

LONDON BOROUGH OF LAMBETH SEX ESTABLISHMENT POLICY

1. Background

- 1.1 This policy sets Lambeth Council's approach to the licensing and regulating of sex establishments in the borough. It is intended to guide potential applicants, holders of licences and those who wish to object to applications. The scope of the policy includes, sex shops, sex cinemas and sexual entertainment venues. Definitions are provided in appendix 1
- 1.2. The London Borough of Lambeth is an inner London borough, it has a very diverse population of 272,000, with 33% of the population from ethnic minorities. The population density is high, at 99.2 persons per hectare compared with 45.6 for inner London as a whole and 3.8 for England.
- 1.3 Each application received will be considered on its own merit, and subject to the approach set out in this policy. The purpose of this policy is to give potential applicants an indication of the matters that their application will be tested against when an application is made.
- 1.4 The Council may for an individual case depart from this policy, if the circumstances merit such a decision. If such a decision is taken, full reasons for the departure from the policy will be given.
- 1.5 The public consultation about the content of this policy was carried out between 21.03.2011 and 02.05.2011. The responses to the consultation have been considered in the drafting of this policy. The following were consulted, ward councillors, local area forums, town centre managers, All Tenants' and Residents' Association Chairs and Secretaries, Premises Licence Holders for existing SEVs, Vauxhall Gay Business Forum, Domestic Violence Managers, Lambeth Police (selected officers working in Domestic Violence / Violence Against Women & Girls) and Object.
- 1.6 As part of its duty to promote equality, the Council has carried out a full Equalities Impact Assessment on this policy. The findings of the assessment have been incorporated in this policy.

2. Requirement for a licence

- 2.1 The legal controls for sex establishment premises are contained in the Local Government (Miscellaneous Provisions) Act 1982 (the Act) as amended by Section 27 of the Police and Crime Act 2009.
- 2.2 The Act does not apply to bona fide performances of plays.
- 2.3 The Act provides that, on adoption, no person shall use any premises, vehicle, vessel or stall as a sex establishment within a local authority area

except under and in accordance with the terms of a licence granted by that authority.

- 2.4 The Council is able to waive the requirement for a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.
- 2.5 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of sex shops and sex cinemas, except in exceptional circumstances considered by the Licensing Sub-Committee.
- 2.6 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of sexual entertainment venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.
- 2.7 Licences will generally be issued on an annual basis but can be issued for a shorter term if deemed appropriate by the Licensing Sub-Committee.
- 2.8 All applications for new sex establishment licences and variations will be determined by the Licensing Sub-Committee, irrespective of the receipt of any objections. Any renewal application or transfer which attracts representations will also be determined by the Licensing Sub-Committee.
- 2.9 Annual renewals to which objections are not received will be renewed by officers under delegated authority.

3 Policy

- 3.1 Each application for the grant, renewal, variation or transfer of a licence shall be considered on its individual merits, subject to the principles and approach set out in this policy.
- 3.2 When assessing applications for the grant of a new licence or the variation of an existing one the Council will consider the potential impact of the grant on the locality, taking into account the following, which are not exhaustive:
 - a) The type of activity proposed/applied for;
 - b) Crime and disorder issues;
 - c) The impact on the Safer Lambeth Violence Against Women and Girls approach;

- d) The character of the locality;
- e) The proposed hours of operation;
- f) The nature and concerns of local residents;
- g) The appearance and layout of the premises;
- h) The applicants previous knowledge and experience;
- i) Any previous experience the applicant has in the operation of similar venues;
- j) Any complaints received by the Council or the Police about the operation of the venue;
- k) The ability and willingness of the management to comply with licence conditions;
- l) Appropriate policies in place for the welfare of performers and staff training.

And any other factors considered relevant.

3.3 Applications for the renewal of a licence must be submitted at least one month before the expiry of a licence. If submitted at least one month before expiry, and the existing licence expires prior to a decision of the Council, the licence will continue to exist until a decision is made.

3.4 When determining an application and assessing the character of a relevant locality the Council will take into account the following, which are not exhaustive:

- a) The use to which premises in the locality are put;
- b) The proximity of existing sex establishments of any type in the locality;
- c) The proximity of any residential accommodation in the locality;
- d) The proximity of any educational establishments in the locality;
- e) The proximity of any places of worship in the locality;
- f) The proximity of shopping centres in the locality;
- g) The proximity of any community facilities in the locality;

- h) Access routes to any of the above;
 - i) The potential of the proposed licensed activities to have a negative impact on crime and disorder;
 - j) The proximity to any substance misuse facilities;
 - k) Any cumulative impact of licensed premises in general in the locality.
- And any other factors considered relevant.

4 Mandatory Grounds for Refusal of Sex Establishment Licence

4.1 A licence will not be granted to:

- a) A person under the age of 18;
- b) A person who is for the time being disqualified from holding a licence;
- c) A person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- d) A body corporate which is not incorporated in the United Kingdom;
- e) A person who has, within the period of 12 months immediately preceding the date upon which 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.

