

Consultation on Maidstone Borough Council's Policy on licensing Sex Shops, Sex Cinemas, and Sexual Entertainment Venues

Introduction

The Council has already adopted the provisions of schedule 3 Local Government (Miscellaneous Provisions) Act 1982 in relation to sex shops and sex cinemas. The Policing and Crime Act 2009 has introduced new powers for local authorities to regulate sexual entertainment venues. Maidstone Borough Council is considering adoption of these powers and this consultation is designed to gather views on this possibility and a possible policy.

The purpose of a policy is to set out the expectations of the local authority in meeting the requirements of the legislation.

Venues that require licensing within this policy:-

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 sex articles (anything for us in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity) or 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. There are currently no such premises in the Maidstone Borough area.

Sex Cinema

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity or 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 to which the public is not admitted. There are currently no such premises in the Maidstone Borough area.

Sexual Entertainment Venue

Sexual entertainment venues are premises where live performance or displays of nudity take place for financial gain and for the purpose of sexually stimulating an audience. Examples of relevant entertainment would be those that provide lap dancing or pole dancing. Until adoption of the new powers any such premises would be licensed under the Licensing Act 2003.

Adoption of Legislation

From the date on which the powers come into force, which will be decided by the Council, if it adopts the amended legislation, sexual entertainment venue premises must be licensed, Premises on which relevant entertainment takes place infrequently, a maximum of eleven times in a twelve month period and on occasions at least one month apart, are exempt from the requirement for a licence. The Council may decide not to grant a licence if they consider that the location and layout of the premises is unsuitable and/or that the application is unsuitable. We may also decide how many licences should be granted in particular locations, which may be none.

If a licence is granted the Council may impose conditions, which could relate to such things as the outside appearance of the property, the management of the premises, internal layout and the nature of performances. The Council will also decide what the application process will be, the fees to be charged, specific conditions and how problems will be dealt with.

Consultation Process

The Council intends to consult members of the public, trade, and relevant enforcement agencies whether to adopt powers relating to sexual entertainment venues and on its draft policy. You may make your views known by completing all or any part of the following document.

Consultation Form

Reasons for refusal of licences are set out in the legislation and are not to be based on purely moral/religious grounds or values. This should be taken into account when commenting on this consultation.

You may make your submission by email or by post to:

Licensing Section
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

E-Mail: Licensing@maidstone.gov.uk

The closing date for submission is 26 January 2011

The council will take account of all views expressed during this consultation. The outcome of the consultation will be published on the Council's website.

Contact Details

Individuals' name, address, telephone and e-mail address details will remain confidential unless their release is confirmed below.

Name:	
Name of Premises/Relevant Enforcement Agency (if relevant)	
Address:	
Telephone Number:	
Email:	
Date:	
Signature	
Do you wish to release your details? (Individuals' details are assumed to be confidential unless confirmed otherwise)	

Section 1 – Adoption of Powers to Licence Sexual Entertainment Venues

Q1 – Do you agree that the Council should adopt the powers to allow them to license Sexual Entertainment Venues under the Local Government (Miscellaneous Provisions) Act 1982?	
Agree / Disagree	Please state reason(s)

Section 2 – Controlling the Location and Numbers of Establishments

The council may consider a particular locality is appropriate for a sex shop but is not appropriate for a sexual entertainment venue or vice versa.

The Licensing Authority has determined not to set specific relevant localities in respect of each type of sex establishment. Choosing instead to decide each application on its own individual merits but taking into account the impact of such premises and their operation on the locality in which they are situated.

We have considered and have listed the likely impact such premises may have on the following:-

Character of an Area:

- The type of location (residential, commercial, industrial)
- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The levels of crime and disorder in the area.

Use of other premises in the vicinity:

- Establishments whose patrons are likely to be adversely affected by the operation of the premises
- The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
- The proximity of educational establishments to the premises
- The proximity of places of worship to the premises
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity to shopping centres
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- The proximity to conservation areas, historic buildings and tourist attractions
- The proximity of other sex establishments

Q2 – Are there any other comments you would like to make about the location of sex establishments?

Q3 – Are there any areas that you consider more appropriate than others?
Q4 – Are there any areas that you consider are not appropriate?

The Licensing Authority believes that by judging each case on its own merits and on the character of the proposed area at the time of the determination it maintains its responsibilities to the community under the legislation whilst not stifling proper and well managed businesses. If numbers were to be set they would need to be reviewed when each application was determined in any event. A limit should not relate to a whole borough or large areas.

Q5 – Do you agree with not setting localities and numbers of premises?	
Agree / Disagree	If you disagree with this approach please explain why

Section 3 – Considering Applications

When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the layout, character or condition of the premises including but not limited to the following

- The type of activity to which the application relates
- The duration of the proposed licence
- The days and hours of operation of the activity.
- Suitability of management systems to take into account the safety of its performers, customers and staff

Q6 – Do you agree with this approach?	
Agree / Disagree	If you disagree with this approach please explain why

Section 4 – Controlling Sex Establishments by conditions and application process

Advertising

The council does not consider it appropriate for all types of sex establishments to have explicit displays outside of their premises. However, there is a need for there to be a clear indication of the type of entertainment that takes place within the premises. It is therefore, proposed that there would be conditions attached to the licence prohibiting explicit displays outside the premises.

Q7 – Do you agree with this approach?	
Agree / Disagree	If you disagree with this approach please explain why

Protection of Performers and Public

The council believes that it is appropriate to introduce conditions to protect both performers and the public in relation to 'relevant entertainment'. This will include distances between the audience and performers, facilities for performers such as changing rooms, public attending the entertainment will be able to see the performance and other persons within the building or outside the premises will not be able to gain entry or see into the venue whilst entertainment is taking place.

Q8 – Do you agree with this approach?	
Agree / Disagree	If you disagree with this approach please explain why

Management of Premises

The Council will engage with the management of premises (applicant) and will require them to provide evidence to demonstrate that they have suitable experience and understand the requirements of the business within the application process to demonstrate suitability to hold a licence.

Q9 – Do you agree with this approach?	
Agree / Disagree	If you disagree with this approach please explain why

Section 5 – Crime and Disorder

The Council has no evidence of any reported crime and disorder including anti-social behaviour, drug and alcohol misuses and other behaviour adversely affecting the local environment which was directly attributable to the operation of previously licensed sex shops and premises that currently hold 'relevant entertainment' in the area.

The Council believes that adopting legislation would give the community and relevant enforcement agencies the ability to make objections and for the local authority to refuse applications or impose restrictions/conditions on licences where they feel it is necessary, reasonable and proportionate. This will enable the licensing authority to put preventative measures in place to deal with any potential for crime and disorder in the future.

Q10 – Do you think the Council has addressed your concerns regarding the potential for crime and disorder in the future?

YES / NO	If you answer YES please explain why
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Q11 – Do you have evidence to the contrary that there is a problem with sex establishments in the area?

YES / NO	If you answer YES please explain why
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Section 6 – Any other comments

Q12 – Do you consider that the proposals to licence sex establishments will have an impact on equality issues? If so, please explain?

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Q13 – Do you have any further comments in relation to the policy?

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