

## POLICY GUIDELINES

### SEX ESTABLISHMENTS – SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009)

1.1 The legislation enables local authorities to exercise control over sex establishments in various ways. These can be summarised as follows:-

- (a) Fitness of persons to hold a licence.
- (b) The locality / vicinity / conditions of relevant premises.
- (c) The number of licensed sex establishments.
- (d) The conditions on which the licence is held.

#### Further Information

#### 1.2 (a) Fitness of person to hold a licence

The legislation enables a local authority to refuse a licence on the grounds that:

- (i) The applicant is unsuitable by reason of having been convicted of an offence or for any other reason. (This provides a general guidance only and the fitness of the applicant would need to be considered in detail in relation to each individual application received. Relevant issues would include offences in relation to obscene publications, disqualification from holding a previous sex establishment licence, offences relating to licence conditions, ability to control such premises). **Therefore, the views of the Police will be taken into consideration in respect of each application received.**
- (ii) 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.

#### (b) Locality / vicinity / condition of relevant premises

A local authority may refuse an application for the grant or renewal of a licence on the grounds that it is considered inappropriate having regard to:-

- (i) The character of the relevant locality; considerations could include the dominant use of that area, e.g. commercial, residential, agricultural, industrial and the appropriateness of the siting of a sex establishment in that type of area.
- (ii) The use to which any premises in the vicinity are put; consideration could include the use of a nearby premises and whether or not they are considered to be compatible with the proposed premises which would focus on sex as an adult entertainment

**As a general rule there will be a presumption against the licensing of a sex establishment if it is:-**

- (a) Near to schools, play areas, nurseries, children's centres or other similar premises;
- (b) Near places of worship;
- (c) Near or within view of historic buildings or tourist attractions.
- (d) Near shopping complexes
- (e) Near residential areas

**Paragraph 12 of Schedule 3 of the Act provides that a local authority may refuse an application if it is satisfied that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council does not seek within this policy to place a figure on the number of sex establishments which it considers in any locality within the Council's administrative area. Consideration will be given to the locality in each case and to the number of sex establishments suitable for that locality. The Council is able to determine that the appropriate number for a locality is nil.**

- (iii) The layout / character or condition of the premises in respect of which the application is made; considerations could include health and safety issues, provisions of electrical certificates, fire safety matters etc.

## 2. **Application Procedure**

- 2.1 Applicants for a sex establishment licence must give public notice of the application in a local newspaper that is circulated

in the local authority area no later than 7 days after the date the application is made. A notice must also be displayed on or near the proposed premises, where it can be viewed by the public. The notice should be displayed for a period of 21 days beginning with the date the application is made. All notices should be in the form prescribed by Monmouthshire County Council.

- 2.2 Application forms will be made available both as a hard copy and by electronic means. If an application is made electronically, Monmouthshire County Council's Licensing Section will send a copy of the application to the Chief Officer of Police within 7 days of the application being made along with the other consultees listed in 2.3 below. Where an application is made by any other means the responsibility to send a copy of the application to the Chief Officer of Police within 7 days of the application being made will remain the responsibility of the applicant.
- 2.3 When an application is made, Monmouthshire County Council will also consider the consultation recommendations, along with the Chief Officer of Police, with the following agencies / departments:-
  - (a) Fire Authority;
  - (b) Ward Members;
  - (c) Planning;
  - (d) Environmental Health;
  - (e) Social Services.
- 2.4 On completion of the consultation process, the Licensing & Regulatory Committee will determine the application. The applicant will be given the opportunity to address the Committee. Should there be any objectors to the application they will also be given the opportunity to address the Committee.
- 2.5 The Committee will receive observations on the issues outlined in paragraph 1.1 of this policy guideline.
- 2.6 Following consideration of all the relevant factors, the Committee will then determine the application.
- 2.7 If an application is approved by Committee the licence will be granted for a period of 12 months.

### 3. **The Conditions on which the Licence is held**

- 3.1 A local authority may grant a licence subject to such terms and conditions and restrictions, as it considers necessary. This enables a considerable degree of control to be exercised and relates to the management of the premises, opening times of

the premises, fire safety, external appearance, age restrictions etc. **The Standard Conditions are attached.**

4. **Review of Policy Guidelines**

- 4.1 The Council may, from time to time review the contents of these Policy Guidelines, the 'relevant localities' for the purposes of determining applications for Sex Establishments and the 'appropriate number' for each location.

**STANDARD CONDITIONS FOR SEX ESTABLISHMENTS,  
WHICH INCLUDE; SEX SHOP, SEX CINEMAS AND SEXUAL  
ENTERTAINMENT VENUES**

**SEX ESTABLISHMENTS – SCHEDULE 3 LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED BY  
SECTION 27 OF THE POLICING AND CRIME ACT 2009)**

Monmouthshire County Council, in exercise of the powers conferred upon them by Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) and of all other powers enabling them in that behalf make the following standard conditions.

