

Islington Council

Sex Establishment Licensing Policy

Introduction

This policy sets out Islington Council's proposed approach to regulating sex establishments and the procedure that it will adopt in relation to applications for sex establishment licences.

The policy is intended as a guide to applicants, licence holders, people who want to object to applications and 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 on its own merits 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. There are 4 licensed sex shops in Islington and these are located in Holloway Road, Caledonian Road, Old Street and Islington Green.

Following a serious fire at a sex cinema many years ago the council took the decision to licence its sex cinemas under the Cinema Act 1985. These licences have been converted to premises licences under the Licensing Act 2003 and, as this regulatory regime has proved to be effective, it will continue to use this approach for the existing sex cinemas in City Road, Caledonian Road and Northdown St.

Islington Council has adopted schedule 3 Local Government (Miscellaneous Provisions) Act 1982 with effect from 1 April 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 has determined that there are a sufficient number of sex shops, sex cinemas and sexual entertainment venues currently operating in the borough and it does not want to see an increase in the numbers of premises that are currently providing these activities.

The council intends to adopt a policy to limit the number of sexual entertainment venues in the borough to nil however it recognises that there are a number of businesses that have been providing sexual entertainment in Islington for several years. 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 by the authority 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

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

Furthermore if any of the existing premises cease trading there is no presumption that the council will consider any new applications more favourably.

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,
- premises used by children and vulnerable persons
- youth, community & leisure centres,
- religious centres and public places of worship

- access routes to and from premises 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.islington.gov.uk)
- from the Licensing Team on 020 7527 3031
- by email to licensing@islington.gov.uk

The council prefers to receive electronic applications and offers a choice of fee payment options the details of which are contained in the application pack.

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 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).

Contact details for local newspapers are:

Islington Tribune

40 Camden Road

London NW1 9DR

Tel: 020 7419 9000 ext 250
or 247

Fax: 020 7209 1322

Email:

advert@islingtontribune.co.uk

Islington Gazette

161 Tottenham Lane

London N8 9BU

Tel: 020 8342 5700

Fax: 020 8342 5710

Email: legalnotices@archant.co.uk

Applicants who wish to advertise the application in another local newspaper are advised to contact the Licensing Team beforehand, to confirm that it is acceptable.

On receipt of a valid application the council will consult:

- The Police
- The Fire Brigade
- Building Control
- Ward Councillors

For new and variation applications the council will also consult:

- Development Control Team
- Local residents living within 50m of the premises

Authorised Officers from the council, Fire Brigade and Police 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.islington.gov.uk/
- Email to licensing@islington.gov.uk
- Post to Licensing Team, 3F Zone C, 222 Upper St London N1 1XR

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

The council prefers to receive electronic representations.

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

Applications with no representations will be approved under delegated authority to officers.

Applications with representations recommending that conditions be attached to the licence and which are acceptable to both the applicant and person making the representation can be approved under delegated authority to officers.

All other contested applications will be referred to the Licensing Committee for determination. The applicant, anyone making a representation and the ward councillors will be notified the date, time and venue of the hearing and invited to attend to address the committee in person.

Applications can take up to 14 weeks to be determined. If an application is likely to take longer than 14 weeks to determine the council will notify the applicant in writing before this deadline. Applications for sex establishment licenses are exempt from the tacit consent provisions of the EU Services Directive on the grounds of public interest and the legitimate interests of third parties.

The applicant will be notified in writing about the outcome of their application within 5 working days of the decision being made.

Sex Establishment licences are usually issued for 12 months, but can be issued for a shorter period if deemed appropriate.

In order to continue operating as a sex establishment the licence holder must make a renewal application prior to the expiry of the existing licence.

Appeals

Any applicant who is aggrieved by a decision to refuse an application or by the imposition of any conditions can appeal to the Magistrates Court within 21 days of receiving the decision in writing.

Grounds for refusing an application

1. The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason
2. That if the license 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 license if he made the application himself

3. That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality
4. That the grant or renewal of the license would be inappropriate, having regard
 - a. to the character of the relevant locality
 - b. to the use to which any premises in the vicinity are put; or
 - c. to 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

3F Zone C

222 Upper St

London N1 1XR

licensing@islington.gov.uk

020 7527 3031

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