



**Stoke-on-Trent City Council**

# **Sexual Entertainment Venue Licensing Policy 2016 -2021**

Effective from - 23 May 2016

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# **1      INTRODUCTION**

## **1.1    The Policy**

- 1.1.1 This document states Stoke-on-Trent City Council's policy on the regulation of Sexual Entertainment Venues. (SEV's).
- 1.1.2 This policy replaces the Council's existing Sexual Entertaining Venue (SEV) policy approved by the Licensing and Consumer Protection Committee and adopted in June 2014.

## **1.2    The Law**

- 1.2.1 Stoke-on-Trent City Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).
- 1.2.2 This means that the Council can control and regulate the operation of certain kinds of Sex Establishment within its District. No sexual entertainment venue can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that premises may trade.
- 1.2.3 Licences for sexual entertainment venues are required for “any premise at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”. A sexual entertainment venue is defined under the Act in schedule 3 paragraph 2A, the full definition can be found at Appendix A to this policy.
- 1.2.4 In deciding whether entertainment is “relevant entertainment” we will judge each case on its own merits, but generally will apply to any live performance or any live display of nudity which is provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means) including the following:-
  - (1) lap dancing
  - (2) pole dancing
  - (3) table dancing
  - (4) strip shows
  - (5) peep shows
  - (6) live sex shows

- 1.2.5 We do not take a moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate sexual entertainment venue, and that such businesses are a legitimate part of leisure industries. It is our role as a licensing authority to administer the licensing regime in accordance with the law.
- 1.2.6 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area. This policy has regard to the likely impact of such licences on related crime and disorder in the City.
- 1.2.7 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998 and the Equality Act 2010.
- 1.2.8 A sexual entertainment venue is defined under the Act, the full definition can be found at Appendix A to this policy.

## **2. SEXUAL ENTERTAINMENT VENUE LICENCE APPLICATIONS**

### **2.1 Right to Waiver**

- 2.1.1 It is not considered that it would be appropriate to permit waivers from the requirements to hold a sexual entertainment venue licence, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

### **2.2 Application details**

- 2.2.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the council in accordance with the requirements set out in paragraph 10 of Schedule 3 to the 1982 Act.

### **2.3 Impact of the Sexual Entertainment Venue**

- 2.3.1 In considering applications for the grant of new licences or variation of conditions, the Council will assess the likelihood of such grant causing adverse impacts, particularly to local residents. The council will take the following general matters into account;
  - a) type of activity
  - b) duration of proposed licence
  - c) proposed hours of operation
  - d) layout and condition of the premises
  - e) the use to which the premises in the vicinity are put
  - f) the character of the locality in which the premises are situated

- 2.3.2 In considering all applications for the grant of new licences or applications for variation of conditions the council will take into account the potential impacts of the application on:
- a) crime and disorder
  - b) cumulative impact of licensed premises in the area including hours of operation
  - c) the character of the locality in which the premises is situated
- 2.3.3 In considering all applications for the renewal of a sexual entertainment venue licence the council will take into account:
- a) levels of recorded crime in the area of a sexual entertainment venue that give the police cause for concern;
  - b) past demonstrable adverse impact from the licensed activity;
  - c) whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse related impacts.

## **2.4 The location of the premises**

- 2.4.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a sexual entertainment venue as a matter of fact to be determined by the particular circumstances of each case.

- 2.4.2 The Council is mindful of its power to determine that no sexual entertainment venue should be located in a particular locality.
- 2.4.3 Notwithstanding the above, licences will only be granted in predominately commercial areas and the Council is mindful of its power to determine each application on its own merits. Applications will not normally be granted if they are to be within:
- a) areas that are exclusively, or predominantly, residential in character, or;
  - b) the vicinity of residential properties, “vicinity” is not defined in the Schedule but in other statutory provisions has been defined as, “the state of being near in space”, or;
  - c) 200m of a school or any other Premises used by children (under 18’s) or vulnerable adults; or
  - d) A publicly accessible open space that is regularly frequented by children or vulnerable adults, or;
  - e) 200m of a place of worship, or;
  - f) areas with a level of recorded crime that give the police cause for concern, or;
  - g) areas that are likely to be adversely effected due to the cumulative impact of existing sexual entertainment venues, or;
  - h) 200m of an existing sexual entertainment venue.

