

BLACKPOOL BOROUGH COUNCIL
REPORT
of the
HEAD OF ENVIRONMENTAL SERVICES
and the
HEAD OF LEGAL AND DEMOCRATIC SERVICES
to the
PUBLIC PROTECTION SUB COMMITTEE
on the
14th April 2005

**PART II LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982:
CONTROL OF SEX ESTABLISHMENTS**

1. INTRODUCTION

- 1.1 The Sub-Committee will recall that, on 20th October 1993, the Council approved the Environmental Health and Public Protection Sub-Committee's recommendation that Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 – Control of Sex Establishments – would apply throughout Blackpool with effect from 1st April 1994. The Council also approved standard conditions for sex establishments licences.
- 1.2 On 3rd August 1993, the Sub-Committee recommended licence fees for the grant renewal and transfer of licences. This recommendation was subsequently approved.
- 1.3 Statutory notice of the Council's intention to bring Schedule 3 into force was given on 31st January 1994 and 7th February 1994. As a result of that notice, five applications were received before the appointed day of 1st April 1994, and one after 1st April 1994. A meeting to the Sub-Committee on 17th August 1994 determined the current policy which limits sex shops to particular areas and restricts the number of licences to two (please see Paragraph 2.3(c)).

2. THE GRANT OR REFUSAL OF LICENSES

- 2.1 The grounds for refusal of a licence are set out in Paragraph 12 of Schedule 3 of the 1982 Act. There are circumstances in which the Council must refuse to grant a licence and circumstances in which they may do so.
- 2.2 A licence must not be granted –
- (a) to a person under the age of 18; or
 - (b) to a person who is for the time being disqualified from holding or obtaining a licence in the area of the authority; or
 - (c) to a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made; or

- (d) to a person who had, 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.

2.3 The Council may refuse an application for the grant of a licence on one or more of the following grounds: -

- (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted 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;
- (c) 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 (nil may be an appropriate number for this purpose);
- (d) that the grant 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.

3. RELEVANT LOCALITY

3.1 The “relevant locality”, referred to in paragraphs 2.3(c) and (d) above, is defined as meaning: -

- (a) In relation to premises, the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.2 The Court has said that “The decision about what is the relevant locality, its character and whether or not sex shops are appropriate in it are in reality subjective matters, the determination of which is left to the local authority as an administrative question rather than a quasi-judicial one”.

3.3 It has also been suggested that there may be two approaches to determining ‘relevant locality’: -

- (a) The local authority might consider their whole area and decide what, for the purposes of the 1982 Act, are the localities which make up the area. They may then decide which localities are appropriate for sex shops and which are not and, where they are appropriate, what is the appropriate number of sex shops for that locality. In considering appropriateness or otherwise, the authority might regard the character of each locality as the determining factor.

- (b) The authority might start with the sex shop and consider the locality in which it is situated and its character. This has been described as a somewhat artificial way of looking at the matter but an authority, which adopted this approach would not misdirect themselves or be unreasonable.

4. SUMMARY

The Sub-Committee are invited to review the Council's Sex Shops Policy and may wish to consider whether it is appropriate to change the Policy, having regard to paragraph 1.3 and the decision of the Sub-Committee at its last meeting.

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