

Sex Establishment Policy

2023-2028



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MILTON KEYNES CITY COUNCIL SEX ESTABLISHMENT POLICY

1. The purpose and scope of this policy

- 1.1 This Sex Establishment Policy for Milton Keynes City Council (hereinafter referred to as 'the Council') will set out the policy of the Council with respect to carrying out its licensing functions for Sex Establishments as adopted under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, on 1 April 1983.
- 1.2 This policy incorporates the amendments that Section 27 of the Policing and Crime Act 2009 made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, adopted by the Council on 16 March 2011. Section 27 effectively reclassifies lap dancing and similar premises as sexual entertainment venues, thus requiring a sex establishments licence.
- 1.3 The amendments allow local authorities and communities greater power in determining whether sexual entertainment venues are permitted in their locality and increase the controls available to be put on them. The policy reflects the view of the Council that local citizens and businesses should be able to determine whether sex establishments should be permitted in any particular area, whilst allowing flexibility to consider the potentially conflicting needs of commercial interests, patrons, employees, residents and communities.
- 1.4 The legislation defines Sex Establishments as sex shops, sex cinemas and sexual entertainment venues.
- 1.5 This policy was prepared following consideration of the relevant legislation, Guidance issued by the Home Office and relevant benchmarking exercises.
- 1.6 The policy does not override legal requirements detailed in primary and secondary legislation.
- 1.7 A public consultation to seek the views of Milton Keynes Citizens, elected MKCC Members, bodies determined by the Council to be 'responsible authorities' (Licensing Authority, Thames Valley Police, Fire Authority, Public Health, Environmental Health, Trading Standards, Planning, MK Together), relevant night-time economy bodies and current sex establishment licence holders was undertaken to inform this policy.
- 1.8 This Sex Establishment Policy will be reviewed periodically and when significant legislative changes occur. Any amendments will be subject to public consultation and endorsed by the Executive.

2. Sex Establishments

There are three types of sex establishments described by the legislation: Sexual Entertainment Venues, Sex Shops and Sex Cinemas.

2.1 Sexual Entertainment Venues

2.1.1 Further to amendments provided by section 27 Policing and Crime Act 2009, a sex entertainment venue can be defined as “premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer unless an exemption applies”. The exemptions are defined fully in the legislation.

2.1.2 Relevant entertainment is broadly described as live performances and live displays of nudity. These performances and displays would, ignoring financial gain, be reasonably assumed to be provided solely or principle for the purpose of sexually stimulating any member of the audience whether by verbal or other means.

2.1.3 Examples of relevant entertainment will be likely to include, but are not limited to:

- i. Lap dancing
- ii. Pole dancing
- iii. Table Dancing
- iv. Strip Shows
- v. Peep Shows
- vi. Live Sex Shows

2.1.4 Although this list is not exhaustive, it is the relevant entertainment itself and not the name that defines the activity. For example, a fitness class based upon the actions of pole dancing would not normally be considered a relevant entertainment requiring a sex establishment licence.

2.1.5 A display of nudity would not automatically be considered to be provided solely or principally for the purpose of sexually stimulating any member of the audience. If a display of nudity forms part of a drama or dance performance in a theatre, then it would be unlikely to be classified as relevant entertainment. Such displays would be considered on a case-by-case basis.

2.2 Sex Shop

2.2.1 A sex shop is defined as a premises used for a business consisting to a significant degree selling, hiring, exchanging, lending, displaying, or demonstrating relevant articles.

2.2.2 Relevant articles are defined as anything made for the use in connection with or for the purpose of stimulating or encouraging sexual activity or restraint which are

associated with sexual activity.

