



CITY OF
Lincoln
COUNCIL

SEX ESTABLISHMENT LICENSING POLICY

1. Introduction

1.1 The City of Lincoln Council is situated in the County of Lincolnshire, which contains 7 District Councils in total. The Council area has a population of 88,400 making it the fourth largest in the County in terms of population. In terms of area it is the smallest covering 3569 hectares. The Council's area is mainly urban.

2. General Information

2.1 On 1st April 2011 the City of Lincoln Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) so that it can licence sex shops, sex cinemas and sexual entertainment venues in the City. In this policy, we refer to these as "sex establishments" unless otherwise stated.

2.2 The Council does not make a moral stand in adopting this policy. It recognises 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 a Licensing Authority to administer the licensing regime in accordance with the law.

2.3 In developing this Policy, we took into account the legal requirements of the Licensing Act 2003 (the 2003 Act) and our duties under:

- a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the City.
- b) The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- c) The Provision of Services Regulations 2009 to ensure requirements are:
 - i. Non-discriminatory.
 - ii. Justified by an overriding reason relating to the public interest.
 - iii. Proportionate to that public interest objective.
 - iv. Clear and unambiguous.
 - v. Objective.
 - vi. Made public in advance, and
 - vii. Transparent and accessible.

3. Objections

3.1. A wide range of people can raise objections about the grant, renewal or transfer of sex establishment licences. The persons/groups can include local residents, tenants associations, community associations and trade associations as well as Councillors and MPs. Councillors may also represent interested parties, providing they do not also sit on the

Licensing Committee determining the application in question. The Police and other responsible authorities (as defined in the 2003 Act) may be consulted on applications.

4. Relevant Objections

- 4.1 If an objection is received, the Licensing Authority officers will determine if an objection is relevant. 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 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by Officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given a written reason.
- 4.2 Objections should ideally be made in writing (unless submitted electronically), indicate the name and addresses of the person or organisation making the representation and indicate the premises to which the objection relates. Additionally, the person making the objection should clearly set out the reasons for making the objections and where possible provide evidence.
- 4.3 Where the Council receives objections it will give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the objector reveal their name or address to the applicant.

5. Definitions

- 5.1 In this Policy “sex establishment” means a sex shop, sex cinema or a sexual entertainment venue.

5.2 Sex Shop

- (1) “Sex shop” means any premises, vehicle, vessel or stall used for a business which consists 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.

5.3 Sex Article

- (1) “Sex article” means—
- (a) anything made 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; and
- (b) any article 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
- (b) to any recording of vision or sound, which—
 - (i) is concerned primarily with the portrayal of, 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
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

5.4 Sex Cinema

- (1) “Sex cinema” means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—
 - (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or
 - (b) 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.

5.5 Significant Degree

- 5.6 The phrase “significant degree” is not defined in the Local Government (Miscellaneous Provisions) Act 1982.
- 5.7 When considering if a business is selling a significant degree of sex articles thus requiring a licence, the following criteria will be considered:
 - 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; and
 - other factors which appear to be materially relevant.
- 5.8 Each case will be judged on its own merits giving regard to the above criteria.
- 5.9 Similar criteria will apply to Sex Cinemas in respect of a significant degree in showing films subject to this Schedule

5.10 Sexual Entertainment Venue

- (1) “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.
- (2) In this paragraph “relevant entertainment” means—
 - (a) any live performance; or
 - (b) any 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).

5.11 In determining whether entertainment is “relevant entertainment” each case will be judged on its own merits, but will generally apply to:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

5.12 Adult entertainment not classed as “relevant entertainment” may still require licensing under the Licensing Act 2003. Further information is available from the Licensing Team.

5.13 The use of private booths used for performances of relevant entertainment shall not be permitted otherwise than with the prior consent of the Council having considered the number, style and construction of the booths.

6. Grounds for Refusal

6.1 There are some specific grounds for refusing sex establishment licences set out in Paragraph 12 of Schedule 3 to the 1982 Act. These include where the applicant themselves are unsuitable, due to their age, domiciliary status or previous criminal convictions.

