

London Borough of Barnet

**Sex
Establishment
and Sex
Entertainment
Venues Policy
2013**

1 DEFINITION OF TERMS

In this policy the following expressions have the meaning set out below

2009 Act	The Policing and Crime Act 2009
1982 Act	The Local Government (Miscellaneous Provisions) Act 1982
2003 Act	The Licensing Act 2003
Section 27	Section 27 of the Policing and Crime Act 2009
Schedule 3	Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982
Sexual Entertainment Venue (SEV)	Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser of the entertainer
Relevant entertainment:	<p>The meaning of ‘relevant entertainment’ is ‘any live performance or 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 an audience (whether by verbal or other means)’</p> <p>The definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood :</p> <ul style="list-style-type: none"> _ Lap dancing _ Pole dancing _ Table dancing _ Strip shows _ Peep shows _ Live sex shows
Sex establishment	Sex Cinema, Sex Shop or SEV
Sex Shop:	<p>Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:</p> <p>(a) sex articles; or</p> <p>(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:</p> <ul style="list-style-type: none"> i) sexual activity ii) acts of force or restraint which are associated with sexual activity.
Sex Cinema:	<p>Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which :</p> <p>(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:</p> <ul style="list-style-type: none"> i) sexual activity; or ii) acts of force or restraint which are associated with sexual

	<p>activity. (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted</p>
Sex article:	<p>(a) anything made for use in connection with, or for the purpose of stimulating or encouraging: i) sexual activity; or ii) acts of force or restraint which are associated with sexual activity. and (b) anything: i) containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and ii) to any recording of vision or sound, which; A) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or B) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.</p>

2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of licensing functions for sex establishments and sex entertainment venues
- 2.2 This policy will take effect from July 2013
- 2.3 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.
- 2.4 Section 27 of Policing and Crime Act 2009 introduced a new type of sex establishment called 'sexual entertainment venue'. The London Borough of Barnet consulted on these additional powers and adopted them on (DATE)
- 2.5 This new category allows the London Borough of Barnet to regulate lap dancing clubs and other similar venues under Schedule 3.
- 2.6 Previously a sex establishment licence was not usually required for striptease or lap dancing venues, as the relevant permissions for adult entertainment would have been included on a Premises Licence issued under the Licensing Act 2003.
- 2.7 Paragraph 2A (3) of Schedule 3 sets out those premises that are not sexual entertainment venues and these include sex shops and cinemas and those premises that provide relevant entertainment on an infrequent basis. Those premises that provide infrequent relevant entertainment will continue to be regulated under the 2003 Act either by virtue of a premises licence or club premises certificate or a temporary events notice.
- 2.8 The London Borough of Barnet is mindful of possible local community concerns arising from premises applying for a sex establishment licence in their neighbourhood and the potential conflict that this may trigger between the applicant and community to such an application.
- 2.9 The London Borough of Barnet is a densely populated borough with many small town centres. Therefore commercial and business areas also have many residential properties in close proximity. Community facilities such as schools and places of worship, are situated close to

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2.10 In regulating sex establishments and sex entertainment venue activities the London Borough of Barnet acknowledges that they need to take account of the potential conflict between the legitimate objectives of applicants and the desires of the population as a whole. A balance must be struck between these positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.

2.11 This policy will apply to all activities to ensure consistency in decision-making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

3 THE APPLICATION

3.1 All applications for a licence must be made to the London Borough of Barnet either electronically using the forms on the London Borough of Barnet website or addressed to:

London Borough of Barnet

3.2 In order to avoid any duplication or inefficiency between the licensing and planning processes, the London Borough of Barnet will expect that, prior to the submission of a licensing application the appropriate planning permission will have been granted in respect of the premises concerned.

3.3 New applications

3.3.1 New applications must be:

- Made in writing
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee

3.3.2 An incomplete or incorrectly completed application will be rejected.

3.4 Renewal application

3.4.1 A correctly completed application for the renewal of a licence must be submitted no later than two months before the existing licence will expire.

