



# **SEXUAL ENTERTAINMENT VENUE POLICY STATEMENT**

Schedule 3 Local Government (Miscellaneous Provisions Act 1982),  
as amended by Section 27 Policing and Crime Act 2009

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The Borough of Cheltenham

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## Preface

This Sexual Entertainment Venue Policy Statement sets out the Council's requirements for premises to be licensed as Sexual Entertainment Venues within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009).

The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk).

Cheltenham Borough Council adopted the original provisions of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 25th April 1983 and the new provisions for Sexual Entertainment Venues under the amendments of the Policing and Crime Act on the 11<sup>th</sup> of October 2010. In this Policy we refer to these premises as 'Sexual Entertainment Venues' unless we say otherwise.

Adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licenses and the number of premises to be licensed in an area, which may be Nil.

This Sexual Entertainment Venue Policy Statement was consulted on between November 2010 and January 2011 and was approved by the Licensing Committee on the 4<sup>th</sup> of February 2011.

The Council will review its Sexual Entertainment Venue Policy Statement at least once every three years.

Consultation was conducted with local residents, existing and future potential holders of Sexual Entertainment Venue licenses in the Borough, the statutory Responsible Authorities under the Licensing Act 2003, and holders of Premises Licenses and Club Premises Certificates under the Licensing Act 2003 in the Borough.

The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate Sexual Entertainment Venues, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

In developing this Policy Statement, 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) 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 Provisions 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.

## **The Borough of Cheltenham**

The Authority is one of six district councils within Gloucestershire.

### **The Area**

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of 110,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

### **Demography**

The population is 110,029 and there are 48,164 households, and these figures will continue to rise over the next 20 years.

The average size of households is 2.2 persons, and is the lowest in the county (county, 2.3). This is also low compared to England and Wales at 2.4 persons.

The proportion of black and ethnic minority population is 3.34% which is significantly lower than the England average of 8.69%. However, this equates to around a quarter of Gloucestershire's ethnic minority population living in Cheltenham, including the largest concentration of White Minorities (predominantly of Irish origin) and Chinese people in the County,

There is an ageing population with 17.37% aged 65 years or over (18.65% in Gloucestershire and 15.89% in England and Wales). An increase in over 65 year old persons is predicted to 2026

At the time of adopting this Policy Statement, the Council licenses one Sex Shop under the 1982 Act. Three premises are authorised under the Licensing Act 2003 to provide entertainment which would require licensing as a Sexual Entertainment Venue.

## **1. Introduction**

- 1.1 This Policy Statement sets out the Cheltenham Borough Council's guidance, application procedure, terms and conditions and fees regarding the regulation of Sexual Entertainment Venues.
- 1.2 This document will guide current licence holders, potential licence holders and the Council when considering applications for Sexual Entertainment Venue Licences.
- 1.3 Each application to be determined will be done so on its own merits.
- 1.4 New applications for grant and applications to vary will be determined by this authority's licensing committee. Unopposed applications to renew and/or transfer will be determined by the relevant assistant director under delegated authority. Opposed applications for renew and/or transfer will be determined by this authority's licensing committee.

## **2. Definitions**

### **The Act**

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).

### **The Policy Statement**

This refers to the Sexual Entertainment Venues Policy Statement.

### **The Relevant Locality**

The Council has resolved that the Relevant Locality shall be the Ward in which the premises, vehicle, vessel or stall, for which the application is being made, are situated or such other area as the Committee considers appropriate as the relevant locality for the application, which they are hearing.

### **The 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.

### **The Council**

This means Cheltenham Borough Council.

### **The Licensed Premises**

This is the premises, vessel, vehicle or stall which is subject to a Sexual Entertainment Venue Licence. The premises will be in possession of all appropriate consents and permissions required to operate.

### **Permitted Hours**

These are the hours of activity and operation that have been authorised under the Sexual Entertainment Venue Licence.

### **Sexual Entertainment Venue**

(1) "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—

(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 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 91) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—

(1) 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.

