

# Appendix H

## Sex Establishment Policy

# SHEFFIELD CITY COUNCIL

## **Sex Establishment Policy**

**Incorporating Sexual Entertainment Venues, Sex Shops and Sex Cinemas**

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## Part 1 – INTRODUCTION

Licensed sex establishments in Sheffield contribute to the recreation, entertainment and night-time economy and provide an additional appeal to residents, tourists, visitors and the students that attend the two universities.

To promote a vibrant city the Licensing Authority regulates the scale, diversity and concentration of all licensed entertainment in an open, fair and legal manner.

This policy provides Sheffield City Council's approach to the regulation and licensing of sex establishments which incorporates sexual entertainment venues, sex shops and sex cinemas, as set out in the Local Government (Miscellaneous Provisions Act) 1982 as amended by the Policing and Crime Act 2009, within the City of Sheffield.

The policy provides a framework to assist applicants and decision makers in making and considering applications and ensuring all relevant factors are given proper attention.

## Part 2 – OVERVIEW

The Sheffield City Council Sex Establishment Policy ("the Policy") sets out the City Council's approach to the regulation of all types of sex establishment and the procedure relating to applications for sex establishment licences.

The sex establishments this policy applies to are:

- sexual entertainment venues
- sex cinemas
- sex shops

The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application, South Yorkshire Police and members of the Licensing Committee when determining an application.

This policy will be kept under review and revised where necessary.

Each application will be dealt with on its own merits on a case-by-case basis.

Consideration will be given to the Equality Act 2010, the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Crime and Disorder Act 1998 and the Home Office Guidance for England and Wales on Sexual Entertainment Venues (March 2010).

The City Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the City Council's role as the Licensing Authority to regulate such premises in accordance with the law.

The City Council is committed to applying the law and policy to promote:

- High management standards at licensed sex establishments;
- Public Safety of staff, performers and patrons at sex establishments;
- Safeguarding of staff, performers and patrons at sex establishments; and
- Safeguarding vulnerable persons in the locality of sex establishments.

## Part 3 – CONSULTATION ON THIS POLICY

The Council has consulted with stakeholders on the content of this policy. These stakeholders have included:

- All current sex establishment licence holders
- Current staff and performers
- Elected Members of Sheffield City Council
- The local Member of Parliament
- South Yorkshire Police
- Environmental Protection Service
- South Yorkshire Fire and Rescue
- Sheffield Safeguarding Children Board
- Sheffield Safeguarding Adults Board
- Health Protection
- Director of Business Strategy and Regulation
- Trading Standards
- Planning
- The Executive Director – Place
- Other Local Authorities in South Yorkshire
- Religious Establishments
- Sheffield Schools
- Objectors to previous sex establishment licence applications or renewals
- Equality Groups

The Council conducted a number of **pre-consultation workshops** between the 21 November 2016 and 28 November 2016.

Invitations to the pre-consultation workshops were sent to Sheffield City Council Elected Members, the members of the Licensing Committee, existing sex establishment licence holders, religious establishments, schools and equality groups. A total of 768 invitations were sent out by post and e-mail, and the workshops were attended by:

- Current licence holders
- Elected Members
- Representatives of Schools
- Representatives of Religious Groups
- Representatives of Equality Groups
- Groups/Individuals that have previously objected to sex establishment licence applications.

The **First Stage** of the consultation process was conducted over a seven week period from the 19 December 2016 to the 3 February 2017 where comments were invited via email and post to Sheffield City Council's Consultation Hub – Citizen Space. Letters and emails were sent and interested parties were invited to submit comments via email, in writing and on the City Councils online consultation hub, "Citizen Space".

82 responses were received; respondents included South Yorkshire Police, local businesses, Elected Members, a Member of Parliament, equality groups, religious groups and local residents.

The **Second Stage** of the consultation process was undertaken over a four week period from the 3 March 2017 to the 31 March 2017 where comments were invited via email and post to Sheffield City Council's Consultation Hub – Citizen Space. Letters and emails were sent and interested parties were invited to submit comments via email, in writing and on the City Councils online consultation hub, "Citizen Space".

47 responses were received; respondents included religious groups, current licence holders, equality groups, and a Member of Parliament.

