

Proposed

**SEXUAL ENTERTAINMENT
VENUE AND SEX
ESTABLISHMENT
LICENSING POLICY**

Epping Forest District Council

Contents

	Page
1. Introduction	
2. Epping Forest District.....	
3. Definition of Sex Establishments	
4. Application Process	
5. Representations.....	
6. Hearings	
7. Refusal of a Licence	
8. Relevant Locality	
9. Licence Conditions.....	
10. Duration of Licences.....	
11. Appeals.....	
12. Enforcement.....	

Contact Details

Appendix 1

Standard Licence Conditions for Sex Shops and Sexual Encounter Venues.....

Appendix 2

Delegation of Functions

Appendix 3

Consultation.....

1. Introduction

- 1.1 Epping Forest District Council ('the Council') has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that we can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. In this policy, we refer to these as "sex establishments" unless we say otherwise.
- 1.2 It is our role as licensing authority to administer the licensing regime in accordance with the law. The 1982 Act and the 2009 Act can be viewed at "<http://www.opsi.gov.uk>".
- 1.3 We consulted on this policy between November 2010 and February 2011 it was approved by our Licensing Committee on ??
- 1.3.1 This Statement of licensing policy has been produced in consultation with the Chief Police Officer for Essex, the Fire Authority and bodies representing local holders of premises licenses, the holders of premises, businesses and residents of the area. A list of those consulted is attached as Appendix 1.
- 1.3.2 When preparing this policy the Authority will take account the legal requirements of the 1982 Act as amended and our duties under:
- Section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
 - 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
 - the Provision 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 Council's policies

- Environmental Health Enforcement Policy
- Enforcement Concordat

Guidance Documents

- Home Office – Sexual Entertainment Venues – Guidance for England and Wales

2. Epping Forest District

- 2.1 Epping Forest is a contrasting mixture of urban and rural life, covering 34,500 hectares. The district has six main centres of population (Buckhurst Hill, Chigwell, Epping, Loughton, Chipping Ongar and Waltham Abbey) and numerous picturesque villages and hamlets, but no natural centre. The majority of the district lies within the Metropolitan Green Belt, designed to restrict the spread of London into the Home Counties.
- 2.2 In the Council Plan 2006 -2010 states that the Council's vision and overall aim is that we want the Epping Forest District to be a safe, healthy and attractive place in which to live and work. We have identified the following themes where we have specific responsibilities:
- **Green and Unique** – Ensuring the protection of the unique, green and sustainable environment of the district;
 - **Homes and Neighbourhoods** - Ensuring that the district has decent housing and clean and attractive neighbourhoods;
 - **A Safe Community** - Ensuring that residents of the district can enjoy local amenities with little fear of being a victim of crime;
 - **Fit for Life** - Ensuring that residents of the district lead a healthy lifestyle by having access to effective, high quality leisure and cultural services;
 - **Economic Prosperity** - Ensuring that the district has a thriving and sustainable economy.

The District currently has two licensed sex shops but no other premises licensed as sex establishments

3. Definition of Sex Establishments

This Policy applies to sex shops, sex cinemas and sexual entertainment venues

Sex Shop

- 3.1 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.

Sex Cinema

- 3.2 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.

Sexual Entertainment Venue

- 3.3 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 organizer or the entertainer”.
- 3.4 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 (e.g. where the entertainment takes place in private booths).
- 3.5 The authority 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

Premises that are not Sexual Entertainment Venues

- 3.6 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
- Other premises or types of performances or displays exempted by an order of the Secretary of State.

Waiver of the need for a Sexual Entertainment Licence

- 3.7 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 Applicants for the grant, renewal or transfer of a Sex Establishment Licence must complete 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 locality of the premises to be licensed 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 must give public notice by 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 application.

5. Representations

- 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 8.2 below for refusing a licence. Moral grounds or values will not be considered relevant as the Authority does not have the right to refuse on those grounds.
- 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
- 5.3 No objection will be considered if they are frivolous or vexatious. Where objections are rejected the objector will be notified of the reasons in writing.

6. Hearings

- 6.1 Where objections are received, the application shall be referred to the Licensing Sub-Committee for determination, except where the objections received are frivolous or vexatious. However, officers may decide to refer an application to the Sub-Committee even if no objections are received. Each application will be determined on its individual merit.
- 6.2 Where the Sub-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 a 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 an 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 The Authority acknowledge that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. When determining an application, the Authority will have regard to the character of the relevant locality at the time the application is determined, 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, nurseries or other educational establishments; or
- (c) Adjacent to, or in the vicinity of public buildings or community facilities; or
- (d) Adjacent to, or in the vicinity of family residential areas; or
- (e) Adjacent to, or in the vicinity of a family leisure or shopping areas
- (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;

and access routes to and from the same.

8.3 In considering applications for the grant or renewal of a licence, the Authority will also take account of the potential impact of the licensed activity on crime and disorder, and where there are already one or more sex establishments in the locality, the cumulative impact of an additional sex establishment premises.

8.4 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 District.

