

Local Government (Miscellaneous Provisions) Act 1982

Application for Sex Establishment Licence

GUIDANCE NOTES

1.0 Resolution

1.1 On 15th December 2011 Southend-on-Sea Borough Council made a resolution to adopt the powers which enable it to control all 3 types of sex establishments namely sex shops, sex cinemas and sexual entertainment venues.

1.2 The resolution came into force on 1st April 2012

2.0 Transitional Period

2.1 The transitional period is 12 months beginning on 1st April 2012

- the 1st appointed day is 1st April 2012
- the 2nd appointed day is 1st October 2012
- the 3rd appointed day is 1st April 2013

3.0 Transitional Provisions

3.1 Existing Operators

3.1.1. Existing operators who immediately before the 1st appointed day have a licence issued under the Licensing Act 2003 ('the 2003 Act') will be allowed to continue providing relevant entertainment until the 3rd appointed day, or the determination of any application they have submitted before that time, whichever is the later.

3.1.2 Existing operators who have a licence issued under the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') for a sex shop and/or a sex cinema will continue to operate under the provisions of their current annual licence.

3.1.3 Existing operators who have a licence issued under the 1982 Act and wish to operate a sexual entertainment venue after the 3rd appointed day will have to submit an application as a new applicant.

3.2 New Applicants

3.2.1 New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but:

either : do not already have a premises licence or a club premises certificate to operate as such under the 2003 Act,

or: do have such a licence but have not taken any steps towards operating as such.

3.2.2 After the 1st appointed day, new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

4.0 Determining Applications Received On or Before 1st October 2012

4.1 Applicants can submit their application from 1st April 2012 onwards.

4.2 All applications made on or after 1st April 2012 but on or before 1st October 2012 will be considered together on their individual merit. None will be determined before 1st October 2012.

5.0 Determining Applications Received After 1st October 2012

5.1 These will not be considered until after the determination of those applications made on or before 1st October 2012.

6.0 The 3rd Appointed day 1st April 2013

6.1 This is the end of the transitional period and unless an application to operate a sexual entertainment venue has been received in accordance with the above provisions any existing licence will lapse.

7.0 Existing Licence Conditions

7.1 The legislation contains provisions which make certain Licensing Act 2003 conditions redundant. Although the transitional provisions do not require redundant conditions to be removed from a premises licence or club premises certificate, it may be thought desirable to do so in order to clarify the operator's legal obligations.

7.2 Such changes can be made by virtue of a variation application under the 2003 Act.

8.0 Application (for the grant, renewal or transfer of a licence)

8.1 The following documents must be submitted:

- The Application Form-in the format required by the Licensing Authority.
- The fee (cheques should be made payable to Southend-on-Sea Borough Council)
- A site plan (scale 1/500) showing the premises location in relation to other premises within 100 metres.
- A plan of the premises (scale 1/100) in respect of which the licence is sought.
- Drawings showing the front elevation of the premises as existing and as proposed.
- 2 passport photographs of each relevant individual (being those named at sections 2 of the application form. The reverse of each photograph must state the full name of the individual and be signed and dated by them. Photographs must be certified as a true likeness using the prescribed certification form supplied with the application form.
- *(if the applicant is a company)* a copy of the current Memorandum and Articles of Association.
- *(if the applicant is a partnership)* a certified copy of the current partnership deed.
- In respect of each relevant individual an enhanced criminal conviction certificate, or a criminal record certificate, or the result of a Police National Computer subject access search. The result must be dated no earlier than 1 calendar month before receipt of the application by the Licensing Authority.

Individuals who have lived in the UK for less than 5 years should contact the Licensing Authority prior to application for details of how to obtain a Criminal check

9.0 Notice of Application

- 9.1 The Notice must be in the format required by the licensing authority
- 9.2 A copy of the application and the plans must be sent to the Chief Officer of Police not later than 7 days after the date of the application.
- 9.3 Public Notice of the application must be given by:
- (i) publishing an advertisement in a local newspaper circulating in the Council's administrative area no later than 7 days after the date of the application, and
 - (ii) displaying a notice on or near the premises, and in a place where the notice can be conveniently read by the public for 21 *consecutive* days beginning with the date of the application.

10.0 Grounds of Refusal

10.1 Mandatory

The application will be refused if:-

- (a) The applicant is under the age of 18.
- (b) The applicant has been disqualified from holding a licence for a period of 12 months following the revocation of a licence for a sex establishment in the area of the licensing authority
- (c) The applicant (other than a body corporate) is not resident in the UK/EEA or was not so resident throughout the period of 6 months immediately preceding the date of the application.
- (d) The applicant company is not incorporated in the UK/EEA
- (e) The applicant has within a period of 12 months immediately preceding the date of the application been refused the grant or renewal of a licence for the premises in respect of which the application is made, unless the refusal was reversed on appeal

10.2 Discretionary

The Licensing Authority may reject your application for any of the following reasons:

- (a) The applicant is unsuitable to hold a licence
- (b) The business would be managed by or carried on for the benefit of a 3rd party who would themselves be refused a licence.
- (c) The number of sex establishments, or of sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number which the licensing authority considers is appropriate for that locality.
- (d) That the grant or renewal of the licence would be inappropriate having regard to-
 - the character of the relevant locality; or
 - the use to which any premises in the vicinity are put; or
 - the lay-out, character or condition of the premises in respect of which the application is made.

11.0 General

- 11.1 The licence holder must notify the licensing authority of any change in the name of address as soon as possible
- 11.2 The licence is valid for 1 year (or a shorter period specified in the licence) unless cancelled or revoked. Renewal is not an automatic grant.