



London Borough of Hounslow Sex Establishment Licensing Policy

Introduction

This policy sets out the council's approach to regulating Sex Establishments and the procedure that it will adopt in relation to applications for Sexual Entertainments Venue Licences, Sex Establishment Licences and Sex Cinemas

The policy is intended as a guide to applicants, licence holders, and people who want to object to applications and to members of the Licensing Committee who are responsible for determining contested applications. It also aims to guide and reassure the public and other public authorities, ensuring transparency and consistency in decision making.

When the decision making powers of the council are engaged, each application will be dealt with fairly on its own merits on a case by case basis, but this policy gives prospective applicants an early indication of whether their application is likely to be granted or not. It also provides prospective applicants details of what is expected of them should an application be made.

The legal controls for sex establishment premises are contained in the Local Governmental (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act 2009.

There are 3 types of sex establishments which fall into the licensing regime

Sex Shops
Sex Cinemas
Sexual Entertainment Venues

The role of the council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with moral standing. The council recognises that Parliament has made it lawful to operate a Sex Establishment and such businesses are a legitimate part of the retail and leisure industries.

Policy Considerations

Existing Licensed Premises

The council has had the ability to licence sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982 for many years.

Currently there are no licensed Sex Shops, Sex Cinemas or Sexual Entertainment Venues in the borough.

Any premises operating as a Sexual Entertainments Venue prior to 5th June 2011 could do so under the provisions of the Licensing Act 2003 which has now subsequently been amended.

The council adopted schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 5 June 2011 so that it can:

- set a limit on the number of Sexual Entertainment Venues premises that is appropriate for the borough, and
- licence Sexual Entertainment Venues

Sexual Entertainment Venues are those that regularly provide lap dancing and other forms of live performance or live display of nudity.

Establishments that hold events involving full or partial nudity less than once a month may be exempt from the requirements to obtain a sex establishment licence and applicants are advised to contact the Licensing Team for advice.

Limits on the number of licensed premises

The council adopted a policy on 5th June 2011 to limit the number of sexual entertainment venues in the borough and that limit is nil There are currently no premises with a Sex Establishment or Sexual Entertainment Venue licence. The council will not apply this limitation when considering applications for premises that were already trading with express permission for the type of entertainment which is now defined as sexual entertainment on the date that the licensing provisions were adopted if they can demonstrate in their application:

- High standards of management
- A management structure and capacity to operate the venue
- The ability to adhere to the standard conditions for sex establishments [See Appendix A]

The Council will consider each application on its merits although new applicants will have to demonstrate why the Council should depart from its policy.

Location of premises

As previously stated in the policy the council will treat each application on its own merits however applicants should be aware that the council will take into consideration the location of the proposed premises and its proximity to:

- residential accommodation,
- schools, nurseries or other premises (including parks and recreational areas) substantially used by/for children and/or young people under the age of 18 years

- premises used by vulnerable persons
- youth, community and leisure centres and similar
- religious centres and public places of worship
- access routes to and from premises and property listed above
- existing licensed premises in the vicinity

Impact

In considering applications for the grant of new or variation applications the council will assess the likelihood of a grant causing impacts, particularly on the local community. The council will take the following matters into account:

- the type of activity
- the duration of the proposed licence
- the proposed hours of operation
- the layout and condition of the premises
- the use of other premises in the vicinity
- the character and locality of the area
- the applicants previous knowledge and experience
- the applicants ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers
- crime and disorder issues
- cumulative impact of licensed premises, including hours of operation
- the nature and concerns of local residents
- any evidence of complaints about noise or disturbance caused by premises
- planning permission and planning policy considerations

In considering applications for renewal the council will take into account:

- the applicant's ability to minimise the impact of their business on local residents and businesses
- any reports about the licensee and management of the premises received from residents, council officers or the police
- whether appropriate measures have been agreed and put into place to mitigate any adverse impacts
- any evidence of complaints about noise or disturbance caused by Premises

In considering applications for transfer the council will take into account:

- the applicants previous knowledge and experience

- the applicants ability to minimise the impact of their business on local residents and businesses
- any evidence of the operation of existing /previous licences held by the applicant
- any reports about the applicant and management of the premises received from residents, council officers or the police
- the ability of the proposed management structure to deliver compliance with licensing requirements, policies on staff training and the welfare of performers.

