

SEX ESTABLISHMENTS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SECTION 2 AND SCHEDULE 3

GUIDANCE NOTES

Do I require a Licence for a Sex Establishment

Yes: a licence is required for either a sex cinema, a sex shop or a sexual entertainment venue.

What is a sex cinema?

This means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures which are:

- concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity **or**
- concerned primarily with the portrayal of, or deal with or relate to, genital organs or unitary or excretory functions.

However, there are two exceptions:

- A dwelling-house to which the public is not admitted is excluded from the definition.
- No premises shall be treated as a sex cinema by reason **only** by being used for purposes for which they are licensed under section 1 or section 6 of the Cinemas Act 1985.

What is a sex shop?

This means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- Sex articles; or
- Other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.
- No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures.

What is a sexual entertainment venue?

These are defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer” The meaning of ‘relevant entertainment’ is defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must be assumed to be provided solely or principally for the purpose of sexually stimulating any members of an audience (whether by verbal or other means)”. An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

The guidance issued by the Home Office over these matters indicates that whilst local authorities should judge each case on its own merits, it would be expected that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:

- Lap Dancing
- Pole Dancing
- Table Dancing
- Strip shows
- Peep shows
- Live Sex shows

Note that the display of nudity can also refer to such things as the use of topless bar staff.

Do I need a licence to run a sex establishment?

Yes: unless

- The establishment is used only for the sale, supply or demonstration of articles primarily used for or related to birth control; or
- The Council has waived the requirement of a licence.

How do I apply for the grant, renewal or transfer of a licence?

An application must be writing and submitted on an application form which will be provided by the Council's Legal Services Division Licensing Section.

A summary of the application procedure is as follows:

- Submit application form
- Pay licence fee (which is non-refundable)
- Newspaper advertisement in prescribed form within 7 days of making the application
- Site notice in prescribed form on or near the premises displayed for 21 days
- Send copy of the application to the chief officer of police within 7 days
- Wait 28 days for objections

How much does the Council charge for a licence?

Because of the sensitive nature of these licences it is not possible to have a set scale of charges dealing with applications. Each application will be assessed individually and applicants will be advised about the assessed fee level.

How long will it take to process an application?

Applicants should note that statutory advertisement and notice periods apply together with a 28 day objection period. Three months should be considered to be a realistic period for the Council to determine an application.

What conditions will apply to the licence?

The Council has a wide discretion in deciding the terms, conditions and restrictions which will apply to the grant renew or transfer licences.

The Council may prescribe standard conditions which may be different for sex cinemas and sex shops (and for different kinds of sex cinema and sex shops).

Conditions may deal with any matter, including the following:

- Hours of opening and closing
- Displays or advertisements
- Visibility of the interior to passers-by
- Any change of a sex cinema to a sex shop or vice versa

Where prescribed conditions have been made the Council is obliged to supply copies to any person on payment of a prescribed fee.

Can my application be refused?

The Act sets out the circumstances where an application **must** be refused as well as the circumstances where an application **may** be refused.

A licence **must** be refused if the applicant :

- Is under 18
- Was the holder of a licence which was revoked within the preceding 12 months
- Is not (other than a corporation) resident in the UK or was not during the previous six months
- Is not (being a corporation) incorporated in the UK
- Has, within the preceding 12 months, been refused an application (unless overturned on appeal)

A licence **may** be refused if :

- the applicant is unsuitable by reason of having been convicted of an offence or for any other reason
- the grant, renewal or transfer would result in the transfer the business to the management or benefit of a person other than the applicant , who would be refused had that person been the applicant.
- The number of sex establishments within the locality equals or exceeds the number which the Council consider appropriate.
- The grant or renewal would be inappropriate having regard to:
 - The character of the relevant locality or
 - The use to which premises in the vicinity are put or
 - The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

How do I apply for a waiver of the need for a licence?

The Council may waive the requirement for a licence if it considers it to be unreasonable or inappropriate to require one.

Any application must be in writing and must contain such information as the Council may reasonably require (including the information in the standard application form).

A waiver can be for such period as the Council thinks fit and may also be terminated on 28 days notice. There is no right of appeal against the refusal of a waiver.

How long does a licence last for?

A licence lasts for a period of one year or such shorter period as the Council may specify.

It should be noted that a licence can be cancelled (at the request of the licence holder) or revoked (by the Council).

Special rules apply to renewals and appeals.

How do I renew a licence?

In exactly the same way as a first application.

Can a licence be transferred?

Yes. But the procedure is exactly the same as with a first application.

Do I have any right of appeal?

Yes. There is a general right of appeal to the Halton Magistrates and a further right of appeal to the Crown Court.