3.4.2 An incomplete or incorrectly completed application will be rejected

3.4.3 A renewal application will be treated the same as a new application in relation to consultation and determination.

3.5 Variation or transfer application

3.5.1 Where an application is made to vary a licence in terms of the activity, hours of operation or certain conditions as previously licensed or transfer a licence to another person (whether on renewal or not), the London Borough of Barnet will take into account:

- Levels of recorded crime and disorder in the area

- Evidence of past demonstrable impacts from the operation of the premises on the safety and amenity of local residents

- Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts

4 CONSULTATION

4.1 A notice of the application must be displayed in a prominent place on the exterior of the premises visible 24 hours a day for a continuous period of 21 days.

4.2 A notice outlining the details of the application must also be published in a local newspaper

within 7 days of the submission of the application. A copy of the notice once published should be sent to the Licensing Team.

4.3 Once the application is received, the licensing department will consult with:

- Ward Councillors
- Police
- Fire Brigade
- Planning Service
- Environmental health
- Community Safety
- Licensing Authority
- Safeguarding Children

4.4 The application will also be published on the London Borough of Barnet's website

5 DETERMINING THE APPLICATION

5.1 All applications shall automatically be referred to the Licensing Sub Committee regardless of whether or not any objections have been received.

5.2 The London Borough of Barnet will assess the possible adverse impacts especially on local residents when considering an application for the grant, renewal, variation or transfer of licence, and will take into account the following:

- a. The type of activity to which the application relates;
- b. The duration of the proposed licence
- c. The days and hours of operation of the activity
- d. The layout and condition of the premises
- e. The character of the locality in which the proposed premises

- are to be situated. (This will include the likely character of an area as a result of redevelopment of that area.)
- f. The use to which other premises in the vicinity are put
- 5.3 The inside of sex establishments should not be visible to passers by on retail thoroughfares or pedestrian routes. Applicants should consider locating premises at basement level.
- 5.4 The London Borough of Barnet recognises under The Act that it can set a quantity limit regarding the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of the borough.
- 5.5 The London Borough of Barnet has not imposed a limit on the number of premises that may be licensed in any area, it will consider each application on its own merits. However, it will not grant licences if it is deemed inappropriate having regard to the character of the relevant locality and in particular in relation to the following:
- Purely or primarily residential accommodation
 - Schools, play areas, nurseries, youth clubs, children’s centres or similar places
 - Access routes to and from schools, play areas, nurseries, children’s centres or similar premises
 - Places of worship
 - Community facilities or public buildings including, but not
- limited to, swimming pools, leisure centres, public parks, youth centres/clubs and sheltered housing.
- Historic buildings or tourist attractions
- 5.6 “Relevant Locality” is defined as an area of 75 metres radius around the proposed location. The London Borough of Barnet will in general, in areas where the relevant locality includes one or more of the above list, consider it inappropriate for a licence to be granted.
- 5.7 London Borough of Barnet acknowledges that a concentration of sex establishments in a particular area can result in the potential for fear of crime, anti-social behaviour, disorder, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.
- 5.8 The London Borough of Barnet would also consider the following factors when deciding if an application were appropriate:
- Cumulative adverse impact of existing sex related licensed activities in the vicinity of the proposed premises
 - Proximity to areas with the highest levels of recorded crime
 - Whether the premises has met the relevant planning requirements
 - Whether the applicant is fit and proper to hold the licence. This may include

5.9 In all cases, The London Borough of Barnet will consider each application on its own merit.

5.10 The Licensing Sub Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 7 days.

6 CONDITIONS

6.1 The London Borough of Barnet recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to individual premises.

6.2 Examples of conditions that may be attached to a licence are shown in Appendix A below.

7 REFUSAL OF AN APPLICATION

7.1 The London Borough of Barnet would not be able to consider granting a licence in the following circumstances:

- To a person under the age of 18;
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of London Borough

of Barnet within the last 12 months;

- 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 The London Borough of Barnet would consider refusing a licence where

- The applicant is unable to hold the licence by reason of having been convicted of an offence or for any other reason;
- 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 they made the application themselves;

8 EXPIRY OF A LICENCE

8.1 A licence will expire on the date specified on the licence unless it is renewed in time.

8.2 A licence holder may surrender his/her licence by sending it to the London Borough of Barnet at which time it will cease to be valid and will expire.