- 2.2.3 Lingerie is not generally considered a sex article.
 - 2.2.4 Although there is no single decisive factor used to determine whether premises are selling sex articles to a significant degree, the Council will consider the following:
 - i. The ratio of sex articles to other aspects of the business
 - ii. Absolute quantity of sales
 - iii. Character of the business
 - iv. Nature of the displays
 - v. Turnover generated by sales of sex articles compared to other sales
 - vi. Any other factors that may be relevant
 - 2.2.5 A benchmark study on other local authorities has determined a guideline of 15% is to be used when determining whether the sale, hire, exchange, lending, display or demonstration of sex articles is considered significant. However, each premises and circumstances will be judged on their own merits and the percentage will not necessarily be considered a decisive factor.
 - 2.2.6 Any premises selling relevant articles in the form of films/ videos classified by the British Board of Film Classification as R18 (a legally restricted classification primarily for the explicit works of consenting sex or strong fetish material involving adults) and/or similar magazines etc will be considered a sex shop.
- 2.3 Sex Cinema
- 2.4 A sex cinema is defined as premises used to a significant degree for the exhibition of moving pictures concerned with relevant images.
- 2.5 Relevant images are defined as images which deal with or relate to or are intended to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity or must portray or primarily deal with or relate to genital organs or urinary or excretory functions.
- 2.6 Whether premises provide a significant degree of relevant images is determined quite simply in that any premises showing British Board of Film Classification R18 film (a legally restricted classification primarily for the explicit works of consenting sex or strong fetish material involving adults) images to a public audience will require a sex cinema licence.

3 Sex Establishment applications

- 3.1 Application forms are available from the City Council website, New/ Variation/ Transfer or renewal. The application form details the process. Applications must be submitted with the following information:

- 3.1.1 A site plan of the premises, showing entrances, exits, performance areas, fire protection provisions and any immovable structures
- 3.1.2 Copies of any proposed advertising displays/ signs on the premises
- 3.1.3 A photo of the applicant
- 3.1.4 Proof of right to work if applicant is an individual
- 3.1.5 Proposals for preventing nuisance; promoting public safety; preventing crime and disorder; and protecting children from harm
- 3.1.6 System for checking ages and right to work for all employees and contractors
- 3.1.7 For Sexual Entertainment Venues:
 - 3.1.7.1 Code of practice for performers
 - 3.1.7.2 Rules for customers
 - 3.1.7.3 Policy for welfare of performers

(Note – these polices should consider Modern Day Slavery Act, the Equalities Act and preventing sexual harassment at work)

- 3.2 Applicants must advertise their application in the local press no later than 7 working days after an application is accepted, allowing for a consultation of 28 days as well as for 21 days via a notice on the premises, that is visible from the exterior of the premises to members of the public in a suitable place. Templates are available in the application pack.
- 3.3 The Council will consult with the Thames Valley Police and any other ‘responsible authorities’, Ward members and Parish Councils as considered necessary.
- 3.4 Variation applications can be made as according to the Act. Officers will determine whether a variation application should follow a new or renewal application procedure on a case-by-case basis and the nature of the change. Depending on the scope of the variation, public advertisement may, or may not be required.

4 Policy and Guidelines considered when determining a sex establishment licence

- 4.1 Any application for a sex establishment for either a sexual entertainment venue, sex shop or sex cinema will consider the definitions and issues identified above and the following guidelines.
- 4.2 Under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, an application must not be granted under the following mandatory grounds:
 - i. to a person under the age of 18;
 - ii. to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

- iii. to a person, other than a body corporate, who is not resident in the United Kingdom or an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- iv. to a body corporate which is not incorporated in the United Kingdom or an EEA State; or
- v. to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

4.3 Relevant applications shall be considered following consultation with the relevant Parish/ Town Councils, Ward Members, responsible authorities, and the public via public notice.

4.4 Each application will be determined on its own merits having regard to relevant guidance and local criteria detailed under this policy. Where it is appropriate for MKCC to depart substantially from its Policy, clear reasons will be given for doing so.

4.5 Where an application does not receive any objection, or where such objections are received are resolved making the application effectively non-contested, authority is delegated to officers to grant the application.

4.6 Relevant objections will be considered by the Council when determining applications. Parish/Town and Community Councils, Ward Members, responsible authorities and any interested party (local resident or business) can make objections. Objections will be considered relevant where they follow the basis of paragraph 4.7 and 4.8 below. A decision on relevance will be made by an officer. In borderline cases the benefit of the doubt should be given to the person / body making the objection and a Committee can make a final judgement. Objections based on moral grounds are not considered relevant so will not be accepted. Objections based on equalities can be considered under section 6 below.

