes for the licensee on the above criteria.
- a) Information on the layout and location of the premises including the performance area.

The Council requires that the application includes a site location map of the premises, internal arrangements within the premises and size of performing areas including information on the access and egress to the performing area. All performing areas will be open to view i.e. no individual booths will be given consent. The information will allow the Council to consider issues of public safety and nuisance and other aspects of the Crime and Disorder Act 1988.

b) Information on the dressing room arrangements.

The Council requires there to be separate dedicated and secure dressing areas for the performers. This will help provide a safe area for the performers.

c) Information on the standard of fittings and fixtures within the premises.

The Council requires that premises undertaking activities covered by these conditions will be of the highest standards and quality. Inspection of the premises will require that fixtures and fittings be of a high quality and well maintained.

d) Information on the public access into the premises.

The Council requires that the premises have a door supervisor at the entrance at all times the premises are open. In addition the interior of the premises will not be able to be viewed directly from the street.

e) Security Policy

The Council requires that a written Security policy signed by the Licensee be part of the application.

This policy will as a minimum include the following -

Stewarding arrangements: This will include the numbers and ratio of door supervisors to customers. In addition door staff will be equipped with audio facilities to help provide protection to the customers and the performers. Again for protection, arrangements must specify how physical contact between the performers and the audience will be prevented and all performers will be escorted to their vehicles after the performance.

CCTV arrangements will be subject to approval by the police. Tapes must be kept for a calendar month and will be handed over immediately on request to an officer of the licensing authority or the police. These cameras must record continually while the premises are open and will cover all performing and public areas.

Management roles and responsibilities with signatures of relevant operators

k) House rules

The Council requires that copies of House rules must be distributed throughout the premises including the entrance to the premises. These must be conspicuously sited, be able to be read by the clients easily i.e. in relevant languages and size of type. This document must include the contact telephone number of the Licensee and the contact

number of the Licensing Section of the authority in case of complaint. Premises with consent will allow only persons over 21 years of age on to the premises while striptease entertainment or similar entertainment is taking place.

9.5 Consent will not be given to the following.

- Nudity will not be allowed in any premises
- No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982) and performers shall at all times wear the minimum of a g-string or similar clothing on the appropriate part of the body.
- Neither the licensee, performers or other person concerned with the licensed premises shall permit or encourage touting for business by the performers.
- Neither the licensee, performers or any other person concerned with the licensed premises of the entertainment shall encourage or permit others to encourage the audience to throw money or to otherwise give gratuities to the performers.
- No striptease or similar activity will continue after 2.00a.m.

## 10 LICENCE CONDITIONS RELATING TO SEV

10.1 Should the Authority decide to grant a licence, conditions will be imposed on the licence, such conditions may see to restrict:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

## 11 DURATION OF LICENCES

Licences for sex establishments can be granted for up to one year.

## 12 APPEALS

12.1 In the event that the Authority refuses an application for the grant, renewal or transfer of a sex establishment licence, the Applicant may appeal the decision to the magistrates' court, unless the application was refused under either of the reasons as paragraph 7.2c) or d) above, in which case the Applicant can only challenge the refusal by way of judicial review. An appeal can also be made against the imposition of conditions.

12.2 Appeals must be made within 21 days from the date of written notification of the decision.