

DRAFT

**Hammersmith and Fulham Sex Establishment Licensing  
Policy**

## **Contents**

1. Introduction
2. Definition
3. Other Definitions
4. Policing and Crime Act 2009
5. Premises that are not sexual entertainment venues
6. Relevant Locality
7. Existing Sex Establishment Premises
8. Renewal
9. Variation
10. Refusal of a licence
11. Schedule of Standard Conditions
12. Fees
13. Public Register

# DRAFT

## 1. Introduction

This document contains the policy of Hammersmith and Fulham Council on the regulation of Sex Establishments. This policy also encompasses Sexual Entertainment Venues, further to the Council adopting an amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which reclassified these venues.

The scope of the policy covers new applications, renewal applications, transfer applications and variation applications for all types of sex establishments. A sex establishment licence shall remain in force for up to one year, or for a shorter period should the licensing authority think that it is appropriate.

## 2. Definition

In this policy the following expressions have the meaning set out below:

- 2009 Act – The Policing and Crime Act 2009
- 1982 Act – The Local Government (Miscellaneous Provisions) Act 1982
- 2003 Act – The Licensing Act 2003
- Section 27 – Section 27 of the Policing and Crime Act 2009
- Schedule 3 – Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982

## 3. Other Definitions

### **Sexual Entertainment Venue (SEV):**

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

### **Relevant entertainment:**

The meaning of '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)

The definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood :

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

### **Sex Establishments:**

Sex Cinema, Sex Shop or SEV

# DRAFT

## **Sex Shop:**

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

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

## **Sex Cinema:**

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.

(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.

## **Sex article:**

(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) anything:

i) 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  
ii) to any recording of vision or sound, which;

A) 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

B) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

#### 4. Policing and Crime Act 2009

Section 27 of this Act introduced a new type of sex establishment called 'sexual entertainment venue'. This new category allows the Council to regulate lap dancing clubs and other similar venues under Schedule 3.

Previously a sex establishment licence was not usually required for striptease or lap dancing venues, as the relevant permissions for adult entertainment would have been included on a Premises Licence issued under the Licensing Act 2003.

#### 5. Premises that are not sexual entertainment venues

Paragraph 2A (3) of Schedule 3 sets out those premises that are not sexual entertainment venues and these include sex shops and cinemas and those premises that provide relevant entertainment on an infrequent basis. Those premises that provide infrequent relevant entertainment will continue to be regulated under the 2003 Act either by virtue of a premises licence or club premises certificate or a temporary events notice.

#### 6. Relevant Locality

Paragraph 12(3)(c) and 12 (3)(d) of Schedule 3 allow local authorities to refuse applications on the basis of "relevant locality". As such a licence can be refused if when a licence application is considered the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority would consider appropriate for that locality.

Case law has determined that it is inappropriate for the Council to treat the whole of Hammersmith & Fulham as a relevant locality. However, the Council has determined that it is appropriate to consider each area type as a relevant locality and has considered, in respect of each area, the number of sex establishments that it believes to be an appropriate number for that area.

Although the Council will look to its policy for guidance on applications, the information in this document will not prevent any individual application from being considered on its merits at the time the application is made.

Ward	Sex Shops	Sex Cinemas	Sexual Entertainment Venues
Collage Park and Old Oak	0	0	0
Wormholt and Whitecity	0	0	0
Shepherd's Bush Green	0	0	0
Askew	0	0	0
Ravenscourt Park	0	0	0
Hammersmith Broadway	0	0	1
Addison	0	0	0
Avonmore and Brook Green	1		1 (Olympia)

## DRAFT

Fulham Reach	0	0	0
North End	0	0	0
Fulham Broadway	0	0	0
Munster	0	0	0
Palace Riverside	0	0	0
Town Ward	0	0	0
Parsons Green and Walham	0	0	0
Sands End	0	0	0

In addition to the above chart the Council has decided that it would be inappropriate to issue a sex establishment licence within the “relevant locality” of the following :

- Purely or primarily residential accommodation
- Schools, play areas, nurseries, youth clubs, children’s centres or similar places
- Access routes to and from schools, play areas, nurseries, children’s centres or similar premises
- Places of worship
- Community facilities or public buildings including, but not limited to, swimming pools, leisure centres, public parks, youth centres/clubs and sheltered housing.
- Historic buildings or tourist attractions

The Council would also consider the following factors when deciding if an application were appropriate:

- Cumulative adverse impact of existing sex related licensed activities in the vicinity of the proposed premises
- Proximity to areas with the highest levels of recorded crime
- Whether the premises has met the relevant planning requirements
- Whether the applicant is fit and proper to hold the licence. This may include considering the operation of existing or previous licences held by the applicant, and/or any reports received about the applicant from the police or other sources.