9. Licence Conditions

9.1 Should the Authority decide to grant an application, 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

9.2 The Authority has adopted standard conditions for sex shops and sexual entertainment venues and these are set out as Appendix 1.

10. Duration of Licences

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

11. Appeals

11.1 In the event that the Authority refuses an application for the grant, renewal or transfer of sex establishment licence, the Applicant may appeal the decision to the magistrate's 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.

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

12. Enforcement

- 12.1 The Authority delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a consistent licensing regime so that businesses can fairly trade. The Authority has adopted the Environmental Health Enforcement Policy to ensure consistency transparency and proportionality. The policy is available on request.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website:

<http://www.eppingforestdc.gov.uk>

or

The Licensing Team
Corporate Support Services
Epping Forest DC
Civic Offices
High St
Epping
Essex CM16 4BZ

Tel: 01992 564034
Fax: 01992 561016

Email: licensing@eppingforestdc.gov.uk

General Enquiry Line: 01992 564000

**APPENDIX 1
LICENSING CONDITIONS**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY
THE POLICE AND CRIME ACT 2009**

PART 1

Standard Conditions for all Sex Establishments

Management of the Premises

1. The Licensee or some responsible person nominated by him over the age of 18 and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
4. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
5. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed.
6. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
7. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee. This shall not apply to any Performers.

Display of Licence

8. A copy of the Sex Establishment Licence and the Conditions of the Licence made by the authority must be kept exhibited in the public area of the premises.

Age Policy

9. No person under 18 years of age to enter the premises.
10. All customers appearing to be under the age of 25 to be required to provide photographic proof of their age before being allowed access to the shop.

11. No person under 18 years of age is to be employed in the business of the establishment.
12. At all entrances there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age.
13. The Licensee of the premises shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
14. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.

Breach of Licensing Conditions

15. Any breach of legislation or failure to comply with the conditions attached to the Licence may result in prosecution or in the revocation of the Licence.

General

16. The Council may substitute, delete, vary or amend these conditions at any time.

PART 2

STANDARD CONDITIONS FOR SEX SHOPS

Opening of the Premises

1. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Saturday 9 am – 6 pm
Sunday 11 am – 4 pm

2. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

External Appearance

3. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Council, consisting of the words 'Licensed Adult Establishment'.
4. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in condition 16 or otherwise approved by the Council in writing; and
(b) No external loudspeakers may be installed.
5. The windows, doors and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

6. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to for their automatic closure and such devices shall be maintained in good working order.
7. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
8. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
9. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
10. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
11. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time.

Safety and Security

12. The Licensee shall ensure a suitable closed-circuit television system is installed and maintained to the satisfaction of the Council and police complaint with the codes of practices issued under the Data Protection Act 1998.

Goods Available in Sex Establishments

13. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
14. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).

PART 3
STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

1. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
2. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") whilst performances are being given under this licence.
3. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks, and that they are legally entitled to work.
4. (a) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.

(b) Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

(c) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.

(d) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the Premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
5. The Licensee shall ensure that the number of persons on the premises shall not exceed that as stated by the Fire Officer or where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder. Such a figure will include staff and performers.
6. Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.

The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
7. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
8. Performers must dress fully at the end of each performance.

9. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
10. Performers must never be alone in the company of a customer except in an area open to the public within the Premises.
11. The Licensee is to ensure a sufficient number of floor supervisors are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and Customers.
12. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
13. The Licensee must ensure that during the performance of a table dance:
 - (1) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
 - (2) Customers must remain seated during the entire performance of the dance;
 - (3) For the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
14. The Licensee must ensure that during performances to which this Licence relates:
 - (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (3) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (4) Performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;
 - (5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (6) Performers only perform nude or semi-nude dancing (of any description) within areas specified by the Council.

The Licensee must ensure that during performances to which this Licence relates:

- (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
- (2) Customers must remain appropriately clothed at all times.

15. The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of Essex Police, and that any images are (a) retained for a period of at least 31 days and (b) made available on request to a police officer or authorised officer of the Council.
16. The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

**APPENDIX 2
DELEGATION OF FUNCTIONS**

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for Licence		If an objection	If no objection made
Application for Variation of a Licence		If an objection	All other cases
Application for renewal of a Licence		If an objection	All other cases
Application to revoke a Licence		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
All policy matters except the formulation of the licensing policy	All cases		

CONSULTATION

Consultation will be undertaken with those listed below. The majority of those being contacted via e-mail and the rest by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

<p>Arriva Bus Company Arts Council England Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Bill Rammell MP British Transport Police Butler & Mitchells Brewers Roman Catholic Church Church of England Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire and Rescue Essex Police Essex Probation Service Essex Tourist Bodies Federation Synagogue Foskett Marr Gadsby and Head</p>	<p>General Municipal and Boilermakers Union Hammonds Solicitors Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators LUL Transport for London McMullens Brewery Musicians Union Parish and Town Councils Police and Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Rural Community Council of Essex Scottish and Newcastle Retail Somerfield Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers' Association Whiskers and Co Solicitors Whipps Cross NHS Trust</p> <p>All current holders of liquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district.</p>
--	--