

Christian
Legal Centre

Sex Establishments

How to stop them



Introduction

Many of our towns and cities are blighted by an increasing number of sex establishments, and it can be difficult to know how best to object, or indeed when to object. The law relating to applications for sex entertainment licences changed in 2010 and this booklet explains what the new provisions mean for local authorities and for those who want to object.

The old law

Applications for licences to provide sexual entertainment were, until recently, considered under the provisions of the Licensing Act 2003, which, among other things, governs the licensing of pubs, clubs and bars.

When considering whether to grant an application under this legislation, a local authority was required to carry out its licensing duties in view of the promotion of certain 'licensing objectives', namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.¹

Under this regime, if a licensing authority decided that the availability of sexual entertainment would not affect the promotion of the licensing objectives, then a licence would be granted. However, if evidence from the police, environmental health and objectors could persuade a local authority that the licensing objectives would not be promoted, then a licence would not be granted. Either decision could be challenged at the magistrates' court.

The new law

From 6 April 2010, local authorities have been able to adopt a resolution which gives them extended powers to control sex establishments in the local area. A new category of sex establishments has been created, "sexual entertainment venues" (SEV's),² and these are also subject to the extended powers.

These powers enable local authorities to consider whether or not it is appropriate to grant a licence for a sex establishment in a particular area,³ and to control the number of sex establishments allowed in that area.⁴ The Licensing Act 2003 no longer controls the licensing of establishments to provide sexual entertainment if the local authority has adopted the new powers and has passed a new resolution to use them.

If a local authority has not adopted such a resolution before 5 April 2011, it must, as soon as is reasonably practicable, consult local people about whether such a resolution should be made.⁵ If your local authority has not adopted a resolution giving themselves these extended powers, then we would encourage you to contact their licensing department to find out whether there are plans for the resolution to be adopted.

If adopted by your local authority, then the change in the law means that operators that want to provide sexual entertainment will have to apply for an SEV licence. If granted, the licence is in place for up to one year.

What are Sexual Entertainment Venues?

The Home Office Guidance⁶ states that SEV's are establishments that provide lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows, yet this list is not exhaustive.

How will I know whether an application for an SEV has been made?

Applicants for an SEV must give public notice by publishing an advertisement in a local newspaper or newsletter no later than seven days after the date the application is made.

A notice should also be displayed on or near the premises where the entertainment is proposed to take place. The notice must be able to be conveniently read by the public, and should be displayed for a period of 21 days beginning with the date the application was made.

Notices should be in the form prescribed by the local authority, so check your local council's website for details as to what information needs to be included.⁷ If it appears that the notice does not conform to the guidelines set out by the local authority, then keep a detailed note of this.

How can I find out more about the application?

Applications for SEVs are public information. Visit the licensing section on your local council's website to find a copy of the application and related documents. If are unable to find what you are looking for, contact the licensing department.

Objecting to SEVs

Objections to an SEV should be relevant to the grounds upon which a licence can be refused.

The relevant grounds are that the grant or renewal of the licence would be inappropriate, having regard –

- (i) to the character of the relevant locality; or*
- (ii) to the use to which any premises in the vicinity are put; or*
- (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.⁸*

Council licensing policies (found on council websites) often include guidance about what is considered an inappropriate area for an SEV. For example, the Oxford City Council policy states that an application for an SEV will not generally be deemed appropriate if the premises where the entertainment is planned to take place is near or in locations containing any of the following:

- historic buildings or tourist attractions;
- schools, play areas, nurseries, children's centres or similar premises;
- shopping complexes;
- residential areas; or
- places of worship.⁹

Who can object?

Anyone living in the area controlled by the relevant local authority can object to the application for an SEV licence, but the objection must be relevant to the grounds mentioned above. Objections from local businesses, local councillors, representatives of residential areas, schools and places of worship are also accepted.

Objections must be made within 28 days of the application being made.

What can I say in my objection?

Your objection must be clearly linked to the reasons why it would be inappropriate for the local authority to grant the application for the SEV, based on the grounds mentioned above.