### **7. Existing premises providing ‘relevant entertainment’**

When considering applications during the transition period from existing premises providing ‘relevant entertainment’, the Council will continue to take into account the ‘appropriateness’ of the locality as set out in the above paragraphs.

However, the Council would also consider how the venue had operated previously under their licence. These considerations would include the number of complaints received by the Council and previous compliance with the terms and conditions of their licence during

## DRAFT

licensing inspections. The Council would also check with other responsible authorities such as the Police and Environmental Protection to try and understand how effectively the premises had been managed in the past.

Experience of operating a Sex Establishment premises previously within Hammersmith and Fulham would also be taken into account by the Council. For example, a well run premises which had been the subject of very few complaints previously would be considered favourable over a new operator with no track record in the borough.

### **8. Renewal of a licence**

Where an application is made to renew a licence for the same activity, hours of operation and conditions as previously licensed, there will be a presumption to grant the renewal application. However, the Council will take into account:

- Levels of recorded crime and disorder in the area
- Evidence of past demonstrable impacts from the operation of the premises on the safety and amenity of local residents
- Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

### **9. Variation or transfer of a licence**

Where an application is made to vary a licence in terms of the activity, hours of operation or certain conditions as previously licensed or transfer a licence to another person (whether on renewal or not), the Council will take into account the criteria set out in the above mentioned points.

### **10. Refusal of a licence**

Notwithstanding the factors mentioned in the paragraphs above the Council would **not** be able to consider granting a licence in the following circumstances :

- To a person under the age of 18; or
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of Hammersmith and Fulham Council within the last 12 months; or
- 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
- To a body corporate which is not incorporated in an EEA State; or
- 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.

## DRAFT

The Council would **consider** refusing a licence where :

The applicant is unable to hold the licence by reason of having been convicted of an offence or for any other reason;

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 they made the application themselves;

### 11. Schedule of standard conditions :

The following are standard conditions which we would look to attach to any licence issued for a Sex Establishment :

<b>Condition</b>	<b>Applicable to :</b>
A copy of the Sex Establishment Licence and the standard conditions made by the authority must be kept exhibited in the public area of the premises.	All Sex Establishment premises
No person under 18 years of age to enter the premises.	All Sex Establishment premises
All customers appearing to be under the age of 21 to be required to provide proof of their age before being allowed access to the premises.	All Sex Establishment premises
No person under 18 years of age is to be employed in the business of the establishment.	All Sex Establishment premises
At all entrances there shall be prominently displayed, so as to be visible at all times to persons approaching the premises, a notice prohibiting entry to all persons under 18 years of age.	All Sex Establishment premises
The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts except any notice displaying the name or trading title of the Licensee, any Notice indicating the times of opening of the premises for business, any Notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions. The use of loudspeakers and displays on business vehicles is strictly prohibited.	All Sex Establishment premises
The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible at any time to persons outside the building. The external doors shall be fitted with automatic closing devices which shall be maintained in good working order.	All Sex Establishment premises

## DRAFT

<p>All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.</p>	<p>All Sex Establishment premises</p>
<p>The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc.</p>	<p>All Sex Establishment premises</p>
<p>The Licensee or a responsible person nominated by him in writing for the purpose and approved by the Council shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the Council or the Police.</p>	<p>All Sex Establishment premises</p>
<p>No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling or profession.</p>	<p>Sexual entertainment venues</p>
<p>The Licensee shall ensure that no employee or other person shall seek to obtain custom for the premises by means of personal solicitation outside or in the vicinity of the premises.</p>	<p>Sexual entertainment venues</p>
<p>The external appearance of the premises must be as approved by the Council and neither the interior nor the exterior of the premises shall be altered without the approval of the Council.</p>	<p>All Sex Establishment premises</p>
<p>No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed in the premises.</p>	<p>All Sex Establishment premises</p>
<p>A record shall be kept of all mail order transactions (if any) in such form as agreed by the Council.</p>	<p>All Sex Establishment premises</p>
<p>The licence is not transferable by the Licensee.</p>	<p>All Sex Establishment premises</p>
<p>The Licensee shall immediately notify the Council he intends ceasing to carry on the business.</p>	<p>All Sex Establishment premises</p>
<p>The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.</p>	<p>All Sex Establishment premises</p>

