

BOLTON METROPOLITAN BOROUGH COUNCIL
NOTES FOR GUIDANCE ON THE LICENSING
OF SEX SHOPS

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**Licensing Team, Ground Floor,
Bolton Town Hall, Bolton, BL1 1RU.**

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1. INTRODUCTION

These notes are for guidance only and are not exhaustive. Reference should also be made to Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, obtainable from any of Her Majesty's Stationery Offices.

These provisions of the Act come into force on 1st March, 1983 as far as Bolton is concerned.

2. CORRESPONDENCE

All correspondence should be addressed to THE LICENSING OFFICER, LICENSING TEAM, GROUND FLOOR, BOLTON TOWN HALL, BOLTON, BL1 1RU, quoting the reference EH/LU/PAS.

3. TELEPHONE ENQUIRIES

Telephone enquiries should be made by telephoning a direct line to the Licensing Unit - Bolton 336584.

4. PERSONAL VISITS

By appointment only

5. THE PURPOSE OF THE 1982 ACT

The new law is intended to introduce a uniform system of control over "sex shops" and "sex cinemas".

However, since the publication of the Act the control of "sex cinemas" has passed to the Cinematograph (Amendment) Act 1982. Reference should therefore be made to this legislation in respect of "sex cinemas". Full details are obtainable from this office.

These notes then, only refer to "sex shops"; any showings of sex films on film or video are controlled separately.

6. WHAT IS A "SEX SHOP"?

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating;

- (a) sex articles (see below for definition); or
- (b) other things intended for use in connection with, or for use in connection with, or for the purpose of stimulating or encouraging;
 - (i) sexual activity;
 - (ii) acts of force or restraint which are associated with sexual activity.

“Vessel” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water. It also includes hovercraft.

7. WHAT IS A “SEX ARTICLE”?

- A. Anything made for use in connection with, or for the purpose of stimulating or encouraging;
- (a) sexual activity; or
 - (b) acts of force or restraint which are associated with sexual activity.
- B. Anything which is:
- a) an article 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
 - (b) a recording of vision or sound, which,
 - (i) is concerned primarily 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
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

8. EXCEPTIONS

The Act does not apply to the sale, supply or demonstration of articles which,

- (a) are manufactured for use primarily for the purpose of birth control; or
- (b) primarily relate to birth control.

9. OBSCENITY OR OTHER SIMILAR LAWS

The facts of holding a sex shop licence does not afford a defence as regards other offences under the other laws such as the Obscene Publications Act 1959, the Protection of Children Act 1978 or other similar enactments.

10. LICENCE FEES

Please contact the Licensing Unit for current fees.

All fees are payable on application and are not refundable.

11. PERIOD OF LICENCE AND CONDITIONS

A licence, when issued, will be for a maximum of 12 months, usually from the date of issue. The Council may reduce that period if it thinks fit.

A licence is issued subject to certain standard conditions, these are printed in Appendix 1 attached.

12. GENERAL NOTES ON APPLICATIONS

In all cases where the grant, renewal or transfer of a licence is required, it involves the delivery of an application to the Council, and includes sending a copy of this to the Police within 7 days.

The addresses which are required for this purpose are:-

The Council: Licensing Team, Ground Floor, Bolton Town Hall, Bolton, BL1 1RU.

The Police: The Chief Superintendent, Greater Manchester Police, Divisional Police Headquarters, Civic Centre, Bolton, BL1 1QT.

Applicants must make their own arrangements to deliver to the Police. Two Forms of Application will be supplied to the applicant. Each should be completed and delivered, one to each of the above.

WARNING: Without the proper delivery to each of the two listed above, an application will not be considered.

13. HOW TO APPLY FOR THE GRANT OF A LICENCE

- (a) Submit at the Licensing Unit: -
 - (i) Form LG902 (Application for Grant)
 - (ii) the fee
 - (iii) the written planning permission granted by the Council for the use of the premises.
- (b) deliver to the Police (see paragraph 12 above) Form LG902 (Application for Grant) within 7 days of submission to the Council;

- (c) publish, within 7 days of delivery of the application to the Council, a notice in the Bolton Evening News.