6.2 Applications for new or renewed licences can be refused where:

- a) The number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number, which we consider appropriate for that locality.
- b) The grant or renewal of the licence would be inappropriate, having regard to

- i. The character of the relevant locality, or
- ii. The use to which any premises in the vicinity are put, or
- iii. To the layout, character or condition of the premises.

7. Relevant Localities

7.1 When considering the locality, consideration shall be given to the proximity of the following:

- Residential accommodation
- Parks and children's play areas
- Other retail units (and their uses)
- Schools and nurseries
- Religious and communal buildings
- Alcohol or entertainment licensed premises

8. Duration of Licence

8.1 A licence will normally be granted for a period of one year, unless there are exceptional reasons to grant the licence for a shorter period.

9. Waiver

9.1 City of Lincoln Council may, upon application, waive the requirement for a licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

9.2 The Council does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence, except in extreme circumstances considered by its Licensing Committee.

9.3 Each application for a waiver will be considered on its own merits, however, any establishment that would normally require licensing under the provisions of the 1982 Act is unlikely to be granted a waiver other than in exceptional circumstances.

10. Application Form

10.1 An application form, including public notices, is available from the Licensing Team or via the website at www.lincoln.gov.uk

11. Fees

- 11.1 The current licence fees for a sex establishment are published annually and are available from the Licensing Team or via the council website at www.lincoln.gov.uk

12. Delegation

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for a new Sex Establishment licence		All cases	
Application for a variation of a Sex Establishment licence		All cases	
Application for a transfer of a Sex Establishment licence		Where a relevant objection has been received	Where no relevant objections have been received
Application for renewal of a Sex Establishment licence		Where a relevant objection has been received	Where no relevant objections have been received
Application for waiver from the requirement for a licence		All cases	
Setting of all fees in relation to sex establishment licences	The full Council		
Consideration of the revocation of a sex establishment licence		All cases	
Setting Policy	All cases		
Determining if an objection is relevant			All cases
Determining relevant localities	All cases		

APPENDIX I

STANDARD CONDITIONS FOR SEX SHOPS

Definition

1. In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:-
 - (i) "Sex Establishment" "Sex Cinema" "Sex Shop" "Sex Article" shall have meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
 - (ii) "Premises" means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Schedule 3.
 - (iii) "Approved of the Council" or "Consent of the Council" means the approval or consent of the Council in writing
 - (iv) "Approved" means approved by the Council in writing
 - (v) "The Council" means the City of Lincoln Council
 - (vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

General

2. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail
3. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
4. The heading notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof

Times of Opening

5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9.30 am and shall not be kept open after 8.00 pm
6. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays or any Bank Holiday or any public holidays

Conduct and Management of Sex Establishments

7. Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to 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 any new director, company secretary or manager are to be furnished within 14 days of a request in writing from the Council
8. The Licensee or some responsible person being 18 years of age or over nominated by the Licensee in writing shall be in attendance at the premises at all such times as the premises are open to the public. Prior to any such nomination or within five working days thereafter the Licensee shall supply details (including a photograph) of the person involved to the Council, who may serve notice on the Licensee that such nomination shall not be made or shall be revoked
9. The name of the person responsible for the management of a Sex Establishment be he the Licensee or a manager approved by the Council shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct
10. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex establishment in his 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 opening for business and is to be available for inspection by the Police and by authorised officers of the Council
11. The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises
12. The Licensee shall maintain good order in the premises
13. No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment
14. The Licensee 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
15. No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling
16. Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the premises
17. The Licensee shall comply with all statutory provisions and any regulations made there under.
18. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee

19. The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition

User

20. A sex Shop shall be conducted primarily for the purpose of the sale of goods by retail
21. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
22. No change from a Sex Cinema to a Sex Shop or from the Sex Shop to a Sex Cinema shall be effected without the consent of the Council
23. Neither Sex Articles nor 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

