



## CAMBRIDGE CITY COUNCIL

### **SEX ESTABLISHMENT LICENSING POLICY – Draft Policy**

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## 1. The City of Cambridge

1.1 Cambridge is a unique blend of market town, sub-regional centre, national and international tourist attraction and centre of excellence for education and research. It is a city of great beauty and is renowned for the qualities of its streets, spaces and buildings.

1.2 Cambridge City Council, in association with local partnerships wants Cambridge to be vibrant, socially mixed, safe, convenient and enjoyable, where all residents feel integrated into the life of the City and a part of its success.

1.3 Cambridge City Council has a clear vision for the future of the City, a vision shared with Cambridge citizens and partner organisations. Our vision includes:

- An international city which celebrates its diversity and actively tackles discrimination on gender, race, nationality, ethnic background, religion, age, disability, gender identity, and sexual orientation.
- A city in which all citizens feel that they are listened to and have the opportunity to influence public decision making, and which values, supports and responds to individual and community initiatives.
- A city where all citizens and organisations appreciate their duties as well as their rights, where people are free to enjoy themselves but also show consideration for others, and where the community works together to reduce harm and nuisance including by education and, where needed, robust enforcement of the law.

1.4 The overarching objectives of Cambridge City Council in licensing Sex Establishments are to:

- Promote the Authority's visions and values
- Protect the rights and health and safety of the general public, workers, residents, businesses, minority and vulnerable groups and
- Ensure the principles of consistency, transparency, accountability and the promotion of good standards in licensing
- Demonstrate compliance with statutory responsibilities in relation to procedures and enforcement
- Ensure consistent and transparent decision making

## 2. Introduction

2.1 The Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) does not require the publication of a sex establishment licensing policy, however we recognise the benefits of having such a policy. A sex establishment licensing policy can play a pivotal role in the achievement of the pattern, number and standards of sex establishments within the City.

2.2 This policy provides Cambridge City Council's approach to the regulation of sex establishments as set out in the 1982 Act and gives guidance to the Licensing Authority when considering and making decisions on applications

2.3 Each application will be determined on its individual merits and this policy should not be regarded or interpreted as an indication that any requirement of the relevant law may be overridden.

- 2.4 The Council may depart from this policy if, in the interests of the promotion of the objectives, the individual circumstances of any case merit such a decision. Full reasons will be given for departing from the policy.
- 2.5 The 1982 Act introduced a licensing regime to control Sex Establishments. On 19<sup>th</sup> October 1989, Cambridge City Council resolved to bring into force from 27<sup>th</sup> November 1989 Schedule 3 of the Act, which provided for the control of sex establishments (i.e. sex shops and sex cinemas).
- 2.6 Section 27 of the Policing and Crime Act 2009 (the 2009 Act), which came into force on 6th April 2010, amends Schedule 3 to the 1982 Act, providing for the control of a new category of sex establishment called a Sexual Entertainment Venue. The amendment allows councils to regulate lap dancing clubs and similar venues as sex establishments. On 21<sup>st</sup> October 2010, Cambridge City Council resolved that Schedule 3 to the 1982 Act as amended by section 27 of the 2009 Act should apply to the Cambridge City Council area commencing from 1<sup>st</sup> December 2010.
- 2.7 In carrying out our licensing functions, we will have regard to the following:
  - 2.7.1 The Local Government (Miscellaneous Provisions) Act 1982
  - 2.7.2 Any supporting regulations
  - 2.7.3 Guidance issued by Central Government
  - 2.7.4 This statement of licensing policy

We must also fulfil our obligations under s17 of the Crime and Disorder Act 1998, to do all that we reasonably can to prevent crime and disorder in Cambridge.

- 2.8 The Policy should be read in conjunction with, and without prejudice to, other existing national and European Union legislation, including the Human Rights Act 1998, the Equality Act 2010, the , The Provision of Services Regulations 2009, and the Regulators' Code 2013 (as set out under the Legislative and Regulatory Reform Act 2006).
- 2.9 The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and victimisation; and to promote equality of opportunity and good relations between persons of different racial groups.
- 2.10 In carrying out our licensing functions we will have regard to equality and will expect an applicant to meet their statutory obligations in this area and not unlawfully discriminate against anyone on the grounds of age, gender, race, sexual orientation, disability, gender reassignment, religion or belief.
- 2.11 We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. It is our role as the licensing authority to administer the licensing regime in accordance with the law.