The notice shall give the following details:

- (i) the heading “APPLICATION FOR A SEX SHOP LICENCE” shall be used and be in block capitals;
- (ii) the date the application was made to the Council;
- (iii) the full name of the person making the application;
- (iv) the full address of the premises (if for premises);
- (v) the place where a vessel, vehicle or stall is to be used (if for a vessel, vehicle or stall);
- (vi) The words: -

“Any person who wishes to object to this application, shall give notice in writing to Bolton MBC, Licensing Team, Ground Floor, Bolton Town Hall, Bolton, BL1 1RU, stating in general terms the grounds of the objection. The written objection must be received no later than 28 days after the date of the application given above.”

- (d) if the application is in respect of premises, then a notice containing the details as in (c) above except (v)) must be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can be conveniently read by the public.

14. HOW TO APPLY FOR THE RENEWAL OF A LICENCE

The same procedure is followed and the same notices required as in the application for grant.

This application must be made before the expiry of the old licence, to enable you to carry on business whilst the application is determined.

15. HOW TO APPLY FOR THE TRANSFER OF A LICENCE

again the same procedure is followed and the same notices required as in the application for grant, except that the form of application is LG906 (Application to Transfer) and the fee payable.

16. WHAT HAPPENS TO YOUR APPLICATION?

For Grant

Arrangements may be made for an inspection of the premises, vessel, vehicle or stall to be carried out by Council Officers and the Police.

Reports on that inspection, together with any objections from members of the public, will be put before the Licensing and Environmental Regulation Committee (consisting of elected Members of the Council).

The applicant will be:

- (i) informed of the venue of the Licensing and Environmental Regulation Committee
- (ii) requested to attend that meeting where he/she may address the Committee;
- (iii) be given, in writing, the general terms of any objection made to the application.

If the Committee so direct, the licence can be issued.

If, however, the Committee refuse to grant a licence then the procedure is as set out in paragraph 19 below.

For Renewal

The procedure is the same as for grant.

For Transfer

The procedure is the same as for grant.

17. APPLICATIONS TO VARY CONDITIONS ATTACHED TO A LICENCE

A licence holder may at any time apply to the Council to have any condition, term or restriction which is attached to the issue of a licence, varied, amended or deleted.

Submit at the Licensing Unit: -

- (i) Form LG916 (Application to Vary Conditions)

There is no fee. The Council reserves the right to seek observations from other interested parties.

Such an application may involve an inspection of the premises, vessel, vehicle or stall.

The matter will then be put to the Licensing and Environmental Regulation Committee for consideration. The decision will be made without the appearance of the applicant.

The Committee may vary or refuse to vary as it thinks fit, or impose additional conditions or terms or restrictions.

If the Committee refuse the request then the procedure is as set out in paragraph 19 below.

18. REFUSAL OF LICENCES

The Council cannot grant licences to:

- (a) a person under 18 years of age; or
- (b) a person disqualified from holding a licence; or
- (c) a person who has not been resident in the U.K. for at least six months; or
- (d) a body corporate which is not incorporated in the U.K.; or
- (e) a person who has, within the previous 12 months, been refused a licence.

19. APPEAL AGAINST REFUSAL TO GRANT, RENEW, TRANSFER OR VARY CONDITIONS OF A LICENCE

Where the Licensing and Environmental Regulation Committee refuse to grant, renew, transfer or vary the conditions attached to a licence, the applicant has a right of appeal to the Bolton Magistrates' Court against that decision. Such appeal must be made within 21 days of being notified of the decision.

The applicant will be notified of the decision of the panel and may request a statement in writing of the reasons for that decision.

There is no appeal, if the reason for refusal is: -

- (a) that the number of sex establishments in the relevant locality is equal to or exceeds the number the Council thinks appropriate;
- (b) that grant or renewal would be inappropriate having regard to the character of the relevant locality, or to the use which any premises in the vicinity are put, or to the layout, character or condition of the premises, vehicle, vessel or stall.

20. REVOCAION OF A LICENCE

The Licensing and Environmental Regulation Committee may, after giving the holder an opportunity of appearing before and being heard by them, revoke a licence: -

- (a) on any ground as listed in paragraph 18 above; or
- (b) because the holder is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason; or
- (c) because the business to which it relates is managed by or carried on for the benefit of a person, other than the licence holder who would have been refused a licence.

The licence holder will then be notified of the decision of the Committee and may request a statement in writing of the reasons for that decision.

There is a right of appeal to the Bolton Magistrates' Court against such decision within 21 days of notification.