The consultation highlighted a number of local concerns, in particular:

- The suitability of applicants for sex establishment licences;
- Public safety of staff, performers and patrons at sex establishments;
- The safeguarding of staff, performers and patrons at sex establishments;
- The safeguarding of vulnerable persons in the locality of sex establishments; and
- The Public Sector Equality Duty.

The City Council has had regard to the views of staff and performers of existing sexual entertainment venues.

There have been no upheld complaints with any of the existing premises in the time they have been licensed nor have any issues been identified by the Sheffield Safeguarding Board and South Yorkshire Police.

## Part 4 – DEFINITIONS

**“the Act”**

refers to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

**“the Council”**

means Sheffield City Council.

**“the Policy”**

refers to the Sheffield City Council Sex Establishment Policy.

**“sex establishment”**

the collective term for sex shops, sex cinemas and sexual entertainment venues.

**“relevant locality”**

means the locality in which the premises, vehicle, vessel or stall are situated. For the purposes of this policy, each application will be determined on a case-by-case basis. In individual cases, if it is necessary to decide the precise boundaries of the relevant locality, this will be done on the facts of the individual case.

**“character of the relevant locality”**

means the character or characteristics of the locality in which the premises, vehicle, vessel or stall are situated. In determining the character of the area, the Council will consider what the primary use premises in the locality are put to, any additional uses of premises in that locality, and any purposes that may require persons to use that locality, for example transport hubs, cultural hubs, etc.

**“the premises”**

means the premises, vehicle, vessel or stall that are the subject of the sex establishment licence or of the application for a sex establishment licence.

**“sex cinema”**

means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures related to, or intended to stimulate or encourage, sexual activity, acts of force or restraint associated with sexual activity, or concerned primarily with the portrayal of or primarily deal with, or relate to, genital organs or excretory or urinary functions, but does not include a dwelling house to which the public is not admitted.

**“sex shop”**

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

- (a) sex articles; or
- (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—
  - i. sexual activity; or
  - ii. acts of force or restraint which are associated with sexual activity.

**“sex articles”**

include written or visual material such as sex magazines or books, or visual or audio recordings concerned with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage, sexual activity or acts of force and restraint associated with sexual activity, or which are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

**“sexual entertainment venue”**

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

**“relevant entertainment”**

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). An audience can consist of just one person (e.g. where the entertainment takes place in private booths). This definition would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep

shows and live sex shows. This list is not exhaustive and should only be treated as indicative. The decision to licence premises as sexual entertainment venues shall depend on the content of the relevant entertainment and not the name given to it. An applicant will be expected to set out the exact nature, extent and scope of the relevant entertainment.

**“display of nudity”**

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

**“the organiser”**

means any person involved in the organisation or management of relevant entertainment.

**“significant degree”**

in the context of sex shops, shall be considered by the Council on a case-by-case basis. In considering significant degree, the Council will consider, amongst other things:

- the amount of shelf space devoted to relevant articles
- the annual turnover in relation to relevant articles and other things
- the way the business is marketed and advertised and
- the primary intention of the majority of customers in visiting the shop.

**“permitted hours”**

are the hours of activity and operation that have been authorised by the Council under the sex establishment licence.

## **Part 5 – INTEGRATION WITH OTHER STATUTES**

There are a number of statutory provisions which apply to every action the Council takes as a public authority. These include, but are not limited to:

- the Equality Act 2010;
- the Human Rights Act 1998;
- the Provision of Services Regulations 2009; and
- the Crime & Disorder Act 1998.

### **Equality Act 2010**

This Act legally protects people from discrimination in the workplace and wider society. This includes the Public Sector Equality Duty (PSED), which means that the Council must thoroughly consider, in the discharge of its licensing functions, the need to:

- promote equality of opportunity;
- eliminate unlawful discrimination, harassment and victimisation;
- promote good relations.

This applies for this policy and to the consideration and determination of applications for sex establishments.

A detailed Equality Impact Assessment (EIA) has been undertaken and kept under review throughout the drafting of this policy and then finalised on publication of the policy. Further EIA's will be conducted where necessary.

It is not considered likely that the equalities obligations are at risk as there is no perceivable risk of unequal access to the services between different equality groups, save for those under 18.

Licensing Committee members have undertaken equality and diversity training and will be reviewing their learning on a regular basis to ensure their knowledge and understanding of all matters concerning equality and diversity are at the highest standard to allow them to make decisions.

