

Leicester City Council

Policy on Licensing of Sexual Entertainment Venues

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1 Introduction

Purpose

- 1.1 This policy sets out how the City Council intends to administer the licensing scheme for sexual entertainment venues.

Consultation

- 1.2 In developing this policy the City Council has undertaken consultation with the groups set out below, and has taken account of their views:
- Written consultation with members of the People's Panel,
 - On-line consultation via the Council's website,
 - Posting consultation forms on request,
 - Written consultation with existing operators and performers,
 - Written consultation with residents and businesses in the vicinity of existing lap dancing premises,
 - Written consultation with interested organisations, including the police, Council of Faiths, Safeguarding Children Board, Leicester Chamber of Commerce and Safer Leicester Partnership,
 - Written consultation with Members of Leicester City Council.

Legislative Framework

- 1.3 Power is given to local authorities to license "sex establishments" by Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Schedule 3 is amended by Section 27 of Policing and Crime Act 2009 to include "sexual entertainment venues" within the definition of "sex establishments". Any reference in this policy to "sex establishment" or "sexual entertainment venue" has the meaning given to it by the above legislation. The requirement for a licence is likely to apply to premises where entertainment involving nudity is provided, for example:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows
- 1.4 The City Council resolved on 25th November 2010 that the amendments introduced in the Policing and Crime Act 2009, should apply in Leicester from 1 April 2011. It will be unlawful to operate a sexual entertainment venue without a licence after that date. However, premises which hold a premises licence under the Licensing Act 2003, and who either previously operated as a sexual entertainment venue, or has carried out preparatory work to do so would be

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able to continue operating without a licence until 31 March 2012. The City Council will publish a list on its website of those premises that it considers that this applies to.

Relationship to Policy on Licensing of Sex Shops

- 1.5 The City Council has a policy in relation to the licensing of sex shops which was revised in 2003. The policy on licensing of sex shops may be downloaded from the City Council's website, <http://www.leicester.gov.uk/your-council-services/cl/licensing/sex-shops/>. This policy is separate from that policy and licensing applications for sex shops and sexual entertainment venues will be dealt with in accordance with the appropriate policy.

2 Aims of the Policy

- 2.1 This policy aims to ensure that the licensing regime in relation to sexual entertainment venues, including the refusal, granting, revocation and imposition of conditions in respect of licences promotes:

- The licensing of premises which are suitable for the activity which it is intended to carry on there;
- The proper management of premises so as to protect the public and persons employed;
- The management of the premises by persons who are fit and proper and that the business is not run for the benefit of an unsuitable third party;
- The licensing of premises in a location of suitable character;
- The licensing of an appropriate number of premises in specific localities;
- The licensing of premises which do not adversely affect other neighbouring premises;
- The licensing of premises which do not detract from the image of the city, its attractiveness to visitors or its ability to attract investment and regeneration;
- The licensing of premises with an external appearance which is appropriate given the locality in which they are situated.

3 Transitional Provisions

- 3.1 The requirement to have a licence to operate a sexual entertainment venue comes into force in Leicester on 1 April 2011. From that date it becomes an offence to operate without a licence. To allow existing operators time to comply with the new legislation, transitional relief is granted to continue to operate without a licence until 31 March 2012.
- 3.2 To qualify for transitional relief, a premises must have a premises licence under the Licensing Act 2003 and be already operating as a sexual entertainment venue, or be undertaking preparatory work to do so, immediately prior to 1 April

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2011. In this context, “preparatory work” means physical work to refurbish or refit the premises to enable it to be used as a sexual entertainment venue. The City Council will require evidence to demonstrate that the premises qualifies for transitional relief.

- 3.3 Applications for licences made during the transitional period will be processed in accordance with the schedule set out in the legislation, see under *Determination of Applications* below.

4 Grounds for Refusal of Licences

- 4.1 Paragraph 12 of Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

- 4.2 A licence **must not** be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State, or 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 which is not incorporated in an EEA State; 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

- 4.3 A licence **may** be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed 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 or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard:
 - to the character of the relevant locality; or
 - to the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

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4.4 A decision to refuse a licence must be relevant to one or more of the above grounds.

4.5 There is no right of appeal against a refusal to grant a licence for the reasons identified in Paragraph 4.3(c) or 4.3(d) above.

5 Location of Premises

5.1 In order to promote the aims of this policy, after having carried out consultation the City Council will adopt a policy in relation to the locality of premises. This will have three aspects. Firstly, it will set out the maximum number of sexual entertainment venues it considers appropriate to be licensed in different localities within the city. Secondly, it will set out the character of areas that it considers it appropriate to locate sexual entertainment venues in. Thirdly, it will identify types of sensitive premises that sexual entertainment venues should not be located next to.

Locality

5.2 The City Council has based its policy on locality on the following factors:

- the character of the City in terms of sensitive locations;
- the potential for sexual entertainment venues to cause offence and nuisance to sensitive premises;
- the use land and buildings are put to;
- the level of policing of various parts of the city;
- the response to the consultation it has carried out; and
- its experience and policy in licensing and in particular licensing of other sex establishments.