4.7 An application may be refused on the following discretionary grounds:

- i. the applicant is unsuitable to hold the licence by reason of (a) having been convicted of an offence or (b) for any other reason;
- ii. if the licence 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 licence if he made the application himself;
- iii. the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

- iv. that the grant or renewal of the licence would be inappropriate, having regard—
 - a. to the character of the relevant locality; or
 - 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.

4.8 When considering whether a licence would be inappropriate, the following **Guidelines** will be considered:

4.8.1 Only one sex shop and one other sexual entertainment venue in a particular 'locality' is ordinarily permitted.

4.8.2 A licensed sex establishment shall not normally be situated within 'inappropriate proximity' to:

- i. a place of religious worship / education;
- ii. a pre-school facility /school;
- iii. a higher education campus;
- iv. any residential accommodation (including hotels);
- v. an enclosed shopping mall, arcade or centre;
- vi. a market;
- vii. a building open to the general public;
- viii. a community meeting place;
- ix. a community leisure facility;
- x. a "Gateway" to an identifiable 'locality';
- xi. a location where children may be at risk but not previously referred to in (i)—(x) above; or
- xii. a conservation area within the meaning of the Town and Country Planning Acts.

Note: 'inappropriate proximity' is defined as the distance that, following assessment of the Regulatory Committee, taking into account evidence from objections.

4.8.3 The exterior advertisement/ decoration of the premises will be agreed with the Head of Regulatory Services, taking into consideration any advice from the Planning Service as required.

4.8.4 The window/door glazing adjacent to and visible from the public highway (including a footway) should be obscured, and no part of the interior should be visible when the entrance door is open.

- 4.9 The status or decision of a planning consent can be taken into consideration as to the grant or otherwise of a sex establishment licence.
- 4.10 The definition of 'locality' will be determined by the Regulatory Committee, or where relevant, officers, for each application on its merits.
- 4.11 Licences will be granted for a 12-month period except in exceptional circumstances.
- 4.12 All sex establishment licences will carry standard conditions as attached to this policy unless alternative provisions are made to render conditions unnecessary.
- 4.13 Additional special conditions can be applied to licences where the Council considers it necessary. These conditions may refer, but not be limited to opening hours, operational controls, protection of equalities etc.
- 4.14 Fees for applications and licence changes are available on request from the Council
- 4.15 Revocation of a licence:
- 4.15.1 The Council may revoke a licence on any mandatory ground, section 4.2 or on either of the discretionary grounds 4.7.
- 4.15.2 The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and being heard by the Regulatory Committee.

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5 Licensing Act 2003

- 5.1 The provision of dancing and associated background live/ recorded music which is integral to the provision of relevant entertainment, such as lap dancing will not require authorisation under the Licensing Act 2003.
- 5.2 If the premises wishes to provide other licensable activities such as sale of alcohol, late night refreshment or the provision of music to allow members of the audience to dance, then a Premises Licence under the Licensing Act 2003 will be required.

6 Public Sector Equality Duty

- 6.1 Section 149 of the Equality Act 2010 obliges public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

6.2 If SEV licences were granted the Council would be able to attach conditions to licences as appropriate to promote this duty, for example to protect performers from harassment and any threat to their dignity and to address any suggestion that women may be less welcome in premises than men. The fears of women and vulnerable persons using the vicinity of the premises can be addressed in decisions as to the locations of such facilities and by conditions.

6.3 Victims of modern day slavery, both foreign nationals and British citizens, can be at risk of exploitation by employers and customers in SEVs and trafficked around the country for sex work. Applicants and licence holders must implement training for SEV management and staff to help prevent and identify women who may be coerced into working in the industry or customers who may have been forced to attend the venue.

7 **Immigration Act 2016**

7.1 Under the Immigration Act, introduced in 2016, the Home Office granted new duties for local authorities to deal with illegal workers and those who employ them. Anyone employing illegal workers, (those without the right to be working in the UK) can be fined up to £20,000 per illegal worker. The wages of the illegal workers can also be seized as proceeds of crime. Licence holders and applicants are required to check the residency status and right to work of anyone who is employed. For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the [Home Office guidance](#). Any licence holder found to allow an illegal worker to work as part of their activities is likely to have their licence reconsidered at renewal.