This policy includes a clear and unequivocal commitment to meeting the PSED in the exercise of all of the functions under the Act. The policy and the documentation flowing from it are intended to be a key means of

facilitating compliance with all of the Council's obligations. Great care has been taken in developing a policy that is fit for purpose in this regard but it is only when it is tested in action that it will be possible to evaluate its effectiveness. This assessment will be kept under regular review, particularly in the early period of implementation, so that any shortcomings identified in the document itself and/or the way it has been implemented can be addressed.

### **Human Rights Act 1998**

Incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right. The Council will have particular regards to the following relevant provisions of the European Convention on Human Rights:-

- Article 1 of the first protocol: Everyone is entitled to the peaceful enjoyment of his or her possessions. It should be noted that the Courts have held that a licence is a person's possession;
- Article 6, in relation to the determination of civil rights and obligations: Everyone is entitled to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law;
- Article 8: Everyone has the right to respect for one's home and private life, including, for example, the right to a "good night's sleep".
- Article 10: Freedom of expression.

### **Provision of Services Regulations 2009**

These Regulations require that applications are processed as quickly as possible and, in any event, within a reasonable period. The Regulations also specify that in the event of failure to process the application within the period or as extended in accordance with the provisions of these Regulations, the authorisation is deemed to be granted (tacit approval) by the Council, unless different arrangements are in place.

The Council considers that it would not be in the public interest, for reasons of public safety, for tacit approval to apply with regards to applications for sex establishments.

The Regulations also state that any charges (fees) provided for by a competent authority, which applicants may incur under an authorisation scheme, must be reasonable and proportionate to the cost of the procedures and formalities under the scheme, and must not exceed the cost of these procedures and formalities.

The Regulations suggest that all fees within the scope of the Directive be separable in two parts.

Firstly, the pre-application costs; mainly the administrative costs incurred when dealing with the application from when it is first received up until it being determined (issued/refused).

Secondly, the on-going costs; monitoring and enforcing the terms and conditions of that licence. This is to show clearly which part of the fee is repayable should an application (applicant) be unsuccessful.

### **Crime & Disorder Act 1998**

Under this Act, Local Authorities must have regard to the likely effect of the exercise of their functions, and do all that they can to prevent crime & disorder in their area. This policy will have regard to the likely impact that the granting of licences may have on related crime & disorder in the city.



## Part 6 – THE PROCESS OF APPLYING FOR A LICENCE

### Making an Application

The Act provides a maximum licence period of one year. The Authority may grant a shorter licence if it sees fit. A shorter period may be granted for example, where a licensee wants a licence for a limited period for a trade exhibition or a show.

An application for the **grant, variation, renewal or transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.

There are three separate notice requirements:

[1] The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.

[2] Where the application is in respect of a premises, the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.

[3] The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the local authority itself to send the copy within seven days of receipt of the application.

The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.

Applicants must, at the time of submission of a new grant, renewal or variation application, provide:

- a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises.
- details as to the exact nature, extent and scope of the business for consideration by the Licensing Authority.
- a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority (SEV's only).
- a copy of the codes of practice for performers, the rules for customers and the policy of welfare for performers (SEV's only). Such documents will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

Officers of the Licensing Authority may, as part of the application process, visit the relevant locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing Committee.

### Objecting to Applications

The Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors or local MPs. South Yorkshire Police are a statutory consultee for all applications.

Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:

- the name and address of the person or organisation making the objection;
- the premises to which the objection relates;
- the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the Act. The relevant grounds of objection are:

- That the applicant is unsuitable to hold a licence;
- That the licence, if granted, would be carried on for the benefit of person/s who would be refused a licence if they had applied themselves;
- That the layout, character or condition of the premises are inappropriate for the proposed establishment;
- That the use of the premises as a sex establishment would be inappropriate due to the use of premises in the vicinity;
- That the use of the premises as a sex establishment would be inappropriate due to the character of the relevant locality; and / or
- That the number of sex establishments or sex establishments of a particular type is inappropriate in the relevant locality.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the Act will be rejected by the Licensing Authority.

Objections will be considered by the Licensing Sub-Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. (However, objector's personal details such as name, address and telephone number will be removed.)