Applicants

Where appropriate, the council expects applicants to:

- demonstrate that they are qualified by experience
- have an understanding of general conditions
- propose a management structure which will deliver compliance with operating conditions for example through:
 - Management competence
 - Presence
 - Credible management structure
 - enforcement of rules internally – training & monitoring
 - a viable business plan covering door staff, CCTV
 - policies for welfare of performers
 - demonstrate that they can be relied upon to act in best interests of performers through remuneration, facilities, protection, physical and psychological welfare
 - have a transparent charging scheme with freedom from solicitation
 - a track record of management compliant premises or employ individuals with such a track record

New applicants may be invited for interview by the Licensing Officer and /or Police Officer prior to the application being referred to the Licensing Committee for determination.

Applications from anyone who intends to manage the premises on behalf of a third party will be refused.

Premises appearance and layout

The council expects premises to:

- have an external appearance which is in keeping with the locality
- prevent the display outside the premises of photographs or other images which may be construed as offensive to public decency
- adequate lighting to allow monitoring of all public areas

- surveillance by CCTV
- surveillance by CCTV of all private booths

The Application Process

Making a new, renewal, transfer or variation application

The Act requires the council to refuse all application if the applicant:

- Is under the age of 18 or
 - Has had their licence revoked in the last 12 months or
 - Is not resident in the UK, or has not been a UK resident for the last 6 months or
 - Has been refused an application in the last 12 months
 - Is a corporate body which is not incorporated in the UK
- Applications forms and details of current fee levels are available:

- on the councils website (www.hounslow.gov.uk)
- from the Licensing Team on 020 8583 5555
- by email to licensing@hounslow.gov.uk

The council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application for a new licence.

In order for the application to be valid the applicant must:

- Submit the completed application form
- Pay the application fee
- Submit a floor plan, drawn to scale showing the layout of the premises (new applications only)
- Submit a location plan (1:1250) showing the location of the premises (NB. plans will not required for transfers nor renewal applications)
- 2 passport size photos of the applicant where the applicant is an Individual/partnership rather than a limited company
- 2 passport size photos of the manager if applicant is a limited company (NB: photos will only be required if there has been a change of applicant or manager since the last application)
- Display an A4 notice at the proposed premises for 21 days following the date that the completed application is submitted setting out the application details. The notice must be in a prominent position so that it can be easily read by passers by. A notice template will be provided with the application form.
- Publish an advertisement in the local newspaper within 7 days of submitting the application (An advertisement template will be provided with the application form).

The Licensing Authority does not specify in which local newspaper an applicant must place the Public Notice, however, the Licensing Authority will

only accept Public Notices that are placed in newspapers that have a good circulation in the area of where the premises is situated and is available to all communities.

The Newspaper must not be one that is available to individual communities

Applicants who are unsure which newspaper to use to publish its Public Notice are advised to contact the Licensing Team beforehand, to confirm that it is acceptable.

On receipt of a valid application the council will consult:

- All responsible authorities listed under the Licensing Act 2003 including the Metropolitan Police
- Building Control
- Ward Councillors

For new and variation applications the council will also consult:

- Development Control Team
- The Council will send consultation letters to all businesses and residents as identified by its GPS system that are situated within a radius of 100 metres of the subject premises.
- In the case of residential premises only, if there are no such premises within a 100 metre radius, the distance will be extended to 200 metres and will continue to be extended in 100 metre increments (to a maximum distance of 500 metres) until the nearest residential premises have been identified. If having reached a radius of 500 metres, there are still no residential premises then no consultation letters will be sent to any resident.

Authorised Officers from the council, Fire Brigade, and Police Officers may choose to inspect the premises and require works to be carried out to bring the premises up to the required standard before the premises can be used for licensable activities.

The council will not determine an application for a licence unless the applicant allows an authorised officer reasonable opportunity to enter the premises to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

Representations

Anyone wishing to object to the application must submit a representation, in writing, within 28 days of the date that the valid application was received by the council.

Representations can either be submitted via

- Our website www.hounslow.gov.uk
- Email to licensing@hounslow.gov.uk

- Post to Licensing Team, Civic Centre, Lampton Road, Hounslow TW3 4DN
The council prefers to receive electronic representations.

A person making a representation must clearly state their name, address, the grounds for objecting to the application and indicate whether they consent to having their name and address revealed to the applicant.

Copies of representations will be made available to the applicant 14 days before the committee hearing.

The council will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the Act).