### **3. Mandatory Grounds for Refusal (Paragraph 12 of Schedule 3)**

3.1 Specific Mandatory grounds for refusal of a licence are set out in the Act.

A licence cannot be granted:

(a) to any person under the age of 18 years;

(b) to any person who is for the time being disqualified due to the persons having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

- (c) to any 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 made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

### 3.2 A Licence may be refused where:

- (a) the applicant is unsuitable to hold the 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 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) the number of Sexual Entertainment Venues, in the relevant locality at the time which the authority consider is appropriate for the 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 lay out, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- (e) NIL may be an appropriate number for the purposes of (c) above

### 3.3 Any decision to refuse a licence **MUST** be relevant to one or more of the above grounds.

## 4. Location of Premises (Paragraph 12 of Schedule 3)

4.1 In deciding the appropriate number of premises to be licensed, the Committee must consider the character of the relevant locality and what is the appropriate number of Sexual Entertainment Venue for the relevant locality. The number can be 'nil'.

4.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Committee shall consider, among other considerations, whether the grant of the application would be inappropriate, having to:

- (a) The fact that the premises are sited in a residential area.
- (b) The premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same.

- (c) The Premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples.
- (d) The premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

4.3 When hearing an application for the grant of a Sexual Entertainment Venue licence, the Committee shall have regard to the Policy Statement provisions set out above but subject to the overriding principle that each application will be determined on its merits.

4.4 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 Sexual Entertainment Venue.

4.5 The Council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

## **5. Making an Application**

5.1 An application for the grant, variation, renewal or transfer of a licence must be made in writing to the Council in accordance with the requirements set out below.

5.2 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 Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 9SA;

(b) By e-mail to [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk);

(c) By facsimile to 01242774924;

(d) On-line

For all enquiries please contact the Licensing team on 01242 77 5200.

## **6. Application for the Grant of a licence**

6.1 To apply for the grant of a sexual entertainment venue licence an applicant must:-

(a) Send the council:-

(i) A completed application form;

(ii) A plan of the premises to which the application relates showing, amongst other things, all means of ingress and egress to and from the premises, parts used in common with any other building, and

(iii) Details of how the premises lie in relation to the street. (See 6.2 below)

(iv) A site plan scale 1:1250.

- (v) Drawings showing the front elevation as existing and as proposed to a scale of (1:100) (See 6.2 below).
- (vi) The fee
- (vii) Display a notice on or near the premises;
- (viii) Advertise the application in a local newspaper;
- (ix) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the council.

## 6.2 Plans

The scale plan of the building - unless we agree in writing beforehand - must comply with the following:

The plan shall be drawn at a scale of 1:100 and 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) If different from paragraph (1)(b), the location of escape routes from the premises;
- (d) In a case where the premises is used for more than one existing 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) The dressing room of performers;
- (i) The area where performances take place;
- (j) Any private screened area where a performance(s) take place;
- (k) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (l) The location and type of any fire safety and any other safety equipment; and
- (m) The location of a kitchen, if any, on the premises.

The plan may include a legend through which the matters mentioned are sufficiently illustrated by the use of symbols on the plan

## 7. Public Notices

- 7.1 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.
- 7.2 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 7.3 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.
- 7.4 The notice must state: -

- (i) details of the application and activities that it is proposed will be carried on or from the premises,
- (ii) the full name of the applicant,
- (iii) 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,
- (iv) the date, being 28 days after that on which the application is given to the council, by which objections may be made to the council and that the objections should be made in writing,
- (v) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.
- (vi) A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the council.

## **8. Variation of a Licence**

- 8.1 The holder of a Sexual Entertainment Venue Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 8.2 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.

## **9. Renewal of a Licence**

- 9.1 The holder of a Sexual Entertainment Venue 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 form together with the appropriate fee must be submitted before the current licence expires.
- 9.2 The process of 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.

## **10. Transfer of Licence**

- 10.1 A persons may apply for the transfer of a licence at any time.
- 10.2 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.

## **11. Granting a Licence**

- 11.1 All applications for the Grant of a **new** Sexual Entertainment Venue Licence will be referred to a Licensing Committee for determination to take into account the criteria set as out in **Section 3** above with regards to the character, relevant locality and the appropriate number of Sexual Entertainment Venue for the relevant locality.

11.2 In determining the application the Licensing Committee will have regard to this Policy Statement, the application itself and any objections that may have been made. In all cases, each application will be determined on its own merits.

## **12. Objections**

12.1 When considering an application for the grant, renewal, variation or transfer of a Sexual Entertainment Venue Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

12.2 Any person can object to an application but the objection should be relevant to the grounds set out in **Section 3** and the **Mandatory grounds** for refusal set in **Section 4** above.

12.3 Objections should not be made on moral grounds or values and the Council should not consider objections that are not relevant to grounds other than those in **Sections 3 and 4** above.

12.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.