8 **Scheme of delegation**

Matters to be dealt with	Decision to be made by:		
	Full Committee	Sub-Committee	Officer
Application for grant, renewal, transfer		If contested and not resolved	If no relevant objection made
Application for transfer		If contested and not resolved	If no relevant objection made
Refusal of application		If contested and not resolved	Where Schedule 3 section 12 (1) of Misc Prov Act 1982 is met
Revocation of licence		In all cases	
Setting of fees	In all cases		
To make and amend policy	In all cases		
Enforcement			In all cases

Standard Conditions to be attached to all Sex Establishment Licences

General

- 1.0 The following conditions shall be attached to all sex establishment licenses issued by Milton Keynes City Council. The Council may decide to add or remove conditions depending on the relative merit of each application.
- 2.0 The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Times of opening

- 3.0 *The Following hours and days have been agreed for the opening hours of the premises*
.....Hours
.....Days

Conduct and Management of Sex Establishments

- 4.0 Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.
- 5.0 The name of the person(s) to be responsible for the daily management of the Sex Establishment shall be supplied to the Council in writing and shall be prominently displayed within the front reception of the Sex Establishment throughout the period during which they are responsible for its conduct.
- 6.0 The Licensee shall retain control over all portions of the premises and inform the Council at the earliest possible opportunity should any part of the premises be let, sold, transferred, or otherwise disposed of.
- 7.0 The Licensee shall maintain good order in the premises.
- 8.0 No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment, and a notice to the former effect shall be displayed on all entrances to the premises so as to be visible from the outside.

- 9.0 All persons involved in admitting individuals into a Sex Establishment must receive full and appropriate training to enable them to identify individuals under 18 years of age. A record of the training each person has received shall be maintained and regular refresher training is also to be given and recorded. A record of this training may be either written or in electronic form and shall be provided to the Police, the Local Authority or the Licensing Authority on request.
- 10.0 If an individual attempting to enter the Sex Establishment appears to be less than 18 years of age then that individual shall be asked to produce identification such as a passport, HM Forces ID card, driving licence or national ID card bearing their photograph and date of birth with either:
- (a) a holographic mark, or
 - (b) an ultraviolet feature
- 11.0 A refusal log will be kept to record all attempts to enter the premises by any underage persons. The refusal log may be either written or in electronic form and shall be provided to the Police, the Local Authority or the Licensing Authority on request
- 12.0 The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those parts which have been licensed by the Council.
- 13.0 Neither the Licensee, any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the premises.
- 14.0 The Licensee shall ensure that during the hours the Sex Establishment is open for business, every member of the management team wears a badge of a type to be approved by the Council indicating their name and that they are an employee.
- 15.0 A copy of the licence is to be displayed prominently at the premises at all times where it can be seen conveniently by customers.
16. No change is permitted from one type of sex establishment to another without the consent of the Council.

Goods available in Sex Establishments

17. Neither Sex Articles nor 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 shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema or Sexual Entertainment Venue.

18. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.
19. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Censors and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

External Appearance

20. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter of thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:
 - i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a licence granted by the Council.
 - ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) as shall have been approved by the Council.
21. The interior of the premises shall not be visible from the entrance and windows.

State, condition and Layout of the Premises

22. The premises shall be maintained in good repair and condition.
23. The number, size and position of all doors or openings provided for the purposes of the ingress and egress by the public shall be approved by the Council and shall comply with the following requirements:-
 - i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit" or "fire exit" where appropriate.
 - ii) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - iii) Save in the case of emergency no access shall be permitted through the premises to any adjoining or adjacent unlicensed premises.

24. The external doors to the Sex Establishment shall be fitted with operating automatic door closures.
25. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment
26. No more than one person (excluding any employee or contracted performer) shall be present in any such booth or cubicle at any time.
27. The Council must be notified of any changes to the layout or structure of the premises.

Safety

28. The Licensee shall take all reasonable precautions for the safety of the public, employees and contracted performers.



Standard Conditions specific to Sex Shops

1. A Sex Shop shall be used for the purpose of the sale of goods by retail.
2. All goods shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.