Goods available in Sex Establishments

24. All Sex Articles and other things displayed for sale hire exchange or loan within a Sex Shop shall be clearly marked to show persons inside the Sex Shop the respective prices being charged
25. All printed matter offered for sale hire exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment
26. The Licensee shall comply with all Acts of Parliament governing the sale of any recorded media capable of reproducing pictures, whether moving or otherwise, from the premises. Furthermore, the Licensee should be aware that any conviction of the Licensee in respect of the foregoing may lead to the revocation of the Licence.
27. The Licensee shall without charge display and make available in the Sex Establishment such free literature on Counselling on matters related to sexual problems as may be published by the Family Planning Association and by other such similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

External appearance

28. 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 condition of a licence granted by the Council
 - (ii) such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council
29. The entrances to the premises shall be of material or covered with a material which will render the interior of the premises invisible to passers by
30. Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them in a position and at an attitude approved by the Council opaque screens or blinds of a type and size approved by the Council. This Regulation shall not be construed as lessening the obligation of the licensee under Regulation 28 hereof

State condition and layout of the premises

31. The premises shall be maintained in good repair and condition
32. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public
33. The number size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-
- (i) all such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit"
 - (ii) doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "private"
 - (iii) save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order
35. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled
36. 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

37. Alterations or additions either internal or external and whether permanent or temporary to the structure lighting or layout of the premises shall not be made except with the prior approval of the Council
38. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council
39. The Licensee shall take all reasonable precautions for the safety of the public and employees
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council
41. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliance shall be maintained in proper working order and shall be available for instant use

Conditions for Sexual Entertainment Venue

1. The term 'relevant entertainment' has the same meaning as in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
2. The term performer means a performer of relevant entertainment.
3. Relevant entertainment shall only take place between *** (subject to individual application)
4. Relevant entertainment shall be given only by performers who are engaged exclusively for that purpose.
5. No performer shall be allowed to work if they appear to be under the influence of intoxicating liquor and/or drugs.
6. There shall be no physical participation between performers or any member of the audience and any performer (other than a normal socially acceptable greeting such as a handshake, light kiss on the cheek or placing of a hand on a shoulder or waist).
7. The licence holder, management or anyone concerned in providing the relevant entertainment shall not encourage or permit the encouragement of the audience to throw money or other gratuities to the performers.
8. No performer shall accept or give any telephone number or business card or notes to or from members of the audience.
9. There shall be no private booths provided on the premises for the use of a performance of relevant entertainment without the prior consent of the Council.
10. Pole dancing shall be permitted (specify location)
11. Lap dancing shall take place on (specify location).
12. Performers shall be provided with changing room(s), which shall be located so as to be separate and apart from public facilities.
13. No person other than performers and authorised staff shall be permitted in the changing room(s).
14. A minimum A4 size sign with the house rules clearly legible shall be securely displayed and suitably protected against any theft, damage or defacement, in at least the following locations; at the point of entry, point of payment, above each urinal, at each bar, in the performers' changing room and at the entrance to the lap dancing area.

15. The licence holder shall ensure that each performer is to be trained to be fully aware of the House Rules and the conditions contained within them.
16. No still or moving photographic or video recordings other than by CCTV monitoring equipment installed for crime prevention or public safety purposes shall be made of any performance of 'relevant entertainment'.
17. There shall be no images of nakedness, nudity or of any description of a sexually explicit nature to cause offence as to the nature of the entertainment being held on the premises on any external advertising.
18. Performances of relevant entertainment shall only be the subject of any advertising involving the distribution of leaflets, promotion by canvassers or by touting in the street subject to written approval by Lincolnshire Police and on the undertaking that the premises licence holder shall ensure that all associated litter is collected at the end of each days opening hours with any area defined and agreed with Lincolnshire Police.
19. The relevant entertainment shall not be visible from the street.
20. The area set aside for performances of lap dancing shall be so screened from general view.
21. Any person who can be observed from outside the premises shall be decently dressed.
22. No person either resident, staff, performer, entertainer, visitor or customer under the age of 18 years shall be allowed in any part of the premises whilst a relevant entertainment is being performed or at any time whilst a rehearsal or audition for such entertainment is being conducted.