**Definitions**

1. (a) In these conditions the following expressions, that is to say “Sex Establishment”, “Sex Shop”, “Sex Cinema”, “Sex Article”, and “Vessel” and Sexual Entertainment Venue shall have the meanings respectively assigned to them by Schedule 3 of the Act (as amended by the Policing and Crime Act 2009)
- (b) Conditions 1 – 43 apply to all sex establishments and additional conditions are listed for sex entertainment venues.
- (c) In these conditions the following expressions shall have the meanings hereby respectively assigned to them namely:-

“the Act” means the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)

“the Council” means Monmouthshire County Council

“the licensed premises” means any premises, vehicle, vessel or stall licensed under the Act.

“Licence Holder”	means a person who is the holder of a sex establishment licence
“Sex Establishment Licence”	means a licence granted pursuant to Schedule 3 of the Act
“Approved”,	means approved by the Council in writing
“Approval”,	Approval of the Council”

### **General**

2. In the event of a conflict between these standard conditions and any other special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. The Council reserves the right to amend or delete any of these conditions or to make any additional conditions that may be deemed appropriate.

### **Times of Operation**

5. Except with the previous approval of the Council, a Sex Establishment shall not be open to the public before 9 a.m. and shall not be kept open after 11 p.m.
6. Except with the previous approval of the Council, a Sex Establishment shall not be open on Sundays, Good Friday and Christmas Day.

### **Conduct and Management of Sex Establishments**

7. Where the Licensee is a body corporate or an unincorporated body, any change of Director, Company Secretary or other person responsible for the management of the body, is to be notified in writing to the Council within fourteen days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within fourteen days of a request in writing from the Council.

8. The Licensee, or some responsible person nominated by the Licensee for the purpose of managing the Sex Establishment in the Licensee's absence and in respect of whom details have been supplied and approved in writing by the Council, shall be in charge of and upon the licensed premises during the whole time they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment, whether the Licensee or a Manager approved by the Council, shall be prominently displayed within the Sex Establishment throughout the period during which that person is responsible for its conduct.
10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
11. The Licensee shall retain control over all portions of the licensed premises and shall not let, licence or part with possession of any part of the licensed premises.
12. The Licensee shall maintain good order in the licensed premises.
13. No person under the age of 18 shall be admitted to the licensed premises or employed in the business of a Sex Establishment.
14. The licensee shall ensure that all persons employed on the licensed premises are aware of the age restriction on clients and that they exclude or remove from the licensed premises any person attempting to evade the restrictions.
15. No person previously convicted of the following offences may be employed at the licensed premises or be involved in supplying entertainment or goods at the licensed premises.
  - An offence connected to a sex establishment either licensed or unlicensed;
  - A sexual offence;
  - An offence relating to the sale of restricted 18 videos
16. The Licensee shall ensure that the public is not admitted to any part or parts of the licensed premises other than those which have been approved by the Council.
17. Neither the Licensee nor any employee or any other person shall seek to obtain custom for the Sex Establishment by

means of personal solicitation outside or in the vicinity of the licensed premises.

18. The licensee shall ensure no part of the licensed premises shall be used for prostitutes (male or female) for soliciting or for any immoral purposes.
19. A copy of the licence and the standard conditions shall, in accordance with paragraph 14(1) of Schedule 3 of the Act, be clearly displayed inside the premises, so as to be clearly visible to customers and patrons on entering the premises. A copy of the licence required to be displayed as aforesaid, shall be suitably framed and a copy of the conditions shall be retained in a clean and legible condition.

### **Use**

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
21. No change of use of any portion of the licensed premises from that previously approved by the Council, shall be made until the previous approval of the Council has been obtained.
22. No change from use from a Sex Shop, Sex Cinema or Sexual Entertainment Venue to a different classification of sex establishment shall be effected without the consent of the Council.
23. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity, or acts of force or restraint, which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

### **Goods available in Sex Establishments**

24. All Sex Articles and other things displayed for sale, hire, exchange or loan with a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
25. All printed matter, offered for sale, hire, exchange or loan shall be available for inspection prior to the purchase, hire exchange or loan and a notice to this effect is to be prominently displayed within the Sex Establishment.
26. Only merchandise which is legally available in Great Britain from retail outlets, mail order companies or party planners may be sold, hired, loaned or supplied, displayed, advertised or demonstrated at the establishment.
27. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or



such other authority performing a similar scrutinizing function as may be notified to the Licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

28. The Licensee shall, without charge, display and make available at the entrance of the Sex Establishment, such free literature on counselling on matters relating to sexual health issues as may be published by sexual health organisations as may be specified, and in particular any such material relating to sexually transmitted infections (STI's) and HIV-AIDS as may be supplied by the Council. Such literature is to be displayed in a prominent position.