Late representations may be admissible at the discretion of the council if there is sufficient reason to indicate that applicants will not be significantly prejudiced by the decision to allow a late objection to be considered. In making such a decision the council will take into account:

- The length of the delay
- The amount of time that the applicant has to consider the representation before the hearing date.
- If other representations have been received before the deadline

Determining an application

When considering applications, the Council will have regard to:

- (a) the Local Government (Miscellaneous Provisions) Act 1982;
- (b) any supporting regulations;
- (c) this Statement of Licensing Policy.

This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

When determining applications, the Council will take account of any comments made by the Chief Officer of Police and any objections made.

In all cases, the Council reserves the right to consider each application on its own merit

Appeals

The Local Government (Miscellaneous Provisions Act) 1982 does not give anyone an automatic right to make an appeal to the magistrates if they are aggrieved by a decision in relation to the grant or refusal of an application or

by the imposition of any conditions. Please contact the Licensing Team for more information regarding the appeal.

Grounds for refusing an application

The Council must refuse to grant or transfer a licence 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.

The Council may refuse:

- (f) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below;
- (g) an application for transfer of a licence on either or both of the grounds shown in paragraph 3 (a) and (b) below.

The grounds for refusal are:

- (h) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (i) that 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;
- (j) that the number of sex entertainment venues in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality;
- (k) that the grant or renewal of the licence would be inappropriate having regard to:
 - i. the character of the relevant locality;
 - ii. the use to which any premises in the vicinity are put; or
 - iii. the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Additional information and advice

Please contact:
Licensing Team
Civic Centre
Lampton Road
Hounslow
TW3 4DN
licensing@hounslow.gov.uk
020 8583 5555

This Policy is effective from [date] and will be reviewed in 2018.

Conditions

Access to premises

Access must be afforded at all reasonable times to authorised officers of the Council and the police and fire services.

A policy of requiring valid identification from any person attempting to gain entry shall be adopted so that the licence holder shall be aware of who is in attendance at the premises at all times.

The identification of customers upon entry shall be used to ensure that no minors (any person under the age of 18 years) are admitted to any part of the premises at any time.

A recognised and approved ID scheme, such as Challenge 25/PASS is to be operated at the premises and signage is to be prominently displayed to that effect.

Signage must be prominently displayed at the entrance and within the premises stating that patrons are liable to be searched as a condition of entry and at any time they are on the premises.

Fire escapes, service doors and loading bays etc are not to be used as a point of entry or exit to the premises by any patron at any time with the exception of a bona fide emergency and the nature of that emergency will be recorded in the incident log

Any person who is refused entry for whatever reason must be asked to leave immediately.

CCTV and Security

A suitable CCTV system shall be installed and maintained at the premises in accordance with the following:

The CCTV system is to record throughout the whole of each period the premises are open to the public.

The system will include coverage of all public entrances and exits from the premises, the outside frontage of the premises and all internal areas that are frequented or accessed by members of the public.

The system will be capable of recording for a minimum of 31 days.

Recordings must be stored and retained for a minimum of 31 days and made

available to the Police or an authorised officer of the Council upon demand.

There is to be a trained and competent person on duty at all times the premises is open to the public who is able to produce data from the CCTV system upon the request of a Police Constable or authorised officer of the Local Authority.

Doorstaff

Doorstaff must be employed as required under any specific condition of this licence, however, there shall be one member of doorstaff personnel whose responsibility it is to monitor all private areas or booths at all times the premises are open to the public.

Conduct and Management of the Premises

Where the licence holders are a body corporate or unincorporated body any change in director, company secretary or other person responsible for management of the premises/company is to be notified to the Licensing Authority, in writing within fourteen days of such change. Such written details as the Licensing Authority may require in respect of any new director, secretary or manager are to be furnished within fourteen days of a written request made by the Licensing Authority.

The name of the person responsible for the management of the premises shall be permanently displayed within the premises and shall be readily visible at all times.

The licence holder shall maintain a daily register. It must record the name and address of any person who is to be responsible for managing the premises in his/her absence and the names and addresses of all those employed at the premises. The register is to be completed each day within 1 hour of the premises opening for business and is to be available for inspection by the Police and by any authorised officer of the Council.

The premises licence holder shall retain control over all portions of the premises and shall not let, license or part with possession of any part of the premises at any time.