5 Discretionary Grounds for Refusal of Sex Establishment Licence

5.1 The Act allows the Council to refuse an application for the grant or renewal of a licence on the grounds that:

- 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;
- 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.

Appendix 1 Definitions

A Sexual Entertainment Venue is defined as;

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

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 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).

Display of nudity is defined as;

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

A Sex Shop is defined as;

- 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 the use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.

Sex article includes;

- Anything made 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;
- Anything containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and to any recording of sound or vision, which;

- Is concerned primarily with the portrayal or, primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- Is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

A Sex Cinema is any;

- premise, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, 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 acts of force or restraint associated with sexual activity; or
 - Are concerned primarily with the portrayal of, or primarily deal with or relate to genital organs or urinary or excretory functions, but does not include a dwelling house to which the public is not admitted.

Appendix 2 Conditions

There are standard conditions that relate to all licences granted for sex establishments. Further conditions will be applied to any licence granted for a sexual entertainment venue, sex shop or sex cinema as appropriate. An applicant may, in their application address any condition they feel inappropriate for their venue. Conditions applied to licences are not limited to these conditions. These conditions may be modified at any time by the Council should it see fit.

Standard Conditions for Sex Establishment Licence

1. The licensee or some responsible person nominated by him in writing for the purpose of managing the sex establishment ('the manager') shall have personal responsibility for and be present on the premises at all times when the premises is open to the public.
2. 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 written 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.

3. A copy of the licence and conditions attached to the licence shall at all times be displayed in a conspicuous position on the premises, so as to be available for inspection by the Police, the Fire Authority and Council.
4. The name of the person responsible for the management of the premises, whether the licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he/she or they are responsible for the conduct of the premises.
5. The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part. The Council must be notified within 24 hours 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.
6. The licensee shall ensure that the public is not admitted to any part of the premises that has not been licensed.
7. No person under the age of 18 shall be admitted to the premises and a notice to this effect, shall be displayed on the outside of the premises.
8. Neither the licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the premises.
9. The licensee shall ensure that during the hours that the premises is open for business every employee wears a badge of a type approved by the Council indicating his/her name and that he/she is an employee.
10. The licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the licensee's absence and the names and addresses of those employed in the sex establishment. The register is to be completed each day within thirty minutes of the sex establishment being opened for business and is to be available for inspection by the Police, the Fire Authority and Council
11. The premises will operate a 'Challenge 25' scheme, whereby anyone who appears to be aged 25 or younger is asked for photographic ID proof of age.
12. The only ID that will be accepted are passports, a driving licence with a photograph or Portman Group proof of age cards bearing the 'PASS'

mark hologram. The above list of acceptable proof of age items may be extended to other forms of ID in the future with advance written agreement of the Police and Council.

13. A record of any refusal of entry shall be maintained by the licence holder and will be available for examination by the Police and Council.
14. No sign, device, representation, drawing, writing, display or any other matter, shall be displayed on the outside of the premises or in the vicinity of the premises, except those approved by the Council in writing;
15. No external loudspeakers may be installed.
16. The windows and openings of the premises shall be of a material or covered with material, which will render the interior of the premises invisible to passers-by.
17. Notwithstanding the licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his/her obligations under any lease or other agreement for the use of the premises, he/she shall maintain the premises in good repair and condition.
18. 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.
19. The premises shall be fitted with an inner entrance door or screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises.
20. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
21. Alterations or additions, either internal or external, shall be not be made to the premises without prior written consent from the Council.
22. The licensee shall submit details of the steps to be taken, for the approval of the Council, to check the ages of customers entering the premises who appear to be between the ages of 18 and 25 in order to ensure that they are not younger than 18. Checks will be taken to ensure that the approved steps are implemented.
23. The licensee shall, at the time of application submit plans showing the exterior design of the premises, to include details of any proposed signage.

Additional Conditions for Sex Shops

1. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
2. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
3. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
4. No moving picture shall be provided or displayed at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview, being no longer than 3 minutes in length of films upon request.
5. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area. The licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.
6. All sex articles as defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a sex establishment shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
7. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the sex establishment. (This regulation does not require that films, video films or discs be exhibited (played) to customers).

Additional Conditions for Sexual Entertainment Venues

1. No persons under 18 will be admitted to the premises at any time when any relevant entertainment is taking place, or is scheduled to take place.
2. The Challenge 25 rule and the stipulated forms of acceptable age identification will be clearly stated both on the premises website and on all membership applications, booking forms, customer contractual documents and promotional literature etc.

