

**EPSOM & EWELL
BOROUGH COUNCIL**

**SEXUAL
ENTERTAINMENT**

VENUE AND SEX ESTABLISHMENT POLICY

1. INTRODUCTION

- 1.1 Epsom & Ewell is a Borough of contrasts, with its roots set firmly in Roman history and its future strongly mapped out in the 21st century. Surrounded by award winning green spaces the Borough of Epsom & Ewell has proved time and again that it is one of the best places to live and work in the UK. It is a small yet modern Borough, with a population of around 72,400, situated on the edge of the rolling Surrey Hills, but with easy access to the city life of London.
- 1.2 Epsom & Ewell Borough Council's ambition is: "to maintain and develop those distinctive characteristics that make living and working in Epsom & Ewell a matter of conscious choice and, in conjunction with others, provide quality and innovative services that are based on the identified priorities of our residents."

Our Corporate Plan has made People and Performance the drivers for everything that we do. We have identified the following Core Values that underpin every aspect of our work:

- Focusing on Customers
- Investing in employees
- Improving continuously
- Providing value for money
- Performing with integrity, openness and honesty
- Valuing diversity and equality.

- 1.3 The Council adopted the Local Strategic Partnership's Community Strategy for Epsom & Ewell in 2003. It contains the following 10 to 15 year vision: "To improve the quality of life for those who live and work here by balancing environmental, social and economic factors."

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2. DEFINITION OF SEX ESTABLISHMENTS

- 2.1 The Policy applies to sex shops, sex cinemas and sexual entertainment venues.
- 2.2 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.
- 2.3 Sex cinemas are premises (except dwelling houses) 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.
- 2.4 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.
- 2.5 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).
- 2.6 Epsom & Ewell 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.

3. PREMISES THAT ARE NOT SEXUAL ENTERTAINMENT VENUES

- 3.1 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 within a period of one month beginning with the end of the previous occasions; and
 - c) no such occasion has lasted longer than 24 hours

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

4. WAIVER OF THE NEED FOR A SEXUAL ENTERTAINMENT LICENCE

4.1 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.

5. APPLICATION PROCESS

5.1 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.

5.2 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 Epsom & Ewell no later than seven 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.

5.3 Where an application is submitted electronically, the Authority will serve the Chief Officer of Police a copy of the application within seven days of the application being submitted, where the application is not submitted electronically, the Applicant must serve notice on the Police no later than seven days after the date of application.

6. OBJECTIONS

6.1 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 8.2 below for refusing a licence. Moral grounds or values will not be considered relevant.

6.2 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 .

7. HEARINGS

7.1 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.

7.2 Where the Committee decides to refuse an application, the Applicant will be provided with reasons for the decision in writing.

7.3 The Sub Committee has the power to attach conditions to any grant which it deems

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necessary, non-discriminatory and proportionate.

8. REFUSAL OF LICENCE

8.1 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 an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made
- d) To a body corporate which is not incorporated in an EEA State
- 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.

8.2 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
 - ii. To the use to which any premises in the vicinity are put
 - iii. To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

9. RELEVANT LOCALITY

9.1 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.

9.2 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
- b) Adjacent to, or in the vicinity of schools or other educational establishment
- c) Adjacent to, or in the vicinity of public buildings or community facilities
- d) Adjacent to, or in the vicinity of family residential areas
- e) Adjacent to, or in the vicinity of a family leisure area
- f) In an area earmarked for regeneration of a particular kind.

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- 9.3 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.

10. PRE-APPLICATION DISCUSSIONS

- 10.1 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.

11. LICENCE CONDITIONS RELATING TO SEV

- 11.1 Should the Authority decide to grant a licence, conditions will be imposed on the licence, such conditions may seek 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.

12. DURATION OF LICENCES

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

13. APPEALS

- 13.1 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 8.2 c) 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.
- 13.2 Appeals must be made within 21 days from the date of written notification of the decision.