The following suggested conditions in respect of the provision of CCTV, Door Supervisors and proof of Age are optional in so far as any existing licence for the premises may have similar conditions attached to it. In those cases where conditions are inconsistent with or less onerous than, the conditions in the licence granted under the 1982 Act they shall be read as though they have been deleted.

23. A CCTV system shall be installed and (or alternately where such a system is already installed) shall be maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police and must be 'Fit for Purpose' by complying with the following conditions;
 - a) A monitor and the recording equipment shall be located in a secure room or other location, which prevents unauthorised

- access, tampering or removal of images.
 - b) The system shall be used to record during all hours that the premises are open to the public.
 - c) Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
 - d) The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be endorsed with the accurate relevant time and date.
 - e) The system shall be capable of monitoring and recording satisfactory colour images from each and every camera continually e.g. Multiplex facility.
 - f) The system must be capable of monitoring and recording entrances and exits, and any areas not easily observed by staff, including access areas to toilet facilities.
 - g) The recordings shall be provided to officers of Lincolnshire Police on request.
 - h) Officers of the Lincolnshire Police shall be permitted access to the system at any reasonable time.
 - i) All aspects of the CCTV system must comply with the Data Protection Act 1998.
 - j) Signage shall be clearly displayed informing customers that a CCTV system is in operation and recording on the premises.
 - k) During all hours that the premises are open or licensable activities are permitted, a member of staff will at all times be on the premises and capable of operating the system in its entirety.
24. There shall be provided door supervisors to such a number as agreed in writing with Lincolnshire Police sufficient to control the entry of persons to the premises and for the keeping of order in the premises when they are used for the provision of relevant entertainment.
25. This arrangement will be subject to review at the instigation of either party (one 'party' being Lincolnshire Police and one 'party' being the Premises Licence Holder).
26. Door supervisors provided at the premises will be operated in accordance with the following conditions;
- a) There shall be a minimum of one SIA registered door supervisor inside the building on each floor level where any relevant entertainment is taking place.
 - b) There shall be a minimum of (*) SIA registered door supervisor stationed at the lap dancing area at all times when that area is in use for relevant entertainment.
 - c) There shall be a minimum of (*) SIA registered door supervisors at each entrance to the premises when the premises are being used for any relevant entertainment on (88 days).
 - d) A record/log book shall be kept on the premises of every person employed on the premises as a door supervisor.

- e) The record shall contain the following details:-The door supervisor's name; His/Her Security Industry Authority Licence Number
 - f) The time and date he/she commenced and concluded their duty.
 - g) The door supervisors shall sign each entry.
 - h) A person authorised by the licence holder shall also endorse each entry as having checked the authenticity of the individual door supervisor.
 - i) Each Door supervisors licence number will be verified by the person authorised in '(h)' above or their agent using the Internet SIA website, on the occasion of each door supervisors initial employment at the premises. Thereafter a weekly check shall be carried out to ensure the licence status remains unchanged.
 - j) This verification check will be recorded and signed appropriately by the Person authorised in '(h)' above or their agent.
 - k) That record shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.
 - l) Each entry shall be retained for a period of 24 months from date of completion.
 - m) Door supervisors will remain outside the premises until at least after the last customer/performer has left the premises.
 - n) Door supervisors to control the queue to the premises to ensure that customers are advised of the amount of time they are going to have to wait to gain entry and to prevent any customers who have behaved in such a way as to cause a public nuisance or disturbance from entering the premises.
27. There shall be in place for the premises a written policy to prevent access to the premises of persons under 18 years of age.
- a) That policy shall include a requirement that any person who appears to be under the age of 18 years to produce one of the following forms of identification:
 - A recognised proof of age card accredited under the British Retail Consortiums Proof of Age Standards Scheme (PASS)
 - Photo driving licence
 - Passport
 - Any other means of identification approved and accredited in writing by Lincoln Police Licensing Office.