5.3 The City Council will only license sexual entertainment venues within the inner ring road. The number of premises that it considers to be appropriate for all areas of the city outside the City Centre and the Braunstone Gate Area is nil. In this context the City Centre means the area inside the inner ring road, and the Braunstone Gate Area means Braunstone Gate, New Park Street, Duns Lane, Little Holme Street and Bede Street.

5.4 The City Council has set a limit on the number of sexual entertainment venues for the City Centre and the Braunstone Gate area of FIVE premises. This number will be reviewed from time to time by the City Council to take into account changing circumstances and experience of the impact of existing premises.

Character

5.5 The City Council has based its policy on character on the following factors:

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- the potential for sexual entertainment venues to cause offence and nuisance to sensitive premises;
- the use land and buildings are put to;
- the need to preserve the image of the city to encourage visitors, investment and regeneration;
- the response to the consultation it has carried out; and
- its experience and policy in licensing and in particular licensing of other sex establishments.

5.6 The City Council considers that the appropriate area in which sexual entertainment venues should be located are areas associated with the night time economy.

5.7 The City Council does **not** consider the following locations as suitable locations for sexual entertainment venues:

- shopping centres and main shopping streets;
- areas which are predominately residential; and
- areas which are predominately made up of offices.

Vicinity

5.8 The City Council has based its policy on character on the following factors:

- the potential for sexual entertainment venues to cause offence and nuisance to sensitive premises;
- the use land and buildings are put to;
- the response to the consultation it has carried out; and
- its experience and policy in licensing and in particular licensing of other sex establishments.

5.9 The City Council considers that sexual entertainment venues should not be located in the vicinity of the following types of venue:

- places of worship;
- schools and other educational establishments;
- community facilities such as libraries and community centres
- residential premises; and
- buildings of cultural or historical significance, such as museums and the Town Hall.

6 Application Procedure

6.1 Applications must be made to the City Council on the standard application form available on the City Council's website or available from the Licensing Section.

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All fields on the application form must be appropriately filled in.

- 6.2 The application form must be accompanied by a CRB disclosure for the applicant, any person to be involved in the management of the premises and any person who will receive financial benefit from the business.
- 6.3 The application form must be accompanied by the appropriate fee shown on the form.
- 6.4 The application form must be accompanied by a plan of scale 1:100 showing all parts of the premises to be licensed, the extent of the premises and its location.
- 6.5 The application must be advertised by:
 - Displaying a prescribed notice on the premises in a conspicuous location where it can be conveniently read by the public, continuously for 21 days beginning with the date of the application. The notice must be of size or A4 or larger, a yellow colour and printed legibly in black ink of font size 16 pt or larger.
 - The application must be advertised in a local newspaper circulating in Leicester in the prescribed form not later than 7 days after the date of application.
 - The prescribed layout of the notice can be downloaded from the Council's website or from the Licensing Section.
 - A copy of the newspaper in which the advertisement is made is to be forwarded to the Licensing Section

The Provision of Services Regulations 2009

- 6.6 The Provision of Services Regulations 2009, require that applications are processed as quickly as possible and, in any event, within a reasonable period. The City Council aims to deal with applications within a period of three calendar months from the date of application. This takes into account the need for the Council to carry out consultation, consider any representations received, prepare documents for and arrange a hearing, and to determine the application. Applications received during the transitional period are governed by specific provisions, see the section below.
- 6.7 The Regulations also specify that in the event of failure to process the application within the period set or extended in accordance with the preceding provisions of this regulation, authorisation is deemed to have been granted by a competent authority, unless different arrangements are in place. The City Council considers that it would not be in the public interest for applications for sexual entertainment venues ever to be deemed to have been granted, because of the potential impact of a premises on a local community were it to be situated in an inappropriate location and because persons who wish to make representations about the application would be denied the opportunity to have their representations considered. In circumstances where applications

cannot be dealt with within three calendar months, the Council will notify the applicant of the reason for this and give a revised deadline by which it intends to have processed the application.

7 Representations about Applications

- 7.1 Any person wishing to object to an application must submit a written representation within the 28 day consultation period specified, to the Licensing Section setting out the grounds of objection. The grounds for objection must be based on the reasons for refusal in Section 3 above. Objections based on moral, religious or philosophical grounds or values will not be considered,
- 7.2 Valid representations must be made within 28 days of the application being submitted. Representations made before the application is submitted can be taken into account. The Council also has discretion to consider representations made after the 28 day consultation period although this will be assessed on a case by case basis.
- 7.3 The legislation dictates that, unless a person making representations consents, their name and address shall not be revealed to the applicant. They may also be reluctant to appear before a hearing of the Sub-Committee.
- 7.4 However, the grounds of any objection made about the application must be provided to the applicant prior to the determination of the application. The report to the Licensing Sub-Committee may have full details of the objections, including any actions/undertakings proposed by the applicant to address matters raised
- 7.5 Additionally, the applicant and any persons who made representations and who wish to attend the hearing will have the opportunity to address the Sub-Committee before the application is determined.

