

**LEWES DISTRICT COUNCIL SEX ESTABLISHMENT
LICENSING POLICY**

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1 Introduction

1.1 Lewes District Council has resolved to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act'.

1.2 Schedule 3 of the Act as amended by sections 26 and 27 of the Policing and Crime Act 2009 enables local authorities to regulate sex establishments within their areas. Sex establishments are sex shops, sex cinemas and sexual entertainment venues.

1.3 Sexual entertainment venues are defined in the Act as being:

'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer.'

The term, '*relevant entertainment*' is also defined. It means:

'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)'

1.4 Guidance on sexual entertainment venues produced by the Home Office in March 2010 states that the above definitions would in all probability embrace the following forms of entertainment:-

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

although each case would have to be judged on its merits. Some establishments that might otherwise be regarded as sexual entertainment venues are excluded from being so by virtue of Paragraph 2A(3) of Schedule 3. Those premises are listed in Appendix 1.

1.5 This Policy has been adopted to provide information to applicants and residents about the Council's approach to the licensing of sex establishments under the Act.

2 What does Schedule 3 do?

- 2.1 **Schedule 3 of the Act requires all sex establishments (sex shops, sex cinemas and sexual entertainment venues) to hold a sex establishment licence from the Council (unless that requirement has been waived).**
- 2.2 'Premises' include any vessel, vehicle or stall used as a sex establishment but not a private dwelling to which the public are not admitted.
- 2.3 In brief, Schedule 3 does the following:-
- (i) It enables any person to oppose an application for a sex establishment licence, on certain specified grounds.
 - (ii) It requires such licences to be renewed annually. Any person can object to the renewal, transfer or variation of a licence.
 - (iii) It enables local authorities to reject an application for a licence if the proposed establishment is inappropriate given the character of the surrounding area.
 - (iv) It allows local authorities to set a limit on the number of sex establishments in any particular area.
 - (v) It allows local authorities to impose a wider range of conditions on sexual entertainment venues than would otherwise be possible under the Licensing Act 2003.

3 Restrictions

The Act provides that certain conditions must be met before an application for a sex establishment licence can be considered by the Council. A licence cannot therefore be granted:

- To anyone under 18
- To someone who has been disqualified from holding a licence or had their licence revoked in the last 12 months
- To someone who has been refused a licence in the last 12 months
- To someone who is not a resident of the UK or who has not been a resident six months prior to the application being made
- To a company not incorporated in the UK

4 The Council's Approach

- 4.1 There are currently no premises that possess or require a sex establishment licence within the area of Lewes District Council.
- 4.2 The Council has not imposed a specific limit on the number of sexual entertainment venues, sex shops or sex cinemas that may be licensed in any part of the District (*but may at any time in the future*).
- 4.3 If Council officers consider that it is unreasonable or inappropriate to require a person to obtain a sex establishment licence they must notify the Chair of the Licensing Committee and Ward Councillor in writing. If neither the Chair nor the Ward Councillor objects the requirement for the licence may be waived.
- 4.4 Each application will be determined on its own merits. When determining applications for a sex establishment licence, the Council will have regard to:-
- The Act
 - Any supporting regulations
 - Any Government Guidance
 - This policy
 - Observations/comments received from the police
 - Observations/comments received from other relevant professional bodies
 - Written objections
- 4.5 The Council will not, as a general rule, licence any sex establishment that is in the locality of the following:-
- (i) a residential area
 - (ii) a school, nursery, club, facility or other premises frequented by children under the age of 18 years.
 - (iii) a park or other recreational area (including leisure parks and sports centres) frequented by families and children.
 - (iv) community premises/halls, religious buildings, churches or other places of worship
 - (v) residential care homes/retirement homes

- (vi) a garden of rest, cemetery or other place of quiet reflection
- (vii) local shopping areas where the location of a sexual entertainment venue, sex shop or sex cinema would be obtrusive and inappropriate.
- (viii) any other location where the operation of a sexual entertainment venue, sex shop or sex cinema would be inappropriate given the nature of that location.

In deciding whether a sex establishment is within a particular locality, the Council will take into account that part of the area surrounding the establishment which is likely to be affected by the nature of the establishment and the entertainment it provides. It will also have regard to the general character of the area affected and access routes to any of the above mentioned places.

4.6 The application will be refused if the Council considers that the applicant is unsuitable to hold the licence. When considering the question of suitability, the following information may be taken into account:

- (i) whether the applicant has been convicted of any offence;
- (ii) any evidence that the applicant has held a previous sex establishment licence whether locally or in an other area of the county;
- (iii) whether the applicant is applying on behalf of him/herself or another person;
- (iv) the history of the applicants dealings with the Council, such as previous compliance with licence and contract conditions.; and
- (v) any other reasons.