### 3. Consultation

3.1 In preparing this policy statement we have consulted with the following:

- the Chief Officer of Police for Cambridgeshire
- the Chief Officer of the Cambridgeshire Fire and Rescue Service
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of businesses and residents in the City of Cambridge
- the child protection agency
- other organisations as appear to the Licensing Authority to be affected, including councillors, local community, cultural, educational and entertainment organisations.

3.2 **The policy was first adopted in October 2011 and was reviewed and an amended policy was adopted in October 2016 after a public consultation.**

### 4. Sexual Entertainment Venues

A Sexual entertainment venue is defined as

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

4.2 *'Relevant entertainment' is "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).

4.3 In deciding whether entertainment is "relevant entertainment" We will judge each case on its' individual merits, however we would expect that the following forms of entertainment as they are commonly understood will be "relevant entertainment":

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows
- Topless Bars
- Premises where private entertainment booths are present

This list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should be treated as indicative only. Ultimately, decisions as to whether entertainment is "relevant entertainment" will depend on the content of the entertainment and not the name it is given.

4.4 The following premises are not sexual entertainment venues:

- Sex shops and sex cinemas (which are separately defined in Schedule 3 of the 1982 Act)
- Premises which provide relevant entertainment on an infrequent basis. These are premises where-
  - a) relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
  - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - c) no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

4.5 Premises providing relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 (the Licensing Act).

4.6 Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser may be considered to have provided the entertainment where he has permitted the activity to take place, whether express or implied.

## 5. Sex shops and sex cinemas

5.1 Sex Establishment Licences are required for “sex cinemas” and “sex shops”. A “Sex shop” is defined as any premises, vehicle, vessel or stall that is used for a business which consists to a “significant degree” of selling, hiring, exchanging, lending, displaying or demonstrating :

5.1.1 sex articles; or

5.1.2 other things intended for use in connection with, or for the purpose of stimulating or encouraging-

i) sexual activity

ii) acts of force or restraint which are associated with sexual activity

5.2 The phrase “sex articles” is defined in the 1982 Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- the ratio of sex articles to other aspects of the business
- the absolute quantity of sales
- the character of the remainder of the business
- the nature of the displays in the business
- turnover
- other factors which appear to be materially relevant

5.3 A “sex cinema” is defined as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

5.3.1 are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage-

i) sexual activity,

ii) acts of force or restraint which are associated with sexual activity; or

5.3.2 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.

5.4 A sex shop licence is needed by any premises, vehicle, vessel or stall that stocks and sells R18 films.

## **6. Requirement for a Licence**

6.1. Any person wishing to operate a sex establishment as defined by Schedule 3 to the 1982 Act requires a sex establishment licence, unless we have waived the requirement for a licence.

6.2 We will normally grant a licence for a period of one year, but we may exercise our discretion to issue a licence for a shorter period if we consider this to be appropriate.

## **7. Waiver**

7.1 We may, upon application, waive the requirement for a licence in any case where we consider that to require a licence would be unreasonable or inappropriate.

7.2 Waivers may be granted to;

- Book shops, including shops where sale of DVD's and CD's are present
- Sexual Health Clinics
- Cases where we consider that the requirement for a licence is borderline, where events are minor or temporary, or where clarity or regularisation is required.
- Educational Establishments as part of a recognised educational curriculum

7.3 We will consider each application for a waiver on its individual merits; however, any establishment that would normally require a licence under the provisions of the 1982 Act is unlikely to be granted a waiver other than in exceptional circumstances.

7.4 In order for a waiver to be considered, an applicant must provide the basic information included in the application form, and any other information that we may reasonably require in order to make our decision.

7.5 A waiver may be for such period as the Licensing Authority thinks fit. Where we grant an application for a waiver, we will give notice to the applicant stating the application has been granted. We may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate, on a date not less than 28 days from the date on which we give the notice, or as may be specified in the notice.

## **8. The Licensing Act 2003**

- 8.1 Premises holding a sexual entertainment licence will not require a premises licence under the Licensing Act 2003 unless the premises is carrying on other licensable activities e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment.
- 8.2 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act.
- 8.3 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment licence, but will instead need an appropriate authorisation under the Licensing Act, for example to cover the performance of dance. An exemption for live music or the playing of recorded music, which is integral to the entertainment, does not apply to such venues.