A dress code shall be implemented at the discretion of the licence holder, however, that code shall ensure that no hoodies, helmets or face coverings shall be permitted to be worn at any time whilst the premises is open to the public.

The premises must not be opened to the public at any time other than those stated on this licence.

A taxi firm is to be engaged to pick up patrons requiring taxis from the rear

loading bay area. A record of the customer's name, destination and the taxi registration will be recorded and patrons must be shown to any waiting taxi by a steward.

A cloakroom policy shall be emplaced to ensure that all outdoor coats are handed in upon entry

The licence holder or a responsible person nominated by the licence holder shall ensure that if a local pub watch is in operation these will be attended and feedback shall be addressed and treated accordingly.

No person under the age of 18 shall be admitted to the premises or employed in the premises at any time and notices shall be displayed in a conspicuous position at the entrance stating 'no person under the age of 18 shall be admitted to any part of these premises. Entertainment within these premises involves a form of nudity. If you are likely to be offended, please do not enter'.

All staff must undergo a strict policy of vetting to verify their age and a written record must be kept of their details, which must be made available to a Constable or authorised officer of the Licensing Authority upon request.

The licence holder, or responsible person in charge of the premises, shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or otherwise exercising their calling.

Neither the licence holder nor any employee, nor any other person shall seek to obtain custom for the premises by means of personal solicitation anywhere in the London Borough of Hounslow area.

No change of use of any portion of the premises from that approved by the Licensing Authority shall be made without the written consent of the Licensing Authority.

There shall be displayed at each entrance to the premises notices, which clearly indicate the type of entertainment taking place therein.

There shall be no physical contact between any customer and performer before, during or after any performance. Notices outlining this shall be clearly displayed at the entrance of the premises, in each bar area and in the each private area, booth or similar.

Topless and/or nude entertainment shall be given only by the performer and/or entertainer(s). There shall be no audience participation.

The copy of the licence and these conditions shall be displayed in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.

External Appearance

No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:

- i) any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any conditions of a licence granted by the Council.
- ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing or any other matter or thing as shall have been approved, in writing by the Council
- iii) An awning or canopy or sign or notice displaying the name of the premises or similar to be affixed above the entrance to the premises in such a manner that it may be retracted, covered or rendered invisible at any time and that in any event the awning, canopy, sign, notice or similar must be retracted, covered, switched off or otherwise made invisible at all times the premises is not open to the public.
- iv) Such awning, canopy, sign, notice or similar may contain wording to identify the name of the premises and the type of premises as agreed in advance and in writing by the Licensing Authority.

The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by and shall be so provided with a partition as to ensure that the interior of the premises shall remain invisible to passers by when the entrance is open.

Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Licensing Authority but shall have suspended behind them, in a position approved by the Licensing Authority, opaque screens or blinds of a type and size approved by the Licensing Authority.

There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order.

On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:

“WARNING

Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age”

Maintenance and Repair

The licensee shall maintain the licensed premises in good order, repair and state of cleanliness at all times, which will include the need to maintain the front and rear of the premises in a clean and tidy condition

The licensee shall take appropriate measures to ensure that refuse and discarded sex articles or waste stock from the premises are kept secure from public accessibility pending removal from site.

The licensee shall comply with any fire prevention and safety measures that may be required by the Fire Authority.

State Condition and Layout of the Premises

Save in the case of emergency, no access shall be allowed through the premises to any unlicensed premises adjoining or adjacent.

Suitable controlled access to any unlicensed premises shall be maintained. Any mechanical device will be maintained in good working order.

No fastenings of any description shall be fitted to any booth or cubicle within the premises (this does not apply to toilet cubicles).

Literature

The licence holder shall, without charge, display and make available within the premises such free literature on counselling of matters relating to sexual problems as may be published by the Family Planning Association and by any other such organisations as may be specified by the Licensing Authority or the Police. Such literature is to be displayed in a prominent position approved by the licensing authority adjacent to all cash collection points within the premises.

General

A cash machine shall be made available for customer use within the premises.

A hand written bound (not loose leaf) incident book is to be maintained on the premises for a minimum of one year.

All incidents of crime are to be entered in the incident log.

All refusals of sales and ejections from the premises are to be entered into the incident log.

The incident log is to be produced upon request of a Police Constable or authorised officer of the Local Authority.

No part of the premises shall be let.

Any breach of the conditions above may result in the licence being revoked and the licensee being prosecuted, where appropriate.

