

Lancaster City Council

Policy, Procedure and Guidance for the Determination of applications for Sexual Entertainment Venues

Policy and Procedure for the Determination of Applications for Sexual Entertainment Venues

In determining applications for sexual entertainment venue licences the Licensing Regulatory Committee shall treat each application on an individual basis, on its own merits, in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and having regard to the following matters.

Grounds for Granting or Refusing the Application

A decision to refuse the licence may not be made solely on the ground that the establishment may cause offence. A licence must be refused on any of the grounds listed in paragraph 12(1) of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, that is to say:-

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months
- (c) to a person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate that was not incorporated in the United Kingdom; or
- (e) 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.

A licence may be refused where any of the following matters mentioned in paragraph 12(2) and (3) applies:

- (a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason
- (b) That if the licence were to be granted, renewed, varied 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, variation or transfer of such a licence if he made the application himself.

With regard to the unsuitability of an applicant to hold a licence (see (a) above), officers will make diligent enquiries with the applicant to establish:-

- That the operator is honest
- That the operator is qualified by experience to run the type of sex establishment in question
- That the operator understands the general conditions
- That the operator is proposing a management structure which delivers compliance with the operating conditions, e.g. through: - managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers

- That the operator can be relied upon to act in the best interests of performers, e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- That the operator can be relied upon to protect the public, e.g. transparent charging, freedom from solicitation.
- That the operator can show a track record of management of compliant premises, or that s/he will employ individuals who have such a track record.

With regard to (b) above by interviewing the applicant and the questions asked in the application form officers will try to establish that there would be no third party beneficiary.

(c) That the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality. Consideration will be given to the relevant locality, and to the number of sexual entertainment venues suitable for it. The locality cannot include for example the whole of the administrative area or an entire town. The relevant locality might cover the area of a ward, specific estates, shopping areas or areas bounded by rivers and major roads or the Committee may wish to consider a distance x metres from the applicant premises or some other nearby landmark as comprising the relevant locality. When considering the number of premises that is appropriate for the locality, the following factors will be taken into account:-

- The suitability of the applicant.
- The character of the locality - e.g. family residential / family leisure / educational.
- Presence of sensitive uses - e.g. places of worship, schools, youth clubs, community centre, library, park, swimming pool.
- Gender equality - will this use deter female users of the locality
- Fear of crime, as well as actual crime.
- Regeneration / tourism efforts and the effect of sex-related uses.
- Views of other authorities e.g. police, environmental health, regeneration and policy.
- Level of genuine demand - excess supply may drive down standards and encourage non-compliant conduct.

The number can be nil, but this decision needs to be rationally underpinned.

(d) That the grant or renewal of the licence would be inappropriate, having regard to the

- (i) character of the relevant location; or
- (ii) use to which any premises in the vicinity are put; or

(iii) layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Consideration will be given to the following in this regard:

(i) the character of the relevant locality:

Regard will be given to the following points when addressing relevant locality:-

- Uses of the area e.g. commercial, industrial, mixed commercial, residential
- Users of the area e.g. adults, children, shoppers
- How the area is perceived e.g. tourist attraction, shopping centre
- Is there a local vision/plan for the area
- What type of area would not be acceptable in character terms e.g. predominantly residential areas and small communities with little commercial activity
- What areas might be acceptable e.g. In the larger towns on commercial streets later at night when other commercial activities have closed, or on mixed commercial sites out of towns

(ii) the use to which any premises in the vicinity are put. Regard will be given to the proximity of the proposed establishment to schools, places of worship and premises such as nurseries, playgroups, village halls and playgrounds.

(iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. The premises should meet or can be made to meet the layout and structural requirements set out in the “standard conditions for sexual entertainment venue licence” attached to this document.

STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEXUAL ENTERTAINMENT VENUES

1. ‘The Council’ shall mean Lancaster City Council
2. ‘Sexual Entertainment Venue’ means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e. a person who is responsible for organisation of management of the entertainment or the premises).
3. ‘Authorised officer’ means an officer employed by Lancaster City Council and authorised by Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act1982.
4. ‘Premises’ includes any vehicle, vessel, or stall but does not include any private dwelling to which the public is not admitted.
5. ‘Special Conditions’ shall mean any terms, conditions or restrictions contained or referred to in the Schedule to a licence granted under Schedule 3

aforesaid, but does not include any private dwelling to which the public is not admitted.

6. 'Licence' means any sexual entertainment venue licence that the Council can grant under this Act. This includes any associated consent or permission.
7. 'Licensee' means the holder of a sexual entertainment venue licence.
8. These conditions may be dispensed with, added to or modified by the Council in any special case.
9. Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
10. If the licensee wishes any of the terms of the licence to be varied, an application must be made to the Council.
11. Relevant entertainment means any live performance; or any 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 the audience (whether by verbal or other means). The following are not sexual entertainment venues for the purpose of this Schedule
 - sex cinemas and sex shops
 - premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time: there have not been more than eleven occasions on which relevant entertainment has been so provided which fall(wholly or partly) within the period of 12 months ending with that time;
 - no such occasion has lasted more than 24 hours; and
 - no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned above)
 - premises specified or described in an order made by the relevant national authority.

Display of nudity means (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and (b) in the case of a man, exposure of his pubic area, genitals or anus.

1. Exhibition of the Licence

The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the Conditions attached to the Licence shall be kept on the premises and be available for inspection by an Authorised Officer of the Council, or the Police or Fire Authority

2. Hours of Opening

Except with the written consent of the Council, the premises shall not remain open to the public outside the hours licensed.

3. Conduct on the Premises

a) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises.

b) Relevant entertainment shall only be performed by the entertainer there must be no audience participation.

c) Entertainers shall be aged not less than 18 years and be accompanied and monitored by a member of security staff licensed by the Security Industry Authority to protect the entertainer from harm.

d) Entertainers shall only perform on the stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed with the Licensing Authority.

e) The licensee shall not permit the display outside the premises of photographs or other images that indicate or suggest the striptease or similar entertainment takes place on the premises to be offensive.

f) There must be no physical contact between performers and no photography on the premises.

g) There must be no physical contact between performers and customers before, during or after the performance, (other than the transfer of money or tokens to the hands of the entertainer at the beginning or conclusion of the performance). Notices to this effect shall be clearly displayed at each table and at each entrance to the premises.

h) Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the audience.

i) Any performance will be restricted to dancing and the removal of clothes. There must not be any other form of sexual activity or stimulation.

j) No performance shall be visible to any person outside the premises (e.g. through windows or open doors).

k) Sex toys must not be used and penetration of the genital area by any means must not take place.

l) Podium dancers must not entice other dancers onto the podium;

m) Patrons shall not be permitted to throw money at the performers.

n) Patrons will not be permitted to arrange contacts or liaisons with the dancers whilst on the licensed premises or exchange telephone numbers or other means of making future contact with each other.

4. External Appearance of the Premises

a) There shall be displayed in each entrance or doorway to the premises a notice which states the following ; -

“WARNING”

“STRICTLY NO ADMITTANCE TO PERSONS UNDER 25 YEARS OF AGE. THIS PREMISES OPERATES A CHALLENGE 21 POLICY AND PERSONS UNDER THE AGE OF 21 SHALL BE REQUIRED TO SHOW PROOF OF THEIR AGE”

The word “**WARNING**” must appear as a heading and no pictures or other matter shall appear on the notice.

b) No other words or signs, or any displays or advertisements, shall be displayed on the outside or in the vicinity of the premises except those mentioned in conditions 4(a) above or otherwise approved by the Council in writing. Leafleting is not permitted

c) The licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.

d) The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by whilst “relevant entertainment” is being performed.

e) Windows and any form of openings to the premises other than entrances shall either be obscured by blinds, or a material approved by the Council. Door entrances shall also be obscured by blinds or material approved by the Council so as to prevent any member of the public from seeing through to the premises whilst “relevant entertainment” is being performed.