21. APPLICATION FOR A WAIVER

Where the Licensing and Environmental Regulation Committee feel that the requirement for a licence would be unreasonable or inappropriate, the Committee may waive that requirement.

Application for a waiver should be made in writing to the Assistant Director (Environmental Services) setting out clearly the reasons why the applicant believes a waiver should be granted.

There is no fee. The Council, however, reserves the right to seek observations from other interested parties.

Such an application may involve an inspection of the premises and/or a personal appearance before the Committee.

APPENDIX 1**STANDARD CONDITIONS ATTACHED TO A SEX SHOP LICENCE**

1. No person who is under the age of eighteen years may be admitted to the premises under any circumstances.
2.
 - i. A warning notice of not less than 24 inches by 12 inches comprising white letters on a dark background, such letters to be at least one inch high shall be exhibited in a prominent position on each entrance to the premises. The warning notice must contain the following words and no others:

<p>WARNING</p> <p>Persons passing beyond this notice may find material of a sexually explicit nature on display. No admittance to persons under 18 years of age.</p>

- ii. The word “WARNING” must appear as a heading.
 - iii. No pictures or other matter shall appear on the notice.
 - iv. The notice must be situated that no person could reasonably gain access to the premises without being aware of the notice and it must be easily legible by any person gaining such access.
3. Access to the premises may only be through two or more doors placed consecutively so arranged that when a person enters or leaves the premises the interior of the premises is not visible to persons outside the premises. All doors, except when opened by a person gaining access to or egress from the premises, must remain closed at all times.
4. No advertising material may be displayed in or on the premises in such a position that it is visible to persons outside the premises.
5. The only signs which may be displayed on the premises in such a position that they are visible to persons outside the premises are signs as to the name of the business conducted at the premises or the proprietors thereof and as to the opening hours of the premises.

No such signs as is permitted by this condition may contain any word, expression, diagram, photograph, picture, symbol or other matter which in the opinion of the Director of Environment is calculated to, or may, 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.

6. The premises shall not be open for the serving of customers on Christmas Day. The opening hours of the premises shall be as stated on the licence granted in respect of the premises. The premises may not be open for the purpose of serving of customers or the display of goods other than during those hours, except with the prior written consent of the Council.
7. The licensee shall afford access to the premises at any reasonable time to any constable or duly authorised officer the Council.
8. No sex article or articles which are obscene may be sold, lent, hired, stored, kept, or otherwise dealt with at the premises.
9. No film may be exhibited on the premises unless the premises or the appropriate part thereof are licensed under the Cinematograph Acts 1909 to 1982, except in so far as such exhibition is permitted under Section 7 Cinematograph Act 1909.
10. The licensee shall notify the Council if at any time during the currency of this licence he or any person employed at the premises is convicted of an offence against Part II of the Local Government (Miscellaneous Provisions) Act 1982, the Obscene Publications Act 1959, the Protection of Children Act 1978, the Indecent Displays (Control) Act 1981, or any offence involving dishonesty, Indecency or violence. Such notification shall be in writing within 7 days of the conviction being imposed. Where the licensee is a limited company it shall be the licensee's duty to notify the Council in the same manner of any such conviction recorded against any Director, Secretary or other officer of the company.
11. The licensee shall notify the Council in writing of any structural alterations or adaptations to the premises, such notification to be given within 7 days after completion of such alterations or adaptations.
12. The premises shall have planning permission for the use permitted by this licence.
13. The licensee or some responsible person nominated by him in writing, not being a person under twenty-one years of age, shall be in charge of and present on the premises at all times when the public are on the premises and should not be engaged in any duties which would or might prevent him from exercising general supervision.
14. A copy of the Licence shall be exhibited on the premises in the position specified in the licence where it may conveniently be read by persons attending the premises.
15. A copy of these conditions shall be exhibited on the premises in the position specified in the licence where it may conveniently be read by persons attending the premises.
16. There shall be provided at the premises a shop window, whose design and dimensions shall be to the satisfaction of the Director of Environment. That shop window shall be used for the purposes of display at all times. The matter to be displayed shall not comprise any sex articles nor any advertising or other matter whatsoever which, in the opinion of the Director of Environment, (whose opinion

shall be final) may offend against good taste or decency or be likely to encourage or incite crime or lead to disorder or be offensive to public feeling.