## **9. Location of Licensed Premises**

- 9.1 We have not imposed a limit on the number of premises that may be licensed in any area of the City, however, whilst deciding each application upon its own merits we will not normally licence premises that are in close proximity to:
  - 9.1.1 a residential area
  - 9.1.2 a school, nursery or any other premises substantially used by or for children under 16 years of age;
  - 9.1.3 a park or other recreational areas used by or for children under 16 years of age;
  - 9.1.4 a church or other place of religious worship;
- 9.2 In addition, we will consider public safety issues when determining whether an area is appropriate; for example, areas that attract a high percentage of female, elderly or young users may be considered to be inappropriate. Where we receive an application, which we consider to be within close proximity to those areas or premises identified in paragraph 9.1, the application will not be automatically refused. Applications presenting genuinely exceptional circumstances may be granted.
- 9.3 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.
- 9.4 We would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

## **10. Commenting on licence applications**

- 10.1 Any person or organization can object to an application for a sex establishment licence.  
The Police are a statutory consultee for all applications.
- 10.2 We can only consider objections that are relevant to the statutory grounds for

refusal set out in the 1982 Act and are received within the 28-day period for making objections. The objector must provide full reasons for their objection and, where possible, demonstrate how their reasons are relevant to the mandatory and discretionary grounds for refusal (if any).

10.3 We will notify applicants of any observations made by the Chief Officer of Police and provide details in general terms of objections that we have received within the 28-day period. We will not without the consent of the person making the objection reveal his/her name or address to the applicant.

10.4 Where no relevant objections are made, or objections are withdrawn, officers will grant the licence under the scheme of delegated powers.

10.5 Licensing Sub-Committee will consider all applications where there are relevant objections. We will give both applicants and objectors an equal opportunity to state their case in accordance with our hearings procedure.

10.6 No weight will be given to objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Officers will make decisions on whether objections are frivolous or vexatious and where objections are rejected the objector will be given a written reason.

## **11. Determining Applications**

11.1 In considering any application for the grant, renewal or transfer of a licence we will have regard to any observations submitted by the Chief Officer of Police and any relevant objections that we have received within the 28-day period.

11.2 Where we refuse to grant, renew or transfer a licence, we will send notice of the reasons for our decision to the applicant within seven days.

11.3 An applicant must be a suitable person to hold a licence. In determining suitability for a new licence, or a transfer of an existing one, we will consider all relevant information including the following:

- Previous relevant knowledge and experience of the applicant;
- The operation of any existing or previous licence(s) held by the applicant, including any licence held in any other area.
- Any report about the applicant and management of the premises received from statutory objectors.

## **12. Terms, conditions and restrictions**

12.1 The Council may impose terms, conditions and restrictions on the grant of a licence.

Where imposed, these will be necessary, non-discriminatory and proportionate.

12.2 We have model conditions relating to sex establishments and sexual entertainment venues. The conditions which may be attached to a licence are set out in Appendices A and B to this policy.

12.3 We will consider all applications on an individual basis and may impose additional or alternative conditions tailored to individual premises.

**13. Grounds for refusal**

**The 1982 Act sets out mandatory and discretionary grounds for refusal of a licence.**

13.1 We will not grant a licence;

- a) to a person under the age of 18; or
- b) to a person who is for the time being disqualified under paragraph 17 (3) of Schedule 3 to the 1982 Act; or
- c) to a 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 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.

13.2 We may refuse:

grounds listed in a) – d) below:

- ii) an application for the transfer of a licence on either or both of the grounds specified in paragraphs a) and b) below:

The grounds are:

- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on 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) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application determined is equal to or exceeds the number which the Licensing Authority consider is appropriate for that locality. Nil may be the appropriate number.
- d) that the grant or renewal of a 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.

13.3 The 'relevant locality' means: in relation to premises, the locality where they are situated; and in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

13.4 We have not made a decision to determine the number of sex establishment premises appropriate for the City of Cambridge however this may be subject to review.

13.5 We may refuse applications for a sex establishment licence where we are not satisfied that the application has been advertised in accordance with the requirements of the 1982 Act.

13.6 We may refuse to accept an application where we consider that relevant information has been omitted or an application is incomplete.

