

Exeter City Council Sex Establishments Consultation

Consultation Regarding Sex Establishments in the City

New legislation gives local authorities greater control over these venues (that now include sexual entertainment venues) including the option of rejecting licence applications or limiting the number of sex establishments (SE's) in any one locality. Further information may be found at: www.exeter.gov.uk/webpage

The purpose of this consultation is to find out whether you think the Council should have a policy about how it should exercise its powers and what such a policy should contain. One of the important things that such a policy should include is an appropriate number for the 3 types of sex establishments – sexual entertainment venues, sex shops and sex cinemas. The number could be nil for any one of these types, but there are other important matters that can go in to a licensing policy. The Council would like your views on all of them.

INTERIM POLICY FOR SEX ESTABLISHMENTS

The Policing and Crime Act 2009 allows local authorities to regulate sexual entertainment venues (SEV's), in addition to the other sex establishments – sex shops and sex cinemas. SEV's include those premises providing lap dancing, pole dancing and similar activities designed to sexually stimulate the audience. The Council adopted the legislation on 4 September 2012, and adopted an interim policy for sex establishments at the time. (*insert web link for interim policy*).

Broadly speaking the interim policy restricts the number of sex establishments in Exeter to 2 sex shops and one other type of sex establishment; furthermore it restricts the location of any sex establishment to the city centre. It restricts the number of sex establishments outside of the city centre to nil.

Meaning of sexual entertainment venue

This is a venue any live performance or 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. Typically, lap-dancing, pole-dancing and striptease clubs are such venues.

Currently there is one such venue in Exeter, located in the city centre.

Meaning of "sex cinema"

In this consultation "sex cinema" means any premises used for the exhibition of moving pictures, which are concerned primarily with the portrayal of, or are intended to stimulate or encourage sexual activity, including acts of force or restraint which are associated with sexual activity. This does not include a dwelling-house to which the public is not admitted.

There are no sex cinemas in Exeter currently.

Meaning of "sex shop"

In this consultation "sex shop" means 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 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 2 sex shops in Exeter, located in the city centre.

LICENSING OF PREMISES

Any establishment that falls under the definitions above needs to obtain a sex establishment licence from the Council. Members of the public may object to licence applications.

Mandatory grounds for refusal. The Council is obliged to refuse a licence where the mandatory grounds of refusal apply. Broadly, this is where the applicant is underage, or has been disqualified from holding a licence, or has previously been refused a licence. There is no need for the Council to have a policy for mandatory grounds, because where they apply a refusal is mandatory.

Discretionary grounds of refusal. The Council has the power to refuse a licence where the discretionary grounds for refusal apply. It may also refuse to renew a licence on these grounds. The Council is considering refining the interim policy setting out its approach in respect of the discretionary grounds.

The discretionary grounds are:

- the applicant is unsuitable to hold a licence;
- the applicant's manager or the beneficiary of the business would be refused a licence;
- if the licence is granted the number of establishments in locality would exceed the number considered appropriate – the appropriate number may be nil;
- the grant of the licence would be inappropriate having regard to the character of the locality; and
- the grant would be inappropriate having regard to the use of the premises in the vicinity.

SEX ESTABLISHMENT POLICY

The Council wants your view as to whether it should continue to have a policy adopted at all.

If it doesn't have a policy then it will have to consider each application on its own individual merits. If it does that, it would just decide in each case whether the discretionary grounds for refusal apply, taking into account everything said to it by the applicant and any objectors or other statutory authorities such as the Police.

Alternatively, in adopting a policy with discretionary grounds, it will consider each application in light of the policy, and decide whether it is appropriate to make an exception from policy in any individual case. Even if the Council adopts a policy, it must still consider the individual merits of the case. It could not refuse to consider an application just because it is contrary to policy.

One benefit of a policy is that it creates more certainty for all those involved. But some may think that this makes the system less flexible and less able to respond to each individual case on its merits.

We would like to know whether you think we should have a licensing policy for sex establishments. Please go to Question 1 on the attached questionnaire and also refer to Question 15.

Discretionary Grounds

How might the policy deal with the discretionary grounds for refusal? The discretionary grounds are set out below, with a brief note of the kinds of factors a policy could include.

The Council is entitled to adopt a policy as to each of these grounds. In doing so it is entitled to set out presumptions for or against applications of particular types in particular localities. It may also set out guidelines to help it consider applications properly.

Grounds (1) and (2)

These grounds are:

- (1) the applicant is unsuitable to hold a licence;
- (2) the applicant's manager or the beneficiary of the business would be refused a licence.

The first and second grounds concern the suitability of the applicant, his/her management team and the ultimate owner of the business. Here the Council may have a policy as to the approach it will take if the applicant or others have criminal records. The policy might also set out standards of management of the premises as to ensure that the performers, customers and neighbours are protected.

We want to know whether you think the Council should have a policy regarding the suitability of the applicant and others involved in the management and ownership of the premises. To answer this please go to Questions 2 and 3, and afterwards Question 15.

Ground (3)

The ground is:

- (3) if the licence is granted the number of establishments in the locality would exceed the number considered appropriate – the appropriate number may be nil.

The third ground allows the Council to have a policy as to how many licences are appropriate to a given locality. The Council may decide that nil, or some other number is an appropriate limit. In considering this, the Council can take account of many considerations, including sensitive uses such as schools, places of worship or housing in the area. Or it might take account of the business, tourism or regeneration needs of an area, the reputation of Exeter or the need for gender equality and the elimination of discrimination. The Council may not, however, be influenced by moral considerations in relation to sexual activities.

Ground (4)

This ground is:

- (4) the grant of the licence would be inappropriate having regard to the character of the locality.