8 Determination of Applications

- 8.1 Applications which have been duly made will be considered at a hearing of a panel of the Licensing Committee appointed to determine the application, except where the application may be refused in relation to 3.3(c) above in which case the application may be refused by officers of the Licensing Section.
- 8.2 Persons who have made representations about the applications will be entitled to speak at the hearing as well as the applicant.
- 8.3 The hearing panel will also take into account written representations from people including those who do not wish to attend the hearing.
- 8.4 The procedure to be followed at the hearing will be in accordance with the

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Code of Practice for Hearings under the Licensing Act 2003, which may be downloaded from the Council's website: <http://www.leicester.gov.uk/your-council-services/cl/licensing/licensing-act/hearings/>

Determination of Applications received during the Transitional Period

- 8.5 The determination of applications received during the transitional period, 1 April 2011 until 31 March 2012, will be undertaken in accordance with The Policing and Crime Act 2009 (Commencement No.1 and Transitional and Saving Provisions) (England) Order 2010.
- 8.6 Applications received between 1 April 2011 and 30 September 2011, will not be determined until all applications received during this period have been considered.
- 8.7 Applications received between 1 October 2011 and 31 March 2012 will not be determined until all applications received before this period have been determined.

9 Revocation of Licences

- 9.1 A sexual entertainment licence may be revoked by the City Council in relation to any of the reasons set out in Paragraph 4.2 or 4.3(a) and (b) above.
- 9.2 Where a local resident, or a person with interest in a business in the vicinity of the premises, or a police officer, or an officer of the City Council, considers that any of the grounds referred to above are relevant, they may request that the City Council considers revocation of the licence.
- 9.3 Before revoking a licence for a sexual entertainment venue, the City Council will hold a hearing to consider the matter. The procedure to be followed at the hearing will be in accordance with the Code of Practice for Hearings under the Licensing Act 2003, which may be downloaded from the Council's website: <http://www.leicester.gov.uk/your-council-services/cl/licensing/licensing-act/hearings/> . At the hearing the holder of the licence and any person who has requested revocation of the licence will be entitled to be heard.

10 Granting a Waiver

10.1 The 1982 Act contains provisions that permit the Licensing Authority to grant a waiver from the requirement to hold a sexual entertainment licence. However, the City Council do not consider that it would be appropriate to grant such waivers, particularly as the legislation allows relevant entertainment on an infrequent basis without the need for a licence. This applies where entertainment is provided on no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment and the entertainment does not last for more than 24 hours.

11 Suitability of applicants

11.1 When considering applications for sexual entertainment venues, the City Council may refuse the application if it considers that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.

11.2 When determining whether the applicant is unsuitable, the City Council will give consideration to whether the applicant:

- is honest
- has any relevant convictions identified on their CRB disclosure
- has sufficient appropriate experience of running a sexual entertainment venue
- understands the conditions that will be attached to the licence
- that the operator is proposing a credible management structure and operating plan that will ensure compliance with all conditions and legal requirements
- 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
- can be relied upon to protect the public, e.g. transparent charging, freedom from solicitation
- can show a track record of management of compliant premises, or that s/he will employ individuals who have such a track record
- does not operate as an agency for unsuitable controllers or beneficiaries.

11.3 In determining the above the City Council will base their judgement on information on the application form, written representations received, information provided at the hearing and on the results of any additional interviews with the applicant or enquiries of third parties that may take place.

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12 Standard Conditions

- 12.1 The City Council will apply standard conditions to all licences for sexual entertainment venues. These can be downloaded from the Council's website. www.leicester.gov.uk/licensing
- 12.2 The standard conditions will be reviewed from time to time and the licence will be subject to the conditions in force at the time of the grant or renewal of the licence.
- 12.3 Delegated authority is given to the Divisional Director responsible for Licensing to approve any revisions to the standard conditions in consultation with the Cabinet member with responsibility for Licensing.
- 12.4 The Licensing Committee may decide to impose additional conditions when it determines the application.

13 Enforcement

- 13.1 The Licensing Authority will carry out its responsibilities for enforcement so as to promote each the aims of this policy.
- 13.2 The Licensing Authority will develop and review enforcement protocols in agreement with the police and other enforcement agencies as appropriate.
- 13.3 Enforcement activities will be targeted in terms of risk and so as best to promote the aims of this policy. In addition account will be taken of the general enforcement policy of the licensing authority, which aims to ensure that enforcement is open, fair, reasonable and proportionate.

14 Other Permissions

- 14.1 This Licensing Policy deals with the requirements of the Licensing Act 2003. However, individual applicants may also require permission from other sections of the City Council, in particular Planning and Building Control, or from outside bodies. More information is available on the City Council's website – www.leicester.gov.uk .

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15 Period of Validity & Review

15.1 This statement of licensing policy will come into force on **1 April 2011** and remain valid until such time as it is amended or rescinded.

15.2 The policy will be kept under review during the period of validity and if necessary amendments made.