## **14. Hearing**

- 14.1 Where relevant objections have been made we will give applicants the opportunity of appearing before the Licensing Sub-Committee.
- 14.2 We will advise the applicant and objectors of the date, time and venue of the hearing.
- 14.3 A copy of the committee report will be published on our website at least 5 days prior to the hearing. The report will contain a summary of the application, objections and any other relevant information.
- 14.4 The hearing will be conducted in accordance with our hearings procedure.
- 14.5 The Licensing Sub-Committee will communicate their decision at the end of the hearing and **the applicant and the objectors** will receive written confirmation of the decision within seven days.
- 14.6 Whilst the Act does not stipulate a timescale for hearing applications, where objections have been submitted and accepted, we aim to determine an application within 20 working days from the close of the 28-day period for receiving objections.
- 14.7 **Applicants have a right of appeal to a Magistrates Court as per Section 27 of Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982.**

## **15. Enforcement**

- 15.1 We will establish protocols with the police and any other relevant enforcement body on enforcement issues. These protocols will target agreed problems and high-risk premises, which require greater attention, while providing a lighter touch approach in respect of low risk premises that are well run.
- 15.2 In general, action will only be undertaken in accordance with the Council's enforcement policy, as adopted at the time, which reflects the Council's obligations relating to enforcement and is consistent with the Regulators Code. To this end, the key principles of consistency, openness, proportionality, clear standards and practices, courtesy and helpfulness and training will be maintained.
- 15.3 Cambridge City Council's enforcement policy is available on our website: <http://www.cambridge.gov.uk/enforcement-policy>

## **16. Amendments to Policy**

- 16.1 Any significant future amendment to this policy will only be implemented after further consultation.

For the purpose of this section, any significant amendment is defined as one that:

- (a) is likely to have a significant financial effect on the licence holders, or

(b) is likely to have a significant procedural effect on the licence holders, or  
(c) is likely to have a significant effect on the community.

16.2 Any minor amendments to this Policy may be authorised by the Licensing Committee.

16.3 We retain the right to review the policy as deemed necessary, or as required due to legislative changes and Government guidance.

## **17. Integration with Council Strategies and the avoidance of duplication**

17.1 By consultation and liaison, we will secure the proper integration of this policy with local crime prevention, planning, transport, tourism, race equality and equal opportunity schemes, cultural strategies and any other plans introduced for the management of the City and the night-time economy.

17.2 So far as is possible, the policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators.

17.3 It is likely that certain aspects of the activities of a sex establishment will be licensed under the Licensing Act 2003 e.g. a bar in a lap-dancing club. We will not normally attach conditions to a sex establishment licence, which can just as well be attached to a premises licence under the 2003 Act.

## **18. Exchange of information**

18.1 We may from time to time exercise our powers under section 115 of the Crime & Disorder Act 1998 to exchange data and information with the police and other partners to fulfil our statutory objective of reducing crime in the area.

18.2 Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

## **19. Administration, exercise and delegation of functions**

19.1 The functions of the Licensing Authority under the 1982 Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

19.2 Many of the decisions and functions will be largely administrative in nature. In the interests of speed, efficiency and cost-effectiveness these will, for the most part, be delegated to officers.

## **20. Fees**

20.1 Fees are set each year. Details are available from the licensing team and on our website <http://www.cambridge.gov.uk/sex-establishments>  
We charge a separate fee for applying/ varying/ transferring a licence and renewing a licence.

## 21. Effective Date and Review

21.1 This policy statement will take effect from October 2016.

21.2 The policy statement will be kept under review and will be subject to further review and consultation.

## 22. Contact details, advice and guidance

22.1 Applicants can obtain further details about sex establishment licensing application processes, including application forms and fees from:

website: [www.cambridge.gov.uk](http://www.cambridge.gov.uk)

e-mail: [licensing@cambridge.gov.uk](mailto:licensing@cambridge.gov.uk)

telephone: 01223 457879

fax: 01223 457909

Cambridge City Council, PO Box 700,  
Cambridge, CB1 0JH

in person: Customer Service Centre, Mandela House, 4, Regent  
Street, Cambridge, CB2 1BY (Monday to Friday 08:00-  
18:00)

Electronic applications can also be made online via the GOV.UK  
website:

[www.gov.uk/apply-for-a-licence/sex-shop-and-cinema-licence/cambridge/  
apply-1](http://www.gov.uk/apply-for-a-licence/sex-shop-and-cinema-licence/cambridge/apply-1)

22.2 This policy can be made available in large print on request and similarly translations can be made available in a variety of languages. Please contact us for further help or assistance.

22.3 Informal discussion is encouraged prior to the application process in order to resolve any potential problems and avoid unnecessary hearings and appeals.