9 REVOCATION OF A LICENCE

- 9.1 The London Borough of Barnet may revoke a licence on any of the grounds contained within the Act which include (please note this list is not exhaustive):
- the licence holder being no longer being fit and proper
 - Poor operation of the premises
- 9.2 The London Borough of Barnet will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before the Licensing Sub-Committee.

10 FEES

- 10.1 The application process involves paying a non-returnable application fee which includes the cost of inspecting premises, processing the application and committee hearing.
- 10.2 The fees applied are laid out in the London Borough of Barnet's Fees and Charges Schedule.

11 DECISIONS

- 11.1 The reasons for any decision(s) taken by the London Borough of Barnet in respect of an application for a licence will be provided in writing to all parties to the proceedings within 7 days of the decision.

- 11.2 Decisions will be taken having regard to this Policy and Part III of the relevant legislation

12 APPEALS

- 12.1 Any applicant who is refused a licence, or refused the renewal of a licence may within 21 days of receiving the decision notice, appeal to the local magistrate.
- 12.2 However, the right to appeal does not apply where the licence was refused on the grounds that:
- the number of sex establishments in the area exceeds the number which the authority consider is appropriate;
 - the grant of the licence would be inappropriate considering the character of the area, the number of other premises in the area, or the premises themselves.
- 12.3 A licence holder who wishes to appeal against a condition can appeal to the magistrates' court.
- 12.4 Licence holders may at any time apply to London Borough of Barnet to vary their licence. If the London Borough of Barnet refuses a variation, or if the licence is revoked, the licence holder may, within 21 days after receiving the decision notice, appeal to the magistrates' court.
- 12.5 The licence holder also has rights of appeal to the crown court against any magistrates' court decision.

13 ENFORCEMENT

- 13.1 Any enforcement action instigated by the London Borough of Barnet will be in accordance with the Act and the current Enforcement Policy.

14 PUBLIC REGISTER

- 14.1 A public register will be made available and can be accessed on line on the Licensing webpage

14.1 Appendix A: Schedule of standard conditions

The following are standard conditions which would be attached, as appropriate, to any licence issued for a Sex Establishment :

Premises Condition applicable to	Condition
All Sex Establishment premises	A copy of the Sex Establishment Licence and the standard conditions made by the authority must be kept exhibited in the public area of the premises.
All Sex Establishment premises	No person under 18 years of age to enter the premises.
All Sex Establishment premises	All customers appearing to be under the age of 21 to be required to provide proof of their age before being allowed access to the premises.
All Sex Establishment premises	No person under 18 years of age is to be employed in the business of the establishment.
All Sex Establishment premises	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
All Sex Establishment premises	The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts except any notice displaying the name or trading title of the Licensee, any Notice indicating the times of opening of the premises for business, any Notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions. The use of loudspeakers and displays on business

	vehicles is strictly prohibited
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All Sex Establishment premises	The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible at any time to persons outside the building. The external doors shall be fitted with automatic closing devices which shall be maintained in good working order.
All Sex Establishment premises	All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service
All Sex Establishment premises	The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc.
All Sex Establishment premises	The Licensee or a responsible person nominated by him in writing for the purpose and approved by the London Borough of Barnet shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the London Borough of Barnet or the Police