### **External Appearance**

29. No display, advertisement, word, letter model, sign, placard, board, notice, device, representation, drawing, writing or similar matter shall be displayed outside the premises without the previous approval of the Council, except for those signs or notices that are required to be displayed in accordance with these licence conditions.
30. At each entrance to the licensed premises, there shall be prominently displayed, so as to be visible at all times to persons approaching the licensed premises, a notice prohibiting entry to all persons under 18 years of age.
31. At each entrance to the licensed premises, there shall be prominently displayed, so as to be visible at all times to persons approaching the licensed premises, a notice indicating if any charge is made for entering the licensed premises.
32. Each entrance to the licensed premises shall be so designed and constructed as to prevent persons outside the licensed premises having a view of any part of the interior.
33. All windows must be dressed or designed so as to prevent persons outside the licensed premises having a view of any part of the interior.
34. No window shall contain any sign, advertising material, goods or display likely to cause an offence to persons passing the window.

### **State, Condition and Layout of the Licensed Premises**

35. The licensed premises shall, at all times, be maintained in good repair and condition.

36. Lighting in all parts of the licensed premises must be in operation continuously during the whole time it is open as a sex establishment.
37. All parts of the licensed premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
38. Doors and openings which lead to parts of the licensed premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
39. The external doors to the licensed premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
40. The Licensee shall make provision in the means of access both to and within the licensed premises for the needs of members of the public who are disabled.
41. All exhibits, displays, demonstrations and like activities must be open and available to all customers at no charge other than any initial entrance fee to the licensed premises and there shall be no individual cubicles or rooms designed to accommodate individual persons, or groups of persons, where exclusive demonstrations, displays, exhibits or similar activities may take place, without the previous approval of the Council.
42. The Licensee shall at all times, take all reasonable precautions for the safety of the public and employees.
43. The Licensee shall comply with any fire prevention and safety measures that may be required by the Council and/or South Wales Fire Authority and shall maintain and keep available for use, all specified fire equipment and extinguishers.
44. No alterations or additions, either internal or external and, whether permanent or temporary, shall be made to the structure, lighting or layout of the licensed premises without the previous approval of the Council.

**Additional Conditions of licence relating to the provision of lap dancing, table side dancing and any other entertainment involving striptease and/or nudity at premises licensed as a sexual entertainment venue.**

1. A CCTV system shall be installed to cover all entrances and exits to the premises, and areas where relevant entertainment will take place. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recordings shall be kept available for a minimum period of 28 days. The premises will provide footage upon request by the Police or the Licensing

Authority within 24 hours of the request. A notice will be displayed at the entrance of the premises advising that CCTV is in operation.

2. An adequate number of registered Door Supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.
3. Signs displaying the rules on the performance relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.
4. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.
5. All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.
6. Performers shall be aged not less than 18.
7. A log book shall be maintained on the premises detailing the names, start and finish times of individual performers involved in all forms of adult entertainment.
8. Total nudity (the exposing of genitals) shall only be permitted on stage and at no other place in the premises.
9. No sex act shall take place.
10. The area proposed for striptease (involving complete nudity) shall:-
  - (a) be in a position where the performance cannot be seen from the street
  - (b) be in a designated area of the premises with segregation from the audience
  - (c) be in a position where performers will have direct access to the dressing room without passing through the close proximity to the audience.
11. The area proposed for lap dancing, table dancing (involving partial nudity) shall be in a position where the performance cannot be seen from the street.

12. There shall be no physical contact between persons appearing on the stage and the audience, the entertainment shall be given only by performers/entertainers and the audience shall not be permitted to participate.
13. Persons appearing on the stage should have direct access to the dressing room without the passing through or in close proximity to the audience. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it.
14. Lap dancers/table dancers must dress immediately at the conclusion of each performance.
15. The licence, performer and person concerned in the organisation or management of the entertainment shall not encourage, or permit encouragement of the audience to throw money at or otherwise give gratitude's to the performer (except as permitted by conditions 17 below).
16. Entertainment provided by topless dancers to customers seated at tables may only take place in those parts of the premises approved by the council.
17. There shall be no physical contact between customers and the dancers except for the passing of money and tokens to the hands of the dancer at the beginning or conclusion of the performance. Whilst the dancers are performing there shall be a minimum distance of one meter between the dancer and the seated customers. Notices to this effect shall be clearly displayed at each table and at the entrance to the premises.
18. Should a customer attempt to touch a dancer, the dancer must withdraw and report the matter to his/her manager/supervisor.
19. There shall be no physical contact between dancers whilst performing and no audience participation shall be permitted.
20. The topless dancers shall at all time wear a G-string or similar piece of clothing that covers the appropriate part of the body.
21. In the event of the relevant entertainment be performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment.
22. The approved activities shall take place only in the areas designated by the Licensing Authority and Police. The layout within areas used by customers shall not under go substantial change without the prior written consent of both the Licensing Authority and the Police.

23. All dance booths are to be equipped with a panic alarm for safety.
24. On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location.