A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

### **Determination of Applications**

All applications for the grant of a sex establishment licence will be determined by the Licensing Committee or Sub-Committee.

Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Committee's procedure for hearings, which is available from the Licensing Service.

The Act provides five mandatory grounds and four discretionary grounds for refusal of a licence. Each application will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence MUST be relevant to one or more of the following grounds:

#### **MANDATORY GROUNDS FOR REFUSAL**

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1)(a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any 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 any person, other than a body corporate, who is not resident in an 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 any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

## DISCRETIONARY GROUNDS FOR REFUSAL

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
- (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/she made the application himself/herself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality;
- (d) the grant or renewal of the licence would be inappropriate, having regard:
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

## Appeals

There is a right of appeal to the Magistrates Court against decisions for the refusal to grant, renew, vary or transfer of a licence, the imposition of conditions and revocations may also be appealed.

Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.

It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds namely:

- that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
- the use of premises in the vicinity or the layout, character or condition of the premises.

The only discretionary grounds against which an appeal lies are those relating to the suitability of the applicant, the manager and/or the beneficiary of the operation

There is no right of appeal to the Magistrates' Court for the police or objectors.

## Part 7 - POLICY

### **Discretionary Grounds a & b: SUITABILITY OF THE APPLICANT, MANAGER & BENEFICIARY**

The Licensing Authority needs to be satisfied of the suitability of the following persons relevant to the application:

- (a) the applicant;
- (b) each of the partners (if a partnership);
- (c) each of the directors, secretary or other persons (if applicant is a company);
- (d) each of the managers;
- (e) each person the business will benefit. This includes third parties such as funders and suppliers where the arrangements are not on normal arm's length commercial terms or any persons who may share in the profits.

The provision of a management structure as part of the application will assist the Authority in determining suitability.

In order for the Licensing Authority to be satisfied that the relevant individuals are suitable to operate a sex establishment, a "Disclosure Scotland" certificate that is dated no earlier than 5 weeks prior to the application being submitted should accompany the application.

Where the relevant individuals have convictions for;

- (a) dishonesty;
- (b) violence;
- (c) sexual offences;
- (d) drugs;
- (e) public order; or
- (f) people trafficking;

it is unlikely that a licence will be granted.

Further,

- if the applicant has previously been involved in running an unlicensed sex establishment; or
- if the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves;

the application will likely be refused.

The Licensing Authority needs to be satisfied that those applying for a licence for a sex establishment (individuals detailed above) are suitable to operate the business by ensuring:

- (a) that the operator is honest;
- (b) that the operator is qualified by experience to run the type of establishment in question;
- (c) that the operator fully understands the licence conditions;
- (d) that the operator is proposing a management structure which will deliver compliance with licence conditions;
  - i. managerial competence;
  - ii. attendance at the premises;
  - iii. a credible management structure;
  - iv. enforcement of business rules (internal) through training and monitoring;
  - v. a viable business plan (e.g. sufficient to employ door staff and install CCTV (SEV only)); and
  - vi. existing policies in place for the welfare of staff, performers and patrons (SEV only)
- (e) that the operator will act in the best interests of the staff and performers, 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 (SEV only).

It is anticipated that the above expectations will be demonstrated by the operator through their completed application form, accompanying documentation, and disclosure certificates as part of the application process.

## **Discretionary Ground c) NUMBER OF SEX ESTABLISHMENTS**

The Act allows local authorities to impose numerical control on the number of sex establishments within a particular location. This can be to the number overall and the number of each kind and allows that the appropriate number may be nil.

This Policy does not specify any limit on sex establishments.

Each application must in any event be considered on its merits at the time the application is determined by the local authority.

## **Discretionary Ground d) LOCATION**

The Act permits applications to be refused:

- i. where the grant would be inappropriate having regard to the character of the relevant locality;
- ii. where the grant would be inappropriate having regard to other premises in the vicinity;
- iii. on the basis of the layout, character or condition of the premises.

### **i) Character of the relevant locality**

The Licensing Authority will have regard to, but not limited to, the following:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest and other tourist attractions.
- (f) the premises are sited near civic buildings.

The Council will consider the extent of the relevant locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or on a ward by ward basis.