You may want to start each objection by stating that “the application for a Sexual Entertainment Venue licence is inappropriate because the characteristics of the relevant locality (and the Council Policy)¹⁰ indicate that it would be inappropriate for a sexual entertainment venue to be located near” (quote from the wording of your actual council policy, if appropriate).

It may be inappropriate to grant an SEV licence because of the use to which nearby premises are put. If the premises are near a church, you may want to note down how many people attend the church for evening activities, including sensitive or vulnerable users (children, elderly people, people with a disability) and the effect that having to pass the premises will have on their willingness to attend church activities.

For all objections, it is very important (where possible) to include evidence to demonstrate why it would be inappropriate to grant the licence.

Is there anything I can't mention?

Objections cannot be based on moral grounds. For example, objections stating that an application for an SEV licence should not be granted because the provision of sexual entertainment degrades women and/or that sexual activity should only take place between a married man and woman will not be accepted.

How do I submit my objection and what happens next?

Objections should be made in writing and should be sent to the local authority's licensing department (check the local authority website for details about to whom the objections should be addressed.) You may also be able to email the objections. Keep copies of the objection(s). Remember, the objections must be submitted within 28 days of the date of the application being made.

After the date for accepting objections has closed, the local authority will give the applicant information about the general terms of the objections, but names and addresses will not be revealed to the applicant without the objector's consent.

The local authority will arrange a hearing at which the application is determined. The applicant is given the opportunity to be heard. There is no specific right for objectors to be heard, but this is usually permitted. At the hearing a sub-committee of councillors will hear from the applicant and the objectors and will decide whether to grant the licence. You will be notified of the date of the hearing.

Can the Christian Legal Centre help?

Yes. Please contact us if you would like more information about how to object to an SEV, or if you would like us to assist you in preparing your objections and/or helping you to prepare for a hearing. We can be contacted on 020 7935 1488 or at info@christianlegalcentre.com.

The Christian Legal Centre takes up cases affecting Christian values and freedoms in the UK and also supports individuals who have been persecuted for their faith.

Support our work

If you want to help us promote Christian values in the public sphere, then you can do so by joining more than 65,000 people who support the work of the Christian Legal Centre and its sister organisation, Christian Concern.

Christian Concern is a campaign group and a policy resource centre that seeks to promote Christian truth in the public sphere.

The team at Christian Concern conduct research into, and campaign on, legislation and policy changes that may affect Christian freedoms or the moral values of the UK.

You can contact us at:

70 Wimpole Street
London
W1G 8AX
info@christianconcern.com
020 7935 1488

Please visit our website at www.christianconcern.com to join our mailing list and to find out how you can join in with our campaigns.

Important Note

If you have any specific queries arising from this booklet, please contact the Christian Legal Centre or seek the advice of a solicitor. This booklet is designed to give you a clearer understanding of the law in this area. Please note, however, that it is not legal advice and we will not be held liable for any inaccuracies or for anything said or done in response to its contents. This is a specialist field of law and each case is dependent upon its own facts.

References

- 1 Licensing Act 2003, section 4(1) & (2)
- 2 Policing and Crime Act 2009, section 27(3)
- 3 Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, section 12 (3)(d)
- 4 Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, section 12 (3)(c), amended by the Policing and Crime Act 2009, section 27(5)
- 5 <http://www.oxford.gov.uk/Direct/SexualEntertainmentVenueHomeOfficeGuidance.pdf>
- 6 See page 7 of the Home Office Guidance on Sexual Entertainment Venues for England and Wales:
http://www.ccfon.org/docs/HomeOfficeGuidance_SexualEntertainmentVenues.pdf
- 7 For example: <http://www.oxford.gov.uk/PageRender/decB/SexualEntertainmentVenueLicensingApplicationProcess.htm>
- 8 Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, section 12 (3)(d)
- 9 See Oxford City Council Sexual Entertainment Venue Licensing:
<http://www.oxford.gov.uk/PageRender/decB/SexualEntertainmentVenueLicensing.htm>
- 10 * Delete or include words in brackets as appropriate.