5. Condition and layout of the premises

a) External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

b) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.

c) No alterations (including temporary alterations) shall be made to the structure and installations of the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee shall seek advice from the Council.

d) Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

6. Management of the premises

a) The licensee, or a responsible person nominated by him for the purpose of managing the sexual entertainment venue ('the Manager') shall have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination shall be produced on demand to an authorised officer of the Council or police.

The licence holder shall ensure that any person nominated by him under the above: -

(i) Has been provided with a copy of the conditions relating to the premises and is fully conversant with them;

(ii) Is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.

b) Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such details as the Council may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

c) The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.

d) The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.

e) The licensee shall ensure that the public is not admitted to any part or parts of the premises that has not been approved by the Council.

f) No person under the age of 18 shall be admitted to the premises and a Notice to this effect, in accordance with condition 4a) shall be displayed on the outside of the premises.

g) The licensee shall operate a Challenge 25 Policy and persons under the age of 25 shall be required to show proof of ID. A notice to this effect, in accordance with Condition 4a) shall be displayed on the premises.

h) The licensee shall not employ any person under 18 years of age in the business of the establishment.

i) The licensee shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.

j) The licensee shall comply with all statutory provisions and any regulations made there under.

7. Safety and Security

a) The licensee shall install a CCTV system covering all of the licensed area. This system shall be linked to a date and time recording facility and the system shall provide a high standard recording facility that will be admissible in court. This CCTV system shall be maintained in good working order and shall operate at all time when the premises are open.

b) The licensee shall comply with fire prevention and safety measures that the Council may require.

c) The licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

8. Vessels, Stalls and Vehicles

a) In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel or stall from the location specified in the licence unless 28 days' written notice is given to the Council of such intended removal. The Council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application. This requirement shall not apply to a vessel, vehicle or stall, habitually operating from a fixed location, which is regularly moved (whether under its own propulsion or otherwise) from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that which is specified in the licence.

9. Variation of Conditions

a) The Council may at any time waive, modify or vary these conditions or impose additional conditions in any particular case as it thinks fit.

b) Applications to vary conditions of the Licence shall be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.

10. Change of Licensee name

An application in respect of a change of licensee name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to permit or refuse such change.

11. General

a) The licence hereby granted shall operate for one year from the date on the Licence, after which it will cease to be in effect unless an application for renewal is submitted in accordance with the Schedule of the Act, in the manner prescribed by the Council.

b) The licence may be revoked by the Council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(as amended).

c) The licensee shall afford all reasonable assistance to authorised officers in connection with these conditions and other licensing requirements.

d) In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sexual entertainment venue, the special conditions shall prevail.

e) The grant of a Licence for a Sexual entertainment venue should 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.

f) The Licensee shall provide (subject to the approval of both the Police and Licensing Authority) a code of conduct for dancers and rules of conduct for customers.

g) Licensees shall ensure performers have secure dressing rooms and proper sanitation facilities available to them.

h) Suitable numbers of SIA licensed door staff (numbers to be subject to police and licensing Authority approval) will be present on the premises during the performance of relevant entertainment.

i) Suitable and sufficient training to be provided to all staff including the Licensee. The training of all staff to be recorded and these documents to be made available upon request to both the police and authorised Council Officers.

j) All club rules (customer conduct, dispersal policies, etc) to be prominently displayed on the premises.

Fees

Grant £5125

Variation £2500

Renewal £5125

Transfer Fee £5125

Change of Name £50

A fee of £10.50 will be made for replacement of documentation, dealing with dishonoured cheques and refunding fees for surrendered or revoked licences. If a cheque is dishonoured by a bank this will result in the revocation of the Sexual Entertainment Venue Licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fees is made within 5 working days of the initial contact with the Council.