### **ii) Use of other premises in the vicinity**

The Licensing Authority will have regard to, but not limited to, the following:

- (a) schools, nurseries or other premises substantially used by or for children under 18 years of age,
- (b) parks or other recreational areas designed for use by or for children under 18 years of age;
- (c) places primarily used for religious worship;
- (d) hospitals, mental health or disability centres, substance misuse treatment centres, sexual exploitation services, sexual abuse centres or similar premises;
- (e) any central gateway to the city or other city landmark, historic building or tourist attraction;
- (f) predominately residential areas; and
- (g) The Cultural Hub (Millennium Galleries, Tudor Square, theatres and library).

Whether a premises is in close proximity to the above will be a matter of fact in each individual case and cannot be determined by reference to a fixed distance. What constitutes a city landmark, historic building, tourist attraction or cultural area will be determined by the Licensing Authority on a case-by-case basis, after hearing from the parties.

The nature of the premises and the opening hours of the premises will also be considered in relation to the above.

In the case of renewal applications, the fact of whether development has occurred since the premises has been in operation will be considered. Applicants are advised to be aware of new developments occurring in the area of their premises and detail in renewal applications how negative impact on new developments may be mitigated.

Licences will be refused if the Licensing Authority perceives a venue will have negative impacts on members of the public or vulnerable persons living, working or engaged in normal activity in the area.

The Licensing Authority will also consider the following factors when deciding if an application is appropriate:

- (a) any cumulative adverse impact of existing sex establishment related activities in the vicinity of the proposed premises;
- (b) proximity to areas with high levels of crime;
- (c) whether the premises has met the relevant planning requirements;
- (d) the design of the premises frontage (signage/images etc.);
- (e) any relevant representation to the application; and/or
- (f) the proposed operating hours.

### **iii) Suitability of the Premises**

The Council expects:

- when an application for a licence at a permanent commercial property is made, the applicant will be able to demonstrate that the layout, character and / or condition of the premises is appropriate to the relevant entertainment proposed at the premises.
- when an application for a licence at a permanent commercial property is made, that property should have the appropriate planning and building regulation consents.
- the applicant to consider and detail in any application, the visible and physical impact of the premises including any external signage, advertising or displays.

## **CONDITIONS**

The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to a licence should be necessary, proportionate and tailored to the individual premises.

The Licensing Authority is permitted under The Act to make regulations prescribing standard conditions.

The standard conditions that may be attached on an individual basis to a sex establishment licence are available from the Licensing Service.

The Licensing Authority reserves the right to grant and/or renew a licence on such terms and conditions, and subject to such restrictions as may be so specified in each individual case/application.

Any applicant not wishing to be bound by the standard conditions will need to state so in the application and provide justification as to why they should not apply.

## **REPRESENTATIONS**

The Act allows any person to submit representations to the application of a sex establishment licence.

## **WAIVERS**

Schedule 3 of The Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

A waiver may be for such a period as the Council thinks fit.

Each application will be considered on its own merits by the Licensing Committee.

In light of the exemption in relation to the provision of relevant entertainment on an infrequent basis, the Council takes the view that waivers are unlikely to arise in relation to relevant entertainment and would only be considered in exceptional circumstances.

## Part 8 – SAFEGUARDING AND PUBLIC HEALTH

### Safeguarding

The licence holder will ensure that all members of management and staff attend training regarding safeguarding children, vulnerable adults and licensing.

This training is provided in partnership by the Sheffield Safeguarding Board and Adult Safeguarding Partnership with the Licensing Authority. Such training is designed to support management and staff to recognise vulnerability and take appropriate safeguarding actions. This will include training to implement an age verification scheme and how to recognise and respond to vulnerable adults, as employees or customers. The training will also include a session regarding licensing law, conditions and expectations.

An appropriate member of the premises management must be assigned to act as the Safeguarding Coordinator. This person should act in accordance with the guidance and training provided by the local safeguarding children/adults boards.

### Public Health

Holders of sex establishment licences must display and make available, without charge, literature on matters relating to sexual health the prevention of sexually transmitted diseases and HIV, and information about local health services as may be supplied to them by relevant local bodies. This information must be made available to patrons, employees and performers.

