

Sexual Entertainment Venues Fact Sheet

Sex Establishment Licences are issued under the provisions of Schedule 3 of the 1982 Act. The City Council has resolved to adopt this Schedule and there are currently three such licences in the city, two issued to sex shops and one to a sex cinema.

Premises which provide sexual entertainment or adult entertainment are presently licensed under the provisions of the 2003 Act to provide regulated entertainment involving music and dancing. Where the activity involves nudity the operators have an additional set of conditions attached to their licence. There are five premises currently licensed to specifically provide lap dancing entertainment in Newcastle upon Tyne, although others provide entertainment which will in future require a sexual entertainment venue licence.

“Sexual entertainment venue” (SEV) is defined as any premises at which relevant entertainment is provided before a live audience (can be one person) for the financial gain of the organiser or the entertainer.

“Relevant entertainment” means 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 the audience (whether by verbal or other means). An audience can consist of just one person. From this definition you will see that nudity does not need to be involved for any entertainment to be considered “relevant” within the terms of this legislation.

Premises must have an SEV licence where there is relevant entertainment (as above) on more than eleven occasions within a period of 12 months, or where there is less than a month between each occasion when relevant entertainment has been provided, or where one of these occasions has lasted for more than 24 hours.

‘Premises’ includes any vehicle, vessel or stall but does not include private dwellings to which the public are not admitted.

‘Nudity’ means:

- in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- in the case of a man, exposure of his pubic area, genitals or anus.

The person who requires the licence is the organiser of the performance or display. ‘Organiser’ is defined as any person who is responsible for the organisation or management of the relevant entertainment or the premises.

The date of adoption specified in the resolution to adopt (31st March 2011) becomes the start date (the first appointed day) for a transition period of twelve months.

The government do not propose to provide existing operators with “grandfather rights” i.e. automatic grants of current licences, or any form of preferential treatment as part of the transition system. Guidance issued by the Home Office states that the authority will need to consider any rights an existing licence holder may have under Article 1, Protocol 1 of the European Convention on Human Rights (i.e. their human rights) when deciding an application.

The transitional arrangements are to provide a system for operators to make an application to the local authority. In summary the government is proposing that:

- Any operator – new or existing - who wishes to provide ‘relevant entertainment’ at the end of the transitional period will be required to apply for a sexual entertainment venue licence.
- Existing operators will be allowed to continue to provide ‘relevant entertainment’ under their existing permission without interruption for the duration of the transitional period or until their application for a sexual entertainment venue licence has been determined, whichever is the later.
- The twelve month transitional period will start on the date the City Council specify in the resolution to adopt the amendments (the first appointed date, 31st March 2011).
- For 6 months following the first appointed date, existing and new applicants will be able to submit applications all of which will be considered together by the City Council.
- Applications received after the first 6 months (after the second appointed date) will **not** be considered until all applications received before the second appointed date have been determined
- Licences granted for new or existing sexual entertainment venues will not take effect until the conclusion of the transitional period (the 3rd appointed date)

For the purposes of these transitional arrangements, it is proposed that an ‘existing operator’ is defined as a person operating any premises that, prior to the first appointed day, is lawfully providing regulated entertainment under the provisions of the 2003 Act premises licence, which is also relevant entertainment under the 1982 Act, or is undertaking preparatory works to use the premises as such a venue under that Licence.

The legislation allows for the Council to stipulate relevant localities and set levels for the number of sexual entertainment venues it thinks is appropriate for a particular area. It is proposed that for licensing of sexual entertainment venues Newcastle upon Tyne City Council will operate with two relevant localities which will be:

- a) Inside the City Centre Cumulative Impact Area (the City Centre Locality) as defined in the Statement of Licensing Policy.

b) Outside the City Centre Locality (the remainder of the City).

Inside the City Centre Locality the City Council would seek to limit the number of sexual entertainment venues generally to those which currently operate under the 2003 Act in such a way as to require a sexual entertainment licence. This number is currently 5 destination lap-dancing clubs and approximately 15 bars or pubs which provide relevant entertainment on football match-days predominantly, and on other limited occasions, but which amount to more than 11 times per year.

It is also the intention of the City Council to maintain the differentiation, by way of specific conditions at the point of grant, between those premises which operate as destination lap dancing clubs and those premises which operate predominantly on football match days.

Outside the City Centre Locality the most appropriate number of sexual entertainment venue licences is considered to be zero.

The number in the area outside the City Centre Locality does not preclude an application for a licence being made. However, in such a situation the presumption will be to refuse such an application and the applicant will have to make their case as to why the licence should be granted in any particular location contrary to this policy.

Every application will be considered on its merits on a case by case basis in determining applications to grant, refuse, renew, transfer or vary a licence.