4.7 As part of the application process the Licensing Officer may consult with the Environmental Health Department. If there is a history of nuisance or a possibility of future nuisance this will be a factor that is taken into consideration

4.8 The Crime and Disorder Act imposes a duty on the Council to exercise its functions with due regard to the likely effects on crime and disorder. Therefore the possible impact of the application on crime and disorder will be considered

5 The Sex Establishment Licence and Conditions

- 5.1 Sex establishment licences will normally be granted for a year or such shorter period specified in the licence unless the licence is cancelled or revoked.
- 5.2 The Council may grant, renew, transfer or vary a licence on such terms and conditions as it thinks fit.
- 5.3 The Council recognises that all applications should be considered on an individual basis and that any conditions must be tailored to the characteristics of the premises in question.
- 5.4 Conditions will not be imposed unless they are both necessary and proportionate.
- 5.5 The holder of a sex establishment licence may apply to the Council to vary the terms and conditions on which that licence is held.
- 5.6 The Council will take appropriate enforcement action against any contravention of any term, condition or restriction in the licence..

6 Application Process

- 6.1 The applicant is required to complete an 'Application Form' and return this to the Council's Licensing Officer, together with the requested documentation and fee. (The Application Form can be found on the Council's website).
- 6.2 As part of the application process the applicant is required to publish a notice in the relevant local newspaper that identifies the premises; this publication shall not be later than seven days after the date of the application.
- 6.3 The applicant is required to display a notice on or near the premises and in such a place that it can be easily read by the public.
- 6.4 The applicant is required to send a copy of the application to the Chief Officer of Police no later than seven days after the application has been sent to the Council's Licensing Officer. However if the application is made electronically to the Licensing Officer this is not required.

- 6.5 The Notice must be in the form prescribed by the Council's Licensing Officer who should be contacted prior to the application.
- 6.6 In cases where objections are likely to be received, it is recommended that applicants discuss their proposals with the Council's Licensing Officer and with likely objectors **before** submitting a licence application.
- 6.7 The Council will normally expect applicants to have obtained planning permission (if necessary) prior to applying for sex establishment licence.
- 6.8 Applicants are reminded that It is a criminal offence to make a false statement which he/she knows to be false in any material respect or does not believe to be true.

7 Objections

- 7.1 The police and any person may object to an application for the grant, renewal, transfer or variation of a sex establishment licence. Objections must be in writing and be received by the Council within 28 days of the date on which the application was made. Objections must be based on one or more of the grounds specified in Paragraph 3 and 4.
- 7.2 The Council will not consider objections that are frivolous or vexatious or which are based on moral grounds. Where objections are rejected, the objector will be provided with written reasons.
- 7.3 The Council will not consider any objection that does not contain the name and address of the person making it.
- 7.4 Copies of objections will be made available to the applicant. However, the identity of the objector will not be made known to the applicant without the objector's consent.
- 7.5 Where objections are received and not withdrawn and the closing date for submitting objections has passed, the Council's Licensing Sub-Committee will determine the application at a hearing held within 20 working days from the closing date unless all parties agree that a hearing is unnecessary.
- 7.6 Where no objections are received and the Council considers the proposals suitable, a sex establishment licence will be granted subject to any terms/conditions that are necessary to impose.

8 Refusing or Revoking a Sex Establishment Licence

- 8.1 The Council will notify the applicant in writing of any decision to refuse or revoke a sex establishment licence and the reasons for that refusal/revocation.
- 8.2 The circumstances in which the Council must or may refuse to grant a licence are set out in paragraphs three and four of this policy.
- 8.3 The Council may revoke a licence on any of the grounds set out in this policy.
- 8.4 When a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the Lewes District for a period of 12 months beginning with the date of revocation.
- 8.5 if a licence is refused or revoked the applicant can request that the Council provide a written statement of the reasons the of the refusal or revocation.

9 Appeals Process

- 9.1 Appeals by an unsuccessful applicant or against imposed conditions must be made within 21 days from the date of written notification of the decision.
- 9.2 If the Application for the grant, renewal or transfer was refused due to the maximum number of licences being granted or paragraph 12 (3) (c) or (d) of schedule 3 the Applicant will have no right to appeal.

10 Contacts

Licensing Officer,

Lewes District Council,
Southover House,
Southover Road,
Lewes,
East Sussex
BN7 1AB

Chief Officer of Police,

Police Station
Terminus Road
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TN39 3NR