

## **Local Government (Miscellaneous Provisions) Act 1982 Guidance Note – Sex Establishment Licensing**

### **Background**

On 6 April 2010, section 27 of the Policing and Crime Act 2009 became operative. This legislation reclassified lap dancing clubs and other similar venues as ‘sexual entertainment venues’; a sex establishment under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allowed Local Authorities who adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops. City of York Council adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council.

A sex establishment is either a sex shop, cinema or a sexual entertainment venue.

- A sex shop is any premise where articles are sold (to a significant degree), which can be used in connection with, or to promote, sexual activity.
- A sex cinema is any premise used (to a significant degree) for showing films that are concerned primarily with, or relate to, or are intended to stimulate sexual activity.
- A sexual entertainment venue is a premise where relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment is any live performance or any live display of nudity, which is of such a nature that it is provided, solely or principally, for the purpose of sexually stimulating any member of the audience.

### **Statement of licensing policy**

The City of York Council Policy for the Determination of Applications for Sexual Entertainment Venues sets out the principles the Council will use to exercise its functions under the Local Government (Miscellaneous Provisions) Act 1982 as amended. Applicants for sex establishment licences are expected to read the policy before making their application and the council will refer to the policy when making its decisions.

### **Standard conditions applicable to sex establishment licences**

Applicants should be aware that City of York Council’s ‘Standard Conditions Applicable to Licences issued to Sex Establishments’ will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

### **Interaction with other licensing regimes**

Possession of a sex establishment licence does not remove the need for the other permissions needed to operate the business. As well as a sex establishment licence, most sexual entertainment venues will require a licence issued under the Licensing Act 2003 if they wish to sell or supply alcohol. Applicants will also need to ensure that the appropriate planning permission is in place.

### **Applying for a new licence**

In applying for a licence applicants will need to complete the stages listed below. After a 28 day notice period, the application will be placed before a licensing sub-committee for a decision to be made. Any relevant objections received will be considered by the sub-committee in line with City of York Council’s Policy for the Determination of Applications for Sexual Entertainment Venues.

A sex establishment licence remains in force for one year. Towards the end of the year licence holders will be able to apply for the renewal of the licence, which will be subject to the same application process as a new licence.

### **The application process**

1. Complete the relevant application form.
2. Ensure that the completed application form is accompanied by a plan of the premises (see "Plans" below) if required, and the relevant fee. Any cheques to be made payable to City of York Council.
3. Send the completed application to City of York Council Licensing Section, Hazel Court EcoDepot, James Street, York, YO10 3DS.
4. On the same day as sending the application to the Council, send the Notice of Application to North Yorkshire Police.
5. Upon sending the application to the Licensing Authority and the Police, the application will need to be advertised, in the manner as set out below (Advertising your application).

### **Plans**

The plan of the premises must show:

1. The layout of the premises showing stage, bars, cloakroom, WCs, performance area, booths, dressing rooms etc.
2. The extent of the boundary of the premises.
3. The extent of the public areas.
4. Uses of different areas in the premises eg performance areas, reception, staff facilities.
5. Structures or objects (including furniture) which may impact on the ability of individuals to use exits or escape routes without impediment.
6. Location of points of access to and egress from the premises.
7. Any points used in common with other premises.
8. Position of CCTV cameras.
9. Where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor.
10. The location of any steps, stairs, elevators or lifts.
11. The location of any public conveniences, including disabled WCs.
12. The location and type of any fire safety and other safety equipment.
13. The location of the kitchen (if applicable).
14. The location of emergency exits.

Unless agreed with City of York Council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

### **Advertising your application**

A notice must be clearly displayed on or at the premises to be licensed. The notice must be displayed for 21 consecutive days. The 21 days run from the day the application is made to the Council. If the premises is within a complex or its own grounds and the public are unable to view the notice from the exterior of the site then the notice should be displayed at the nearest public thoroughfare (such as the entrance to the complex/site) so the notice is easily read by the passing public.

Once an application is received an enforcement officer will visit the premises to inspect the notices. If it is found that the notices or their positioning does not meet requirements you may be asked to redisplay the notices.

A notice about the application must be published in a local newspaper which circulates in the area where the premises is located. The notice should appear in the paper within 7 working days of the application being sent to the Council.

The applicant should complete a declaration stating that the site notice is in place and should also forward a copy of the newspaper advert as soon as possible.

### **Determining the application**

We will use the following criteria when considering your application:

- your suitability
- the location and situation of the premise in relation to other premises in the area
- whether the number of sex establishments in that locality is equal to, or exceeds the number that we consider appropriate for the area.
- any relevant objections to your application.

### **Objecting to a licence application**

Under the Act anyone can object to a sex establishment application and on any grounds. The grounds on which the Council may refuse a licence are:

A licence cannot be granted to:

1. Someone under the age of 18.
2. Someone who has been disqualified because they are unsuitable as they have been convicted of an offence or for any other reason.
3. Someone who has applied on behalf of someone who would not get a licence in their own right.
4. Someone who has not been resident in the UK for at least six months.
5. A non-UK company.
6. Someone who has already had an application refused in the last 12 months.

In addition the Council can refuse to grant or transfer a licence if it considers that it would exceed the appropriate number of licences for that locality or that the grant or renewal of the licence would be inappropriate having regard to;

1. The character of the locality,
2. The use to which any premises in the vicinity are put; or
3. To the layout, character or condition of the premises.

Objections must be made in writing and sent to the Council within 28 days of the licence application being made.

The exact definitions for refusal are laid out in paragraph 12 of Schedule 3 – Control of Sex Establishments of the Local Government (Miscellaneous Provisions) Act 1982. Objections should not be based on moral grounds or values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12.

If you are aggrieved by a refusal to be granted a licence, or by any condition to which the licence is subject, you may appeal to the Magistrates Court. An appeal against a decision made by the Magistrates Court may be appealed to the Crown Court.

If you require any further information regarding this subject please contact the Licensing Section on York (01904) 552512 or email [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk).

Details regarding other services provided by the Licensing Section can be found on the City of York Council website [www.york.gov.uk](http://www.york.gov.uk).


This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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