12.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

## **13 Hearings**

13.1 Where applications are referred to a Licensing Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.

13.2 The hearing provides all parties to the application including those making objections, the opportunity to air their views openly and will be considered by the Licensing Committee.

## **14. Appeals**

14.1 There is no right of appeal:

(i) Against the grounds of refusal as detailed in **Section 3.1 (a), (b), (c), (d), and (e)** above, unless the applicant can prove that the ground of refusal does not apply to them, and

(ii) Against the grounds as detailed in **Section 3.2 (c) and (d)**

14.2 The grounds for refusal under Section 3.2 (c) and (d) above can only be challenged by the applicant by way of judicial review.

14.3 All relevant grounds for appeal, other than these detailed at point (i) and (ii) above can be made to the Magistrates Court within 21 days from the date on which the person is notified in writing of the decision.

**15. Fees**

- 15.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement, the cost of any hearings and are not refundable.

**16. Standard Conditions**

- 16.1 The Standard Conditions for Sexual Entertainment Venues are attached at APPENDIX 1.

**17. Specific Conditions**

- 17.1 Under paragraph 8 of schedule 3 the Council may grant to an applicant, and from time to time renew, a licence for Sexual Entertainment Venue on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of Sexual entertainment venue licence.

**18. European Convention on Human Rights**

- 18.1 As far as existing operators are concerned the Government has decided having listened to views from previous consultations that 'Grandfather Rights' will not apply.
- 18.2 The Transitional Order allows local authorities to refuse applications whether they are from existing operators or new applicants, one or more grounds as under paragraph 12 of Schedule 3 as detailed in section 3 and 4 above.
- 18.3 When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 18.4 The Council will have regard to the fact that it will be prudent to assume that freedom of expression includes the right to use particular premises as Sexual Entertainment Venues and that a person who is denied the right to use his premises as a Sexual Entertainment Venue where he already has a licence to do so under the Licensing Act 2003 (or in future under the 1982 Act) has been deprived of possessions.

**19. Duration of Licence**

- 19.1 The Council, unless there are exceptional circumstances for doing so shall grant a licence for the maximum duration of one year at a time, to provide certainty to those persons operating businesses.

# APPENDIX 1

## STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES

### **General Conditions:**

The premises shall only permit adult entertainment between the hours of ..... hours and ..... hours the following morning as determined by the licensing committee.

Only activities which have previously been agreed in writing by the Licensing Authority shall take place.

The agreed activities shall take place only in designated areas approved by the Licensing Authority.

There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.

Any handbills advertising the adult entertainment must not display any photographs or images of the entertainment and any images must be approved by the Advertising Standards Agency and not be handed to persons who look under the age of 21. Any handbills must only be distributed after 19.00hrs with the exception of race days. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.

No Handbills (flyers) shall be distributed within the Town.

Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.

A clear Notice shall be displayed inside the entrance to the premises in the following terms:  
"Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."

The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.

When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.

### **Conditions regarding Performers:**

Striptease and similar entertainment may only take place in 'designated areas' that are marked on the plan of the premises

The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.

Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.

A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised Officers of the Cheltenham Borough Council (who will carry identification).

During any performance there must be no physical contact between the performer and any member of the viewing public. A safe distance of 90cms (36 inches) should be maintained between performers and customers during all performances.

No performances shall include any sexual act with other performers.

No performances shall include any sexual act with objects.

During any dance in the designated 'public' area of the premises, performers shall at all times wear at least a 'G-string' or similar piece of clothing, on the appropriate part of the body, which shall not be removed as part of the performance. The 'G-string' shall not be 'see-through'.

Performers shall only perform nude in the 'private' designated area which shall be clearly marked on the plan of the premises.

At the completion of the dance the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.

Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.

An appropriate room shall be set aside to provide changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.

Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.

Entertainers or performers not performing must not be in a licensed area in a state of undress.

**Briefing:**

Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

**Door-Supervisors:**

Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.

The licence holder or his nominated deputy who is authorised in writing or door-supervisors shall carry out regular monitoring of all areas of the premises to which the public have access, and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.

Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.

A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.

When performers leave the premises they are to be escorted to their cars or taxi by a door- supervisor or member of staff.

**CCTV System:**

A CCTV system shall be installed and be maintained in good working order, shall record at all times. The CCTV system is to be installed in all areas as recommended by the Police Crime premises are open, and recordings shall be kept for 28 days (14 days for Digital systems).

The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.

Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification.)

No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).

Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.