## **2.5 Consultation Arrangements**

- 2.5.1 The applicant must give public notice of all applications by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made. A notice must also be displayed on or nearby the premise in a place where it can be read by members of the public for a period of 21 days beginning with the date the application was made.
- 2.5.2 There are similar notification requirements under the Licensing Act 2003 and where an applicant is making an application under both Schedule 3 and 2003 Act at the same time they may wish to combine those requirements.
- 2.5.3 The applicant shall, not later than seven days after the date of application send a copy to the Chief Officer of Staffordshire Police.

### **3. DETERMINATION OF APPLICATIONS**

#### **3.1 General**

- 3.1.1 In determining an application relating to a Sexual Entertainment Venue licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.
- 3.1.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing and Registration Panel may authorise a departure from the policy if it feels it appropriate for a specific application.
- 3.1.3 We will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of 12 months at a time to provide certainty to those operating businesses.
- 3.1.4 If a cheque is dishonoured by a bank this will result in the revocation of the Sexual Entertainment Venue Licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fees is made within 5 working days of the initial contact with the Council.
- 3.1.5 A completed application form, together with relevant fee should be sent to the Licensing Authority.

#### **3.2 Grant of a new Licence**

- 3.2.1 All applications for the grant of a new licence will be determined by the Director of Public Health, unless representations are received.
- 3.2.2 Where representations are received, the application will be referred to a Licensing and Registration Panel for determination.
- 3.2.3 In determining an application for the grant, renewal or variation of a licence, the Council must have regard to any representations that it has received.

#### **3.3 Renewal, Variation, Transfer of an Existing Licence**

- 3.3.1 The granting of an application for renewal, variation or transfer of an existing licence will be considered by the Director of Public Health unless representations are received.
- 3.3.2 Where representations are received, the application will be referred to a Licensing and Registration Panel for determination.
- 3.3.3 The council will give the applicant(s) and any person making representations the opportunity of appearing before and being heard by a Licensing and Registration Panel before determining the application.
- 3.3.4 The applicant(s) and the persons making representation will be notified in writing by the Council of the date of the hearing by the Licensing and Registration Panel at least 5 working days prior to the hearing.

- 3.3.5 In determining an application for the grant, renewal, variation or transfer of a licence, the Council must have regard to any representations that it has received.
- 3.3.6 Variation applications relate only to proposed changes to terms, conditions or restriction of a licence. On receiving such an application the council can either:
- a) Make the variation as requested;
  - b) Make such variations as it thinks fit;
  - c) Refuse the application.

Where the Council imposes some other term, condition or restriction other than one sought in the application for variation, the decision will not take effect until the appeal period has expired.

The right to appeal shall take effect within 21 days from the date of notification of the decision of the Council

### **Right to Appeal a Decision**

- 3.3.7 If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal. Appeals must be made in writing to the local magistrate's court within 21 days, starting from the date the applicant is notified of the Licensing authorities decision.
- 3.3.8 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.

### **3.4 Duration of Licences**

- 3.4.1 The licence holder may request the council in writing to surrender / cancel the licence.
- 3.4.2 In the event of the death of a licence holder, the licence will be deemed to have been granted to his personal representative and will remain in force for 3 months from the date of death, unless previously revoked, however after the period of 3 months the licence will expire unless 3.4.3 below applies.
- 3.4.3 Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence holder, and that no other circumstances make it undesirable, then it may, upon the application of the Personal Representatives of the deceased, extend or further extend the period of 3 months.
- 3.4.5 Unless surrendered or revoked, a licence shall remain in force for one year or for shorter period as the council may think fit when granting it.

### **3.5 Fees and Refunds**

- 3.5.1 All applications for the grant, renewal, variation or transfer of Sex Establishment Venue licences must be accompanied by the relevant fee.
- 3.5.2 In the event of an application being refused, the required application fee is non-refundable.



#### **4. CONDITIONS**

- 4.1 We have adopted standard conditions for Sexual Entertainment Venues and these are set out in **Appendix B** of this policy.
- 4.2 Where it is reasonable and necessary to do so, Licensing and Registration Panel will impose additional proportional conditions on a licence. Wherever possible these will be discussed in advance with applicants by our licensing officers.
- 4.3 All licences will be granted, renewed, varied or transferred subject to these Standard Conditions unless expressly excluded or varied by a Licensing and Registration Panel.