This ground allows the Council to look at the character of the locality and consider its compatibility or otherwise with sex establishments. For example, the character might be business, or education, or residential, or heritage buildings, or transport. As the character changes, so might the suitability of a sex establishment to be located there.

We would like to know whether you think that the Council should have a policy as to whether sex establishments are compatible or incompatible with the character of certain localities. To give you views please go to Questions 9-10.

Ground (5)

- (5) the grant of the licence would be inappropriate having regard to the character of the locality.

The fifth ground allows consideration of whether sex establishments uses should be set alongside others such as worship, residential, educational and so forth.

We would also like to know whether you think that sex establishments are inappropriate near to particular types of premises. To state you views, please go to Questions 11-12, and afterwards Question 15.

Ground (6)

The final discretionary ground is:

- (6) that the grant would be inappropriate having regard to the layout, character or condition of the premises.

This ground allows the Council to focus on the premises themselves and consider whether they are appropriate to be licensed. It might take into account the quality of the premises, the possibility of supervising activities in the premises properly or accessibility issues.

We want to know whether you think that there ought to be a policy in relation to the layout, character or condition of the premises. To answer please go to questions 13-14, and afterwards Question 15.

RECORDING RESPONSES IN RELATION TO TYPE OF SEX ESTABLISHMENTS

In going through the questionnaire you will note that questions 1-14 focus on sexual entertainment venues (e.g. lap-dancing, pole-dancing and striptease clubs). The last Question 15 asks for your responses in relation to sex cinemas and sex shops. It seeks to establish whether your views in relation to these two other types of sex establishments are the same as for SEV's or in fact differ (e.g. you may feel that the main trading times of a sex shop, differ from that of a SEV and so merit different consideration). Please consider your responses in Question 15 carefully, and if you feel that either one of these types merit different consideration please explain why.

THE CONSULTATION QUESTIONNAIRE

The attached questionnaire asks for you views on these questions. Most of the questions simply require you to place a tick in a box. Your answers will be tabulated to get an objective view of the community, living, working and visiting Exeter.

All views will be taken into account, and will help the Council to decide whether to continue with having an adopted policy, and what it should contain. However, it should be emphasised that views expressed solely on moral grounds cannot be considered.



CONSULTATION QUESTIONNAIRE

1. All things considered, should Exeter City Council (the Council) adopt a policy in relation to Sexual Entertainment Venues (SEV) at all?

Please tick one

- Yes
 No
 Don't know

2. If the Council adopts an SEV policy, should it include a policy regarding the suitability of the applicant and others associated with the premises?

- Yes (please go to question 3)
 No (please go to question 4)
 Don't know (please go to question 4)

3. Should the policy as to suitability set standards of management for the premises?

- Yes
 No
 Don't know

4. If the Council adopts a policy, should it include a policy regarding the appropriate number of premises in given localities?

- Yes (please go to question 5)
 No (please go to question 6)
 Don't know (please go to question 6)

5. Please identify any localities which you believe ought to be named in the policy and what number of premises you believe should be specified.

N.B. The City of Exeter as a whole is not a locality.

N.B. The appropriate number may be any number, including nil.

Locality 1	Name:		Appropriate number:	
Locality 2	Name:		Appropriate number:	
Locality 3	Name:		Appropriate number:	

6. In general, are there any localities in Exeter you consider to be appropriate for Sexual Entertainment Venues?

- Yes (please go to question 7)
 No (please go to question 8)
 Don't know (please go to question 8)

7. Which localities are appropriate for Sexual Entertainment Venues?

N.B. The City of Exeter as a whole is not a locality.

Locality 1	Name:	
Locality 2	Name:	
Locality 3	Name:	

8. Are there any localities you consider to be inappropriate for Sexual Entertainment Venues? If so, please name them.

Locality 1	Name:	
Locality 2	Name:	
Locality 3	Name:	

9. If the Council adopts a policy, should it include a policy as to the character of the localities and their compatibility with Sexual Entertainment Venues?

- Yes
- No
- Don't know

10. Which of the following types of character of locality are compatible or incompatible with Sexual Entertainment Venues?

Please tick one box in each row

	Highly compatible	Quite compatible	Quite incompatible	Highly incompatible
Residential				
Historic				
Educational				
Financial				
General Business				
Family Leisure				
Retail				
Night Time Economy				
Cultural				

11. If the Council adopts a policy, should it include a policy as to the compatibility of Sexual Entertainment Venues with particular neighbouring uses?

- Yes
- No
- Don't know

12. Are Sexual Entertainment Venues compatible or incompatible with each of the following neighbouring uses?

	Highly compatible	Quite compatible	Quite incompatible	Highly incompatible
Residential				
Educational				
Places of Worship				
Financial Institutions				
Family Leisure (eg cinemas)				
Shops				
Pubs and bars				
Galleries/Museums				
Youth Facilities (eg Youth Clubs)				

13. If the Council adopts a policy, should it include a policy regarding the layout, character or condition of proposed Sexual Entertainment Venues?

- Yes
 No
 Don't know

14. How important are each of the following features in deciding whether or not to grant a licence for a Sexual Entertainment Venue?

	Very Important	Fairly Important	Not Very Important	Unimportant
The quality of the premises				
The ability to properly supervise activities in the premises				
The ability to properly manage activities off the premises (eg customers' access and egress)				
Disabled accessibility				

15. If this questionnaire asked questions about other sex establishments would your answers differ?

Sex Cinemas

- Yes (if yes give full details below)
- No
- Don't know

Sex Shops

- Yes (if yes give full details below)
- No
- Don't know

Please also complete the following section. These details will not be disclosed to any other person.

Name.....

Residential or work address.....

Your connection with Exeter (eg resident).....

Contact telephone number.....