## DRAFT

<p>The Licensee shall not in the conduct of the business employ any person:-</p> <p>Whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the Council or any other licensing authority;</p> <p>Whose licence to carry on the business of a sex establishment has been revoked by the Council or any other licensing authority;</p> <p>The name, address, date of birth and details of any criminal convictions of all individuals who will have responsibility for the operation or management of the store in the absence of the licence holder are to be provided to the Licensing Authority prior to such persons commencing their role at the premises.</p>	<p>All Sex Establishment premises</p>
<p>The Licensee shall not, in the conduct of the business, employ any person who has a criminal conviction or simple caution under:</p> <ul style="list-style-type: none"> <li>▪ The Obscene Publications Act, 1959,</li> <li>▪ The Protection of Children Act, 1978, or</li> <li>▪ The Customs and Excise Management Act, 1979</li> </ul>	<p>All Sex Establishment premises</p>
<p>No external signage is to be displayed on the premises, except for the company name, the hours of business and details of the age restriction, without the written authorisation of the Licensing Authority.</p>	<p>All Sex Establishment premises</p>
<p>The windows of the premises must be such that there is no view from outside into the interior of the premises and no window display is to be permitted.</p>	<p>All Sex Establishment premises</p>
<p>A lobby area is to be installed with double doors so restricting the view into the premises when patrons are entering and leaving</p>	<p>All Sex Establishment premises</p>
<p>The premises shall not, for any purpose of the licence, be opened before 0900 hours and shall not be kept open beyond 2300 hours</p>	<p>All Sex Establishment premises</p>
<p>CCTV is to be installed, operated and maintained to a standard agreed with by the Police and the Licensing Authority. The system is to include 31 day imaging storage and be available for inspection in accordance with the Police's requirement.</p>	<p>All Sex Establishment premises</p>
<p>All goods to be discreetly wrapped before leaving the premises.</p>	<p>Sex Shop</p>
<p>No part of the premises is to be used for the showing of recorded videos, DVDs or other moving pictures.</p>	<p>Sex Shop</p>
<p>Any breach of or failure to comply with the Conditions attached to this Licence may result in the revocation of the Licence.</p>	<p>All Sex Establishment premises</p>
<p>There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.</p>	<p>All Sex Establishment premises</p>
<p>Any striptease entertainment must only be provided on a designated stage area, adjacent to tables where customers are seated and adjacent to the bar.</p>	<p>Sexual Entertainment Venues</p>

## DRAFT

Performances of striptease / lap dancing shall be undertaken only by the performers/entertainers, and the audience shall not be permitted to participate.	Sexual Entertainment Venues
No performer shall make physical contact with the breasts and / or genitalia of any other performer during a performance nor shall there be performance or demonstrations of simulated sex or related activities.	Sexual Entertainment Venues
When striptease entertainment takes place on the designated stage, it must be ensured that the performer has direct and clear access to the dressing room at the end of their performance. The access shall be maintained available without passing through or in close proximity to the audience.	Sexual Entertainment Venues
Nudity shall only be permitted by performers and not by customers	Sexual Entertainment Venues
It must be ensured that no performances of striptease, lap dancing or any other form of nudity can be seen from the street.	Sexual Entertainment Venues
The only physical contact permitted between customers and performers is: <ul style="list-style-type: none"> <li>▪ the placing of money in a garter worn by a female performer or in the performer's hand at the conclusion of a performance.</li> <li>▪ a brief handshake at the beginning or end of a performance .</li> <li>▪ a kiss by the performer on the customer's cheek after the performer has replaced her clothing at the end of a performance.</li> <li>▪ A notice repeating the precise wording of the above conditions shall be displayed at the entrance of the premises, at each table and in each bar area.</li> </ul>	Sexual Entertainment Venues
The only external advertising of the agreed activity at or in the immediate vicinity of the premises shall be one showcase measuring no more than 60cm by 45cm. No such advertising shall be sexually explicit or be likely to cause offence to a reasonable person.	Sexual Entertainment Venues
No payment may be made or offered to any person in any public place to encourage or persuade them to enter the premises	Sexual Entertainment Venues & Sex cinema
The licensee shall ensure that no music played in connection with the licensed activity is audible at or within the site boundary of any residential premises.	Sexual Entertainment Venues

### 11. Fees

The fees applied are laid out in the Council's Fees and Charges Schedule.

### 12. Public Register

A public register will be made available and can be accessed on line on our Licensing webpage.

DRAFT