#### **5. HEARING PROCEDURE**

- 5.1 Where the Council is required to determine an application by reference to a Licensing and Registration Panel, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 5.2 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, representations and any other relevant information.
- 5.3 At the hearing, all parties will have the opportunity to address the Licensing and Registration Panel and ask questions of fact of other parties. The Licensing and Registration Panel may also ask questions of all parties that they feel relevant to the determination process.
- 5.4 The Licensing and Registration Panel will communicate their decision at the end of the hearing and all parties will receive written confirmation of the decision within 7 days.
- 5.5 A right of Appeal, within 21 days of the decision being given by the Licensing Section, will be available to the applicant and the persons making representations.

#### **6. OPERATION AND MANAGEMENT**

##### **6.1 Proposed Operation and Management**

- 6.1.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions, health and safety regulations and fire safety regulations.
- 6.1.2 In terms of management of licensed Premises, the Council strongly encourages where possible and appropriate, that licensees:
  - a) Work with statutory agencies such as the Police and Fire Service, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the immediate vicinity;
  - b) Particularly those whose Premises are located in areas with high levels of recorded crime, develop crime prevention strategies in consultation with the Police and the Council.

- c) In terms of the management of licensed Premises, the Council strongly encourages and where possible and appropriate all licensees to develop strategies and procedures to increase access for disabled people to the Premises.
- d) In terms of the employment of staff in licensed Premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid, and fire precautions.

6.1.3 The Licensee shall forthwith notify the Council in writing of his ceasing to carry on the business of a sexual entertainment venue.

## **7. ENFORCEMENT**

- 7.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade
- 7.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Public Protection Enforcement Policy.
- 7.3 The responsibility for the overall supervision of Sexual Entertainment Venue licensing lies with the Director of Public Health.
- 7.4 The Council will not determine an application for the grant or renewal of a licence unless the applicant affords a duly authorised Officer of the Council or a constable a reasonable opportunity to enter the premises to make such examinations or enquiries as is necessary to determine the suitability of the applicant and the premises.

## **8. AMENDMENTS TO THIS POLICY**

- 8.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.

For the purpose of this section, any significant amendment is defined as one that:

- a) is likely to have a significant financial effect on licence holders, or
- b) is likely to have a significant procedural effect on licence holders, or
- c) is likely to have a significant effect on the community.

- 8.2 Any minor amendments to this Policy may be authorised by the Director of Public Health and undertaken in accordance with the Council's Constitution. For the purpose of this section, any minor amendment is an amendment not defined as significant in Section 8.1 of this Policy.

**APPENDIX A** *Meaning of “sexual entertainment venue” in accordance with Schedule 3, paragraph 2A of the LG(MP) Act 1982.*

(1) in this Schedule “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).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—

(a) sex cinemas and sex shops;

(b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—

(i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

(ii) no such occasion has lasted for more than 24 hours; and

(iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

(4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).

(5) But no order under sub-paragraph (4) may—

(a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or

(b) provide for shorter intervals between such occasions.

(6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.

(7) Any power of the relevant national authority to make an order under this paragraph—

(a) is exercisable by statutory instrument;

(b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and

(c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

(8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph—

“audience” includes an audience of one;

“display of nudity” means—

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

(a) the relevant entertainment; or

(b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

“relevant national authority” means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

## **APPENDIX B**

### **STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUE LICENCES**

In these conditions, the following expressions shall have the following meanings :-

- i. "The Council" – shall mean Stoke-on-Trent City Council
- ii. "The Act" – Local Government (Miscellaneous Provisions) Act 1982, as amended by S.27 of the Policing and Crime Act 2009
- iii. "Sex Entertainment Venue (SEV)" shall have the same meaning as given in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended
- iv. "Premises" – any vehicle, vessel or premises (which shall include any building or any part thereof) which is the subject of a licence, granted under Schedule 3 of the Act.
- v. "Special Conditions" – any term, conditions or restrictions contained or referred to in the schedule to a licence granted under Schedule 3 of the Act.