## Part 9 - ENFORCEMENT

Licensing Service Principles of Enforcement:

- **Open:** The Licensing Authority will provide information in plain language and will be transparent in the activities it undertakes. It will also be clear with customers on how the service operates.
- **Helpful:** The Licensing Authority will work with licensees to advise and assist with compliance. A courteous and efficient service will be provided by all staff, and licensees will have a single point of contact and telephone number for further dealings. Applications will be dealt with promptly and where possible, enforcement services will operate effectively to minimise overlaps and time delays.
- **Proportionate:** The Licensing Authority will minimise the costs of compliance for licensees by ensuring any action taken is proportionate to the risks involved; an account of the circumstances and attitude of licensee will be considered at all times.
- **Consistent:** The Licensing Authority will carry out all duties in a fair, equitable and consistent manner. Licensing officers will exercise judgment in all cases and arrangements will be put in place to promote consistency.

The Licensing Authority will also provide a well-publicised, effective and timely complaints procedure that is easily accessible to licensees and members of the public alike.

Advice given by licensing officers on behalf of the Licensing Authority will be put clearly and simply at all times and confirmed in writing.

The Licensing Authority will also ensure that before action is taken as a result of enforcement or compliance checks, an opportunity to discuss the circumstances will be provided in order to resolve the points of difference. However, in circumstances where immediate action is necessary, such as health and safety or preventing evidence being destroyed, the Licensing Authority will be required to take a more formal approach. An explanation as to why such action was required will be given at the time and confirmed in writing, in most cases within five working days and, in all cases, within 10 working days.

### **Better Regulation Delivery Office: Regulators' Code 2014**

In undertaking enforcement duties, the Licensing Authority will pay particular attention to the Regulators' Code. This sets out the standards that the Licensing Authority should follow when undertaking compliance and enforcement checks. Therefore the Licensing Authority will:

- carry out their activities in a way that supports those they regulate to comply;
- provide simple and straightforward ways to engage with those they regulate and hear their views;
- base their regulatory framework activities on risk;
- share information about compliance and risk;
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
- ensure that their approach to their regulatory activities is transparent.

The Licensing Authority will work very closely with South Yorkshire Police and the Planning Service and look to establish task teams to deal with problem premises.

### **Complaints**

The Licensing Authority does understand the difficulty for some residents to follow up issues with particular premises due to concerns for their safety. In these circumstances, residents should contact the Licensing Service, their local Councillor or South Yorkshire Police who may assist them in these matters.

The Licensing Authority and South Yorkshire Police will work closely in order to ensure consistency, transparency and proportionality in their enforcement activities. They will continue to investigate complaints and conduct proactive enforcement exercises to ensure that licences and the conditions attached to the authorisations are complied with and that unlicensed activity is dealt with as appropriate to ensure the highest standards of licensees and premises in the city of Sheffield.

The Licensing Authority will investigate general complaints regarding premises. This will allow us to give an early warning to licence holders of any concerns identified at their premises and the need for improvement.

They may call on other relevant authorities to assist in the investigation of complaints or in formulating action plans for improvement.

### **Data Sharing**

Subject to the provisions of the Data Protection Act 1998, the Licensing Authority and police will share information about licensees, licensed premises and activities associated with them. Further open access to data will be given to those police officers and Licensing Authority officers discharging their functions under this Act.



## Part 10 - PARALLEL CONSENT SCHEMES

### **The Licensing Act 2003 (the 2003 Act)**

If a sex establishment wishes to also carry on other licensable activities under the 2003 Act, i.e. the sale of alcohol, the provision of regulated entertainment or the provision of late night refreshment, they will also require a premises licence, club premises certificate or temporary events notice.

In practice, most sexual entertainment venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence for the sale of alcohol or provision of regulated entertainment.

Applicants and interested parties are advised to read Sheffield City Council's current Statement of Licensing Policy in conjunction with this policy.

### **Planning and Building Regulation Control**

Applicants must ensure that they have the appropriate planning permission in place to operate their business.

The Council's licensing functions will be discharged separately from its functions as the "Local Planning Authority". However, the Licensing Authority recognises the need for the two services to work in partnership.

**Therefore, the Licensing Authority requires that applicants for a premises licence and/or variations under this legislation to have already obtained any necessary planning consent.** This helps to avoid unnecessary confusion within the local community.

Applicants should also be aware that Building Regulations may apply where the proposal involves building work or where the use of the building is changed. You are advised to contact Building Control for further guidance.

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