

## Guidance Notes - Sex Shop Licence

### Sex Shop Licences - Licensing Requirements

A licence is required for the use of any premises, vehicle, vessel or stall as a business which consists to a significant degree of selling, hiring, exchanging, lending, display or demonstrating sex articles.

A "sex article" means:-

- (a) anything intended for use in connection with, or for the purpose of stimulating or encouraging -
  - (i) sexual activity; or
  - (ii) acts or force or restraint which are associated with sexual activity; and
- (b) any 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 (but does not include any articles which are manufactured for use primarily for the purposes of birth control or which primarily relate to birth control); and
- (c) any recording of vision or sound, which -
  - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to encourage, sexual activity or acts or 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 (but does not include any articles which are manufactured for use primarily for the purposes of birth control or which primarily relate to birth control).

A copy of the standard schedule of conditions which will be attached to sex shop licences if your application is successful is enclosed for information. You should note that the licensing authority may also make, at their discretion, additional conditions relating to an individual sex shop licence.

### The Application Form

The application form is split into four different parts:-

- A Personal/Business Details
- B Premises Details
- C Licence Details
- D Criminal Convictions

**You must answer all of the questions and supply details where relevant otherwise your application will be returned to you. Your application cannot be processed until all the information is included on the form.**

#### **A Personal/Business Details**

It is essential that your full personal/business details is supplied on the application form so that necessary police checks can be carried out swiftly and so your application can be processed as quickly as possible.

## **B** Premises Details

It is also essential that full details are supplied as to the premises where the sex shop is to be situated so that it can be assessed as to its suitability.

You are also required to give full details as the days and hours of trading.

The application form also requires you to specify any displays and advertisements proposed and whether the interior of the shop will be visible to passers by.

## **C** Licence Details

Para 12 of Schedule 2 to the Civic Government (Scotland) Act 1982 states that a sex shop licence shall have a maximum duration of one year from the date it comes into force. However a licensing authority may grant a licence for such shorter period as they decide when granting or renewing a licence.

- Grant of a Licence - If you have never held a Sex Shop Licence before or you do not currently have such a licence you need to apply for the grant of a licence. The fee for a grant is £1,102
- Renewal of a Licence - If you currently hold a Sex Shop Licence which has not expired but is due to expire then you need to apply for a renewal of a licence. The fee for a renewal is £1,102.

If you are applying for the grant of a licence you are asked questions on the form as to whether you have previously held a licence in the United Kingdom or whether you have been refused such a licence previously. Please note it is very important that you complete these questions fully.

## **D** Criminal Convictions

This section asks whether you have been convicted of any crime or offence. Please note that you do not require to disclose any convictions which are "spent" in terms of the Rehabilitation of Offenders Act 1974. Although, you should note that the Police may raise an objection on the basis of "spent" convictions and the licensing authority may decide to consider these if they are thought relevant to your application.

The Rehabilitation of Offenders Act 1974 states what is to be considered as a "spent" conviction. It depends not on how long ago the conviction took place but also the seriousness of the crime and the severity of the sentence received. If you think a conviction is "spent" you should seek independent legal advice. Failure to disclose convictions is a very serious matter. The Police when checking your application have access to both current and "spent" convictions. They will only bring "spent" convictions to the attention of the licensing authority if they believe them to be relevant to your application.

## General Information

### Application Procedure

You require to sign and date the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form, you should submit it to:

The Chief Legal Officer  
Legal and Committee Services  
The Moray Council  
Council Office  
High Street  
Elgin  
IV30 1BX

along with the appropriate fee.

Your application will be copied to Grampian Police, Grampian Fire Brigade, the Planning Enforcement Officer, the Chief Building Control Officer and the Chief Environmental Protection Officer. If no objection or observation is made on your application by them within 28 days, the Council will proceed to issue your licence. If an observation or objection is received, your application will be referred to the Licensing Committee of the Council where elected members will consider the matter. You will be given an opportunity to attend this meeting and put your case in support of your application.

### Advertisement of Application

You must place an advert in a newspaper circulating in this area giving notice of your application for a Sex Shop Licence. A sample advertisement has been provided. Publication of the advertisement must be not later than 7 days from the date of your application. A copy of the advertisement must be supplied to the Licensing Authority

### Certificate of Display

If you are applying for a grant or renewal you should also send the completed Certificate of Display, once you have displayed the notice at the premises of the Sex Shop for 21 days, to the above address. You should note that failure to carry out the requirements will result in delay in your application if the Display procedures have to be repeated.

- On the day you lodge your application for the licence you must:-
  - (1) complete the form headed "DISPLAY NOTICE"
  - (2) display it at or near the premises so that it can be conveniently read by the public
- It must remain there for 21 days

- You should check throughout the 21 days that it has not been removed, obscured or defaced. If it has been, you should ensure that it is protected or a replacement is displayed immediately
- At the end of the 21 days you must:-
  - (1) remove the notice
  - (2) complete and return the form headed "CERTIFICATE OF DISPLAY"

### **Planning Permission Etc.**

Please note that the premises where the Sex Shop is to be situated may require to have planning consent and/or building warrant granted before being used as such. If you are unsure whether you require permission please contact Development Services, Environmental Services Department, The Moray Council, High Street, Elgin Tel. 543451.

### **Schedule of Conditions**

Your attention is drawn to the standard schedule of conditions which will be attached to a Sex Shop licence if your application is successful. The local authority may also impose such reasonable conditions as they think fit. A copy of the Schedule of Conditions is enclosed with these Guidance Notes.

### **Queries**

If you have any queries please telephone Lorna Carmichael on 01343 563027.