

## SEXUAL ESTABLISHMENTS GUIDANCE NOTES

### **SEXUAL ESTABLISHMENTS**

New legislation is now in place to introduce a new classification of sex establishment, namely sexual entertainment venues. The Policing and Crime Act 2009 amends the Local Government (Miscellaneous Provisions) Act 1982 to bring lap dancing, pole dancing and other similar relevant entertainment into the same regime as licensed sex shops and sex cinemas.

A Licence is required for either a:

- Sex Cinema
- Sex Shop
- Sexual Entertainment Venue

### SEX CINEMA

A Sex Cinema is 'any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures, however produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal etc of the genital organs or urinary or excretory functions'.

### SEX SHOP

This is 'any premises, vessel, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity'.

### SEXUAL ENTERTAINMENT VENUE

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*". A premise includes any vessel, vehicle or stall but DOES NOT include a private dwelling to which the public are not admitted.

The meaning of relevant entertainment is "*any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether verbal or other means)*". An audience can consist of just one person (eg where entertainment takes place in private booths).

In general, Lap Dancing, Pole Dancing, Table Dancing, Strip Shows, Peep Shows, Live Sex Shows are all classed as relevant entertainment. However, the decision as to whether to licence a premises should depend on the content of the entertainment and not the name it is given.

## **SPONTANEOUS ENTERTAINMENT**

Spontaneous displays of nudity or a lap dance by a customer or guest would not be classed as relevant entertainment, as these displays would not be provided for the financial gain of the organiser or entertainer. But, the organiser may be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or implied.

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

- Sex shops – these are classed as a Sexual Entertainment Establishments
- Sex cinemas – these are also classed as Sexual Entertainment Establishments
- Premises which provide relevant entertainment on an infrequent basis where:
  - a) No relevant entertainment has been provided on more than 11 occasions within a 12 month period;
  - b) No such occasion has begun within a period of one month beginning with the end of the previous occasions;
  - 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.

Premises that provide relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 (Premises Licence or Club Certificate or Temporary Events Notice). Any premises that provide relevant entertainment on more occasions, more frequently or for longer periods will be operating as a Sexual Entertainment Venue (SEV) and will need a SEV licence.

Premises making use of the exemption need to be regulated under the Licensing Act 2003 for regulated entertainment. If you hold a Premises Licence or Club Premises Certificate under the Licensing Act 2003 you will need to ensure it covers the activities you are planning to hold; for example performance of dance or recorded music. Also you will need to make sure there is no restriction on your Premises Licence prohibiting adult entertainment. If you are holding the entertainment at a location that does not have a licence under the Licensing Act 2003 (or you have a licence but it does not permit such entertainment), you will need to apply for a Temporary Events Notice.

If you require or hold a SEV licence, you do not also require a Premises Licence, Club Premises Certificate or Temporary Events Notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. **However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), you will nevertheless continue to require a Premises Licence, Club Premises Certificate or**

**Temporary Events Notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.**

### **APPLICATION PROCESS**

Application forms can be downloaded from the Council's website: [www.warrington.gov.uk](http://www.warrington.gov.uk), or you can contact the Licensing Section by e-mail: [cexlicensing@warrington.gov.uk](mailto:cexlicensing@warrington.gov.uk); or telephone: 01925 984728.

### PLAN

A plan of the premises must be submitted with the application. Unless agreed with the Licensing Authority, the plan should be drawn to a scale of 1:100. It should show: all external and internal doors and windows; the position of counters, display stands or booths; video / tv / film screens; exhibition areas; dance / performance / stage areas; fixed seating and tables; and bars / counters from which refreshments are available. It should also show the location of fire safety equipment.

The completed application form (including plan) should be sent to:  
**The Licensing Team, Town Hall, Sankey Street, Warrington WA1 1UH.**

A copy should also be forwarded within 7 days of the application being received by the Licensing Authority to:  
**The Force Licensing Department, Cheshire Constabulary Headquarters, Clemonds Hey, Oakmere Road, Winsford, CW7 2UA.** However, if the application is made on-line, the Licensing Authority will forward a copy to the Force Licensing Dept on behalf of the applicant.

### FEES

Information regarding fees can be obtained via the Council's website or by contacting the Licensing Section by e-mail or telephone.