Standard Conditions specific to Sexual Entertainment Venues

1. Premises licensed as a Sexual Entertainment Venue under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be used only for the purpose of a Sexual Entertainment Venue as defined in paragraph 2A and shall not be used, wholly or in part, for any other purpose during the period the premises are licensed as a Sexual Entertainment Venue.
2. To the extent that striptease is permitted by law, it shall be deemed in these conditions to apply to all forms of striptease, or nudity by male or female performers.
3. Any performance shall be restricted to dancing, and the removal of clothes. There must be no other form of sexual activity or the use of sex articles as defined in the Local Government (Miscellaneous Provisions) Act 1982.
4. There shall be no physical participation by any member of the audience or any other performer except as detailed in condition 5.
5. The only form of physical contact allowed with a customer is when the performer introduces him/herself (handshake/kiss on the cheek) at the start of a performance and again at the conclusion of a performance; or where a tip is placed in the garter (females) or arm band (males). There shall be no other form of contact.
6. Should a customer touch a performer, the performer must issue a verbal warning. If this happens again the performer shall immediately withdraw, and report the matter to the Duty Manager, who shall take appropriate action.
7. No performer shall give or accept telephone numbers to or from members of the audience.
8. To ensure that no performer makes any arrangement to meet a customer the performer, will be obliged to leave the venue by a separate exit, and utilise safe transport that will be approved or arranged by the management of the premises.
9. No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated, or under the influence of illegal substances.

10. No customer shall be admitted to the premises if, in the judgement of the management, they appear to be intoxicated, or under the influence of illegal substances.
11. If performers are invited to have a drink with a customer, the performer shall not be nude during this period.
12. Performers shall be provided with an appropriate room as a changing and rest area which shall be located so as to be separate and apart from the public facilities.
13. No person other than performers and authorised staff shall be permitted in the appropriate room referred to in paragraph 12.
14. There shall be no sexually explicit external advertising likely to cause offence as to the nature of the activity being held of the premises.
15. No person under the age of 18 shall be admitted to or allowed on the premises whilst licensable activities are taking place.
16. On arrival each customer shall be made aware of the "house rules".
17. No performers shall be under the age of 18.
18. Door supervisors registered in accordance with the Security Industry Authority shall be on duty at all times when licensable activities are taking place. Numbers to be agreed with Thames Valley Police.
(This condition should not be duplicated where a premises licence under Licensing Act 2003 is in place)
19. The licensee shall ensure that no gratuities are thrown at or to any performer.
20. On those days where "relevant entertainment" is provided only those dancers engaged by the licensee or their representative shall be permitted to perform.
21. All "relevant entertainment" shall be performed in the area of the premises as marked on the plans submitted to the Council.
22. All private booths shall be appropriately supervised to ensure safety of employees and contracted performers.
23. No "relevant entertainment" shall be visible from the exterior of the premises.
24. Any person inside the premises who can be observed from the outside the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in the area surrounding the premises.
25. During any lap dancing performance, performers may not:
 - a) Simulate sex acts
 - b) *(note. Special conditions may be attached or removed to consider specific actions)*
26. The premises shall have an adequate CCTV system installed and maintained to the satisfaction of the Police. All cameras will continuously record whilst the premises

are open. The recordings will be kept for a minimum of 28 days and be made available to the Council or Police on request.

27. Appropriate signage representative in respect of the use of CCTV at the premises shall be displayed in conspicuous positions.
28. Other than recordings made in accordance with the above CCTV conditions, no photographic, filming, recording or electronic transmission of performances shall take place without the prior consent of the Council.
29. Training shall be provided to all staff in respect of safeguarding children and adults in order to identify women who may be coerced or forced into working in the industry or customers who may have been forced to attend a sex establishment venue.
30. Performers must adhere to the Licensee 'Performers Code of Conduct' as detailed in the application.
31. The Licence Holder must comply with its 'Policy for Welfare of Performers'

Standard Conditions specific to Sex Cinema

1. The showing of films, videos or DVDs to persons under 18 is restricted in accordance with any recommendations made by the British Board of Film Classification (BBFC) where the film has been classified by that Board or by the Licensing Authority where no classification certificate has been granted by the BBFC.

Licensing

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[Licensing | Milton Keynes City Council \(milton-keynes.gov.uk\)](#)

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