All Sex Establishment premises	No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling or profession.
Sexual entertainment venues	The Licensee shall ensure that no employee or other person shall seek to obtain custom for the premises by means of personal solicitation outside or in the vicinity of the premises.
All Sex Establishment premises	No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed in the premises
All Sex Establishment premises	A record shall be kept of all mail order transactions (if any) in such form as agreed by the London Borough of Barnet.
All Sex Establishment premises	The Licensee shall immediately notify the London Borough of Barnet he intends ceasing to carry on the business.
All Sex Establishment premises	The Licensee shall inform the London Borough of Barnet if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The London Borough of Barnet will take into consideration any such conviction or orders for possible revocation or non renewal of the licence.
All Sex Establishment premises	The Licensee shall not in the conduct of the business employ any person:- <ul style="list-style-type: none"> • Whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the London Borough of Barnet or any other licensing authority; • Whose licence to carry on the business of a sex establishment has been revoked by the London Borough of Barnet or any other licensing authority; <p>The name, address, date of birth and details of any criminal convictions of all individuals who will have responsibility for the operation or management of the premises in the absence of the licence holder are to be provided to the Licensing Authority prior to such persons commencing their role at the premises</p>
All Sex	The Licensee shall not, in the conduct of the business, employ any person who has a criminal conviction or simple

Establishment premises	caution under: <ul style="list-style-type: none"> • The Obscene Publications Act, 1959, • The Protection of Children Act, 1978, or • The Customs and Excise Management Act, 1979
All Sex Establishment premises	No external signage is to be displayed on the premises, except for the company name, the hours of business and details of the age restriction, without the written authorisation of the Licensing Authority
All Sex Establishment premises	The windows of the premises must be such that there is no view from outside into the interior of the premises and no window display is to be permitted
All Sex Establishment premises	A lobby area is to be installed with double doors so restricting the view into the premises when patrons are entering and leaving
All Sex Establishment premises	The premises shall not, for any purpose of the licence, be opened before 0900 hours and shall not be kept open beyond 2300 hours
All Sex Establishment premises	CCTV is to be installed, operated and maintained to a standard agreed with by the Police and the Licensing Authority. The system is to include 31 day imaging storage and be available for inspection in accordance with the Police's requirement.
Sex Shop	All goods to be discreetly wrapped before leaving the premises.
Sex Shop	No part of the premises is to be used for the showing of recorded videos, DVDs or other moving pictures.
All Sex Establishment premises	Any breach of or failure to comply with the Conditions attached to this Licence may result in the revocation of the Licence.

Sexual entertainment venues	There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.
Sexual entertainment venues	Any striptease entertainment must only be provided on a designated stage area, adjacent to tables where customers are seated and adjacent to the bar
Sexual entertainment	Performances of striptease / lap dancing shall be undertaken only by the performers/entertainers, and the audience shall

venues	not be permitted to participate.
Sexual entertainment venues	No performer shall make physical contact with the breasts and / or genitalia of any other performer during a performance nor shall there be performances or demonstrations of simulated sex or related activities.
Sexual entertainment venues	When striptease entertainment takes place on the designated stage, it must be ensured that the performer has direct and clear access to the dressing room at the end of their performance. The access shall be maintained available without passing through or in close proximity to the audience.
Sexual entertainment venues	Nudity shall only be permitted by performers and not by customers
Sexual entertainment venues	It must be ensured that no performances of striptease, lap dancing or any other form of nudity can be seen from the street.
Sexual entertainment venues	<p>The only physical contact permitted between customers and performers is:</p> <ul style="list-style-type: none"> • the placing of money in a garter worn by a female performer or in the performer's hand at the conclusion of a performance. • a brief handshake at the beginning or end of a performance . • a kiss by the performer on the customer's cheek after the performer has replaced her clothing at the end of a performance. <p>A notice repeating the precise wording of the above conditions shall be displayed at the entrance of the premises, at each table and in each bar area</p>
All Sex Establishment premises	The only external advertising of the agreed activity at or in the immediate vicinity of the premises shall be one showcase measuring no more than 60cm by 45cm. No such advertising shall be sexually explicit or be likely to cause offence to a reasonable person
All Sex Establishment premises	No payment may be made or offered to any person in any public place to encourage or persuade them to enter the premises
All Sex Establishment premises	The licensee shall ensure that no music played in connection with the Licensed activity is audible at or within the site boundary of any residential premises