These conditions are imposed by the Council pursuant to its powers under paragraph 13(1) of Schedule 3 of the Act as terms, conditions and restrictions to which a licence is in general to be granted, renewed or transferred by the Council save and in so far as they do not conflict with the provisions of the Act itself.

Terms and Conditions for performances where nudity or partial nudity takes place.

1. Any application for a licence or variation to a licence shall be accompanied by a plan showing the layout of the premises with the designated area(s) where performances take place clearly identified by being bordered with a red line.
2. Entertainment shall only take place between the hours stipulated in the licence.
3. The entertainment shall only take place in the designated area(s) approved by the Council as shown on the plan attached to the licence.
4. Approved arrangements for access to the dressing room shall be maintained at all times immediately before the entertainment takes place, whilst the entertainment is taking place and immediately after the entertainment has taken place.
5. Only the performers/entertainers shall give the entertainment and the audience shall not be permitted to participate.
6. There shall be no advertising likely to be of an offensive nature, photographs or other images of the entertainment either at the premises, inside the premises where persons under the age of 18 years have access or in the immediate vicinity of the premises.
7. No person under the age of 18 years shall be permitted on the part of the licensed premises when the licensed entertainment is taking place and such part of the premises must not be visible from other parts of the premises where persons under 18 years are permitted.
8. A clear notice shall be displayed at each entrance to the premises, in a prominent position, stating, "No person under the age of 18 years will be admitted".
9. The licensed area(s) where performances take place shall not be visible from the street or any other premises.
10. Performers/entertainers not performing must not be in the licensed area(s) in a state of undress.
11. Performers/entertainers shall only perform on the stage area or to seated customers.
12. Performers/entertainers shall not be less than 18 years of age.

13. There shall be no physical contact between customers and performers/entertainers except for the placing of money or tokens in the hand, receptacle or garter worn by the performer.
14. There will be a strict no touching policy of the dancers at any time and the dancers must remain at least 12 inches away from customers.
15. No animals will be used in any performance.
16. No photographing of performers will be allowed.
17. Any bodily contact between performers or any movement that indicates sexual activity or simulated sex between performers is strictly forbidden.
18. The Licensee, or some responsible person nominated by him/her in writing shall be in charge of and upon the licensed premises during the whole time that they are open to the public for the purposes of the licence. Such written nominations shall be available for inspection on demand by authorised officers of the Council or a police officer.
19. The behaviour of both customers and performers will be strictly monitored and any unruly and unacceptable behaviour will not be tolerated.
20. A register shall be kept and made available for inspection by authorised officers of the Council or a police officer. The register shall record the names of persons employed, their contact details, position and times worked. The register to be completed each day within 30 minutes of the premises opening for business.
21. No part of the premises shall be used a Sex Cinema, unless specifically authorised as such on the licence.
22. The Licensee shall forthwith notify the Council of his/her ceasing to carry on the business.
23. The Licensee shall inform the Council of (s)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 of 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, or similar, conviction or Order for possible revocation or non-renewal of the licence.
24. Any breach or failure to comply with the conditions attached to the licence may result in the revocation of the licence.

## **SEXUAL ENTERTAINMENT VENUE POLICY - LIST OF CONSULTEES**

1. ST1 Club, Hanley Stoke on Trent
2. Specialist Support Access Officer, Floor 3, Civic Centre, Glebe Street, Stoke
3. Environmental Protection Manager, PO Box 2452, Hanley Town Hall, Hanley, Stoke-on-Trent, ST1 1XP.
4. The Regulatory Section of the Legal Services Division, Stoke-on-Trent City Council, Kingsway, Stoke-on-Trent.
5. Compliance & Health Protection Manager, PO Box 2452, Hanley Town Hall, Albion Street, Hanley, Stoke-on-Trent, ST1 1XP.
6. Equalities & Diversity Manager, Floor 4, Civic Centre, Glebe Street, Stoke-on-Trent.
7. Staffordshire Police, Stoke-on-Trent Police Division, Boothern Road, Stoke-on-Trent ST4 4AH.
8. Staffordshire Fire and Rescue Service, Lower Bethesda Street, Hanley, Stoke-on-Trent, ST1 3RP.
9. Strategic Manager, Public Protection, Hanley Town Hall, Albion Street, Hanley, Stoke-on-Trent, ST1 1XP.