3. The licensee will provide a photographic identification system for all entrants to the premises with recordings to be provided to the police at their request.
4. No under 18's events will be hosted anywhere on the premises at any time.
5. Whilst striptease entertainment is taking place, no customer under 18 shall be on the premises and clear notices shall be displayed at the entrance to the premises in a prominent position so that it can easily be read by persons entering the premises in the following terms

**NO PERSONS UNDER 18 TO BE ADMITTED
ENTERTAINMENT WITHIN THESE PREMISES INVOLVES A FORM
OF NUDITY
IF YOU ARE LIKELY TO BE OFFENDED, PLEASE DO NOT ENTER.**

6. The only form of relevant entertainment that is approved and may be provided at the premises is striptease entertainment in the form of tableside and pole dancing by club dancers only.
7. The licensee shall provide a suitable dressing room or rooms where the performers may change and shall provide within the room a wash hand basin with a hot and cold water supply.
8. The dressing room shall be situated such as to allow the performers to have direct access to and from the area where they perform without passing through or in close proximity to members of the public.
9. Striptease performances shall only be given by employed performers and no member of the public or staff shall be permitted to participate in the performances in any way or at any time.
10. There shall be no simulated sexual acts between performers of striptease.
11. There shall be no deliberate physical contact between the customer and the dancer, with the exception of shaking hands with a customer and/or leading a customer by the hand from a seated area to a booth for a private dance.
12. There will be a minimum 1 metre separation between performers and audience.

13. There shall be no striptease performance to customers seated at a bar, or to standing customers.
14. Tableside striptease performers are to remain standing during a performance of striptease.
15. Dancers shall only perform on the stage area or at a tableside to seated customers.
16. There shall be no physical contact between dancers whilst performing.
17. Dancers may never give out personal information, including telephone numbers, email addresses or other contact details to audience members.
18. Dancers may never accept any telephone number, addresses, business card or any other information from any customer.
19. Customers must remain clothed at all times. The performers must not remove any of the customers' clothing at any time.
20. The private booths will be designed in such a way that there can be no curtain or other visual barrier that can be pulled across the entrance, thus concealing activities inside the booth area
21. All booths will have adequate lighting to ensure the safety of the dancer and to ensure that the member / guest / audience and the performer are adhering to the Club rules at all times.
22. Striptease performers are to re-dress at the conclusion of a performance and are to remain fully clothed whilst acting in the capacity of host or hostess, but may work solely behind the bar topless
23. Prior to employment all performers are to be given a copy of the venue's Code of Conduct (including these conditions). This Code of Conduct is to be rigorously enforced by the venue management.
24. At those times when public entertainment is by way of striptease or topless persons are serving at the bar, a minimum of two Security Industry Authority registered door supervisors shall be employed on the premises during striptease performance hours. At least one shall be permanently employed in the bar, who will ensure that the venue's Code of Conduct is upheld. The security staff/dps will also regularly monitor the public toilets and changing areas.
25. A notice of the Code of Conduct for customers as agreed with the Police shall be positioned at the entrance, bar area and table menus. It shall be

of an adequate size font (16) so that it can be easily read by the customer.

26. A record shall be kept at the premises of the real names, addresses and "stage names" of all striptease and nude performers. This record shall be readily available to the Police and for Council upon reasonable request.
27. All dancers / performers will be aged over 18 years of age and legally entitled to work in the UK before they perform at the Club.
28. The proprietor/director of the company is to ensure that prior to employment, all performers provide documents proving that they are over 18 years of age. Such documents are to be copied and retained on the performer employment file.
29. All performers employment files are to be retained for the period of the person's employment. All files are to be made available to the statutory authorities upon request if required for investigative purposes.
30. Where the proprietor/director employs performers from an agency, the performers must provide the relevant documentation as required in conditions 26 and 28. Details of the agency providing the performers are to be made available to the statutory authorities upon request.
31. The licence holder shall ensure no dancers are trafficked, exploited or controlled for another's gain.
32. Where possible all dancers will be escorted from the premises at the end of each evening to their transport (e.g. taxis) to ensure their personal safety and security.
33. The Police are to be informed of any assaults on staff, whether or not the victim wishes further action to be taken.
34. Members and their guests may not at any time take photographs, film, video or mobile phone photographs or footage of performers.
35. The whole of the venue, excluding performer's locker areas, is to be monitored by CCTV. This system is to be installed, maintained and operated as agreed with a police crime prevention officer and is to be operating and recording at all times that the premises are open to the public. The recordings are to be retained for a period of 31 days. The tapes are to be made available to the statutory authorities only upon request and are not to be made available to any other person for viewing.

36. The licensee will ensure that there is no display outside the premises of photographs or other images that indicate or suggest that partial, full nudity or similar entertainment takes place on the premises.
37. Any promotional website for the premises must comply with the Advertising Standards Agency (ASA) regulations and will not display photographs or other images of topless or nude performers, or show photographs or other images that may reasonably be construed as offensive.
38. The premises website and all promotional literature will include a clear requirement stating the Challenge 25 proof of age.
39. Any promotional literature circulated outside of the premises will not display photographs or other images of topless or nude performers, or show photographs or other images or words that may reasonably be construed as offensive.

Additional Conditions for Sex Cinemas

1. No 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 shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
2. The Licensee shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the premises.
3. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment, nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
4. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect, and is a reproduction authorised by the owner of the copyright of the film or video film so certified. Any such film or video film shall comply with the Video Recordings Act 1984.