### ADVERTISING THE APPLICATION

The legislation requires all applications for sex establishments to be advertised during the 28 day objection period. *Day 1 of the objection period is the day that the application is received by the Licensing Authority.*

Applicants for a Sexual Entertainment Establishment Licence must give notice of the application by publishing an advertisement in the Warrington (or Midweek) Guardian no later than 7 days after the date the application was received by the Licensing Authority. (*There are examples of Notices at the back of the application form – for applications for Grant/Renewal/Transfer see example Notice "Annex 2"; for an application for Variation see example Notice "Annexe 3"*).

Where the application relates to premises, the Notice should also be displayed on or near the premises for a period of 21 days beginning with the date the application was received by the Licensing Authority. Licensing Enforcement Officers will check that it has been properly displayed.

## **SEX ESTABLISHMENT STATEMENT OF LICENSING POLICY**

The Sex Establishment and Sexual Entertainment Venues Statement of Licensing Policy sets out the principles the Licensing Authority will use to exercise its functions under the legislation. Applicants are expected to read the Policy before making their application. The Policy can be viewed on the Council's website: [www.warrington.gov.uk](http://www.warrington.gov.uk).

## **OBJECTIONS**

Objections to the application should be received within 28 days of the application being received by the Licensing Authority. Objectors should give notice in writing of the general terms of the objection and the objection should not be based on moral grounds. Details of the objection shall be forwarded to the applicant by the Licensing Authority, but any name and address will not be revealed without the applicant's permission.

## **CONSULTATION**

The Licensing Authority will consult upon the application with relevant bodies such as the Fire Authority, relevant Ward Councillors, Parish Councils and for applications within the town centre, the Town Centre Manager.

All applications for grant and those applications for renewal, transfer and variation where objections have been received, will be considered by the Licensing Sub-Committee at a hearing, which will be held in public. The applicant and objectors who have submitted written objections will be advised of the date of the hearing and will be invited to attend. They will be allowed to address the Sub-Committee and be given equal opportunity to state their case in accordance with the Council's protocol.

## **DETERMINATION**

In reaching its decision the Licensing Sub-Committee will take into account the criteria set out in the Council's Sex Establishment and Sexual Entertainment Venues Policy Statement, which states that there shall be a presumption against approval of any application in residential areas; places of worship; leisure centres; schools; pre schools; elderly residential homes or where a cumulative impact of SEV premises can be demonstrated. The Sub-Committee will also have regard to any objections that have been made.

However, a Licence cannot be granted to:

- A person under 18.
- A person who has held a Licence but has had it revoked within 12 months preceding the date of the application.
- To a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made.
- To a body corporate which is not incorporated in an EEA state.
- A person who has within the last 12 months preceding the date of the application been refused a Licence in respect of the same premises.

The Licensing Authority will aim to determine applications within 10 weeks of the application being properly submitted. If this target is not met authorisation is **NOT** deemed to be granted.

### **APPEALS**

Should a Licence application be refused or a licence revoked, the applicant or Licence holder may appeal the Licensing Authority's decision to the Magistrates' Court within 21 days of being notified of the decision. The grounds for appeal are limited; any anyone wishing to appeal is advised to take legal advice.

### **CONDITIONS**

A set of standard conditions has been agreed by the Licensing Authority that will be imposed as a matter of practice on all sex establishment licences unless the applicant specifically applies and the Licensing Authority agrees to delete or amend any or all of them.

### **DURATION**

Licences are granted for up to 1 year. Licences may be renewed, transferred or varied.

Renewal – the holder of a Sexual Entertainment Venue Licence may apply for renewal of the licence. Please submit the renewal application together with the fee 2 months before the current licence expires, in order to allow adequate time for the renewal process. The procedure for applying for the 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: The holder of a Sexual Entertainment Venue Licence may apply for the transfer of the licence at any time. The process of applying for the 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.

Variation: The holder of a Sexual Entertainment Venue Licence may apply for the variation of the licence at any time. The process of applying for a variation is similar to that of applying for an initial grant except that you must state on the application form the details of the variation. A plan of the premises is not required unless the application involves structural alterations to the premises.

### **ADVERTISING MATERIAL AT THE PREMISES**

Operators of sex establishments must consider the Advertising Standards Agency Advertising Practice Code which lays down rules for advertisers to ensure that advertising does not mislead, harm or offend.

### **USEFUL INFORMATION**

For further information please refer to the Home Office Guidance on Sexual Entertainment Establishments via the following link: [HO website](#)