



Borough Council

Policy for sex establishments and sexual entertainment venues

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Luton

Licensing Policy for Sex Establishments and Sexual Entertainment Venues

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Introduction

Luton has a population of 216,800 people, making it one of the largest towns in South East England. Luton's people come from a wide range of ethnic backgrounds and the town is proud of its cultural diversity.

Approximately 14% of the town's population is under 25. Luton has a thriving University, and international airport and excellent transport links too many of the country's major cities.

Luton is densely populated and is in a conurbation with the neighbouring towns of Houghton Regis and Dunstable.

The borough currently has 1 premises licensed as Sex Establishment and 1 premises licensed as a Sexual Entertainment Venue.

The council will monitor the continuing expansion of the leisure industry, which provides an essential contribution to the local economy in jobs and revenue in the borough, in order to maintain a balance between those interests and the interests of preserving the heritage of the area and protecting the interests of residents.

This 'Statement of Licensing Policy' sets out the policies the council will generally apply when making decisions on applications. It also sets out information about the application process, what is expected of applicants and how people can make objections about applications.

This policy also sets out the types of controls that are available to the council when decisions are made about licence applications and explain what action can be taken if complaints are received.

Any comments on the contents of this policy should be sent to:-

Luton Council
Licensing Service
Town Hall
Luton
LU1 2BQ

or by e-mail to licensing@luton.gov.uk

Relevant Legislation

1. Luton Borough Council had adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with regard to sex Cinemas and sex Shops on 14 December 1982, and the provisions came into force on the 01 February 1983 providing that anyone wishing to operate a 'sex establishment' within the borough must first obtain a licence from the council. The resolution was reaffirmed with the amendment of s27 of the Policing and Crime Act 2009 to extend this to Sexual Entertainment Venues on 2 November 2010.
2. Luton Borough Council has not imposed any restriction on the number of licences to be issued. The terms and conditions as adopted for sex establishments have been previously published by the council with the last version dated January 2007.
3. We are consulting on the policy between 28th November 2018 and 11th January 2019.
4. Consultation is to be conducted with local residents; existing and future potential holders of sex establishment licences in the borough; the statutory responsible authorities under the Licensing Act 2003; and holders of premises licences under the Licensing Act 2003 in the borough.
5. In developing this policy, the legal requirements of the 1982 Act and duties under the following provisions were taken into account;
 - (a) section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the borough;
 - (b) the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
 - (c) the Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory
 - (ii) justified by an overriding reason relating to the public interest
 - (iii) proportionate to that public interest objective
 - (iv) clear and unambiguous
 - (v) objective
 - (vi) made public in advance, and
 - (vii) transparent and accessible.
6. The council does not take a moral stand in adopting this policy and recognises that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the role of the licensing authority to administer the licensing regime in accordance with the law.

7. The council will take into account the Luton Borough Council Adult Exploitation Strategy with a view to prevent criminal exploitative behaviours across the town, when assessing applications for sex establishments across the borough.
8. This Statement of Licensing Policy sets out the council's requirements for premises to be licensed as sex establishments within the meaning of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
9. Section 2 of the act provides that local authorities may resolve that schedule 3 will apply to their area, which has the effect of requiring premises operating as sex establishments in that authority's area to be licensed. Adoption of schedule 3 also allows the council to set terms and conditions and fees for the grant, renewal, transfer and variation of such licences and the number of licences that may be issued in the area, including nil.

Police and Crime Act 2009 - Meaning of a Sexual Entertainment Venue

10. A sexual entertainment venue is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer as defined in paragraph 2a of schedule 3 and as inserted by section 27.
11. The meaning of relevant entertainment is any live performance or live display of nudity which is of such 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 an audience (whether by verbal or other means). An audience can be considered as just one person (e.g. where the entertainment takes place in private booths).
12. Full definitions of relevant entertainment can be found in Appendix A of this policy.
13. For the purpose of these provisions a premises includes any vessel, vehicle or stall but does not include private dwelling to which the public are not admitted.

Schedule 3 Local Government (Miscellaneous Provisions Act) 1982 – Sex Establishments (Sex Cinema or Sex Shop)

14. The appropriate authority is responsible for determining applications for sex establishment licences. Local authority means:
 - The council of the district where the applicant is applying
15. A sex establishment is defined under the act as a sex shop or sex cinema. Full definitions of those terms can be found in appendix A of this policy.
16. It includes any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstrations of articles which are manufactured for use primarily for the purpose of birth control.

Integration with Other Statutes

17. There are a number of statutory provisions which apply to every action the council takes as a public authority. These include but are not limited to:
 - The Equality Act 2010

- The Human Rights Act 1998
- The Provision of Services Regulations 2009 and
- The Crime & Disorder Act 1998

Equality Act 2010

18. This act legally protects people from discrimination in the workplace and wider society. This includes the Public Sector Equality Duty (PSED), which means the council must thoroughly consider, in the discharge of its licensing functions, the need to:
- Promote equality of opportunity:
 - Eliminate unlawful discrimination, harassment and victimisation
 - Promote good relations
19. This applies for this policy and to the consideration and determination of applications for sex establishments and sexual entertainment venues
20. It is not considered likely that the equalities obligations are at risk as there is no perceivable risk of unequal access to the services between different equality groups, save for those under the age of 18 years.
21. Licensing committee members have undertaken equality and diversity training and will be reviewing their learning on a regular basis to ensure their knowledge and understanding of all matters concerning equality and diversity are at the highest standard to allow them to make decisions.
22. This policy includes a clear and unequivocal commitment to meeting the Public Sector Equality Duty in the exercise of all the functions under the act. The policy and the documentation flowing from it are intended to be key means of facilitating compliance with all council obligations.

Human Rights Act 1998

23. This policy incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 1 of the first protocol: Everyone is entitled to the peaceful enjoyment of his or her possessions. It should be noted that the courts have held that a licence is a person's possession:
 - Article 6, in relation to the determination of civil rights and obligations: Everyone is entitled to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law.
 - Article 8: Everyone has the right to respect for one's home and private life, including for example the right to a "good night's sleep"
 - Article 10: Freedom of expression.

Provision of Services Regulations 2009 and Fees

24. These regulations require that applications are processed as quickly as possible and, in any event, within a reasonable period. The regulations also specify that in the event of failure to process the application within the period or as extended in accordance with the provisions of these regulations, the authorisation is deemed to be granted (tacit approval) by the council, unless different arrangements are in place.
25. The council considers that it would not be in the public interest, for reasons of public safety, for tacit approval to apply with regards to applications for sex establishments and sexual entertainment venues.
26. The regulations also state that any charges (fees) provided for by a competent authority, which applicants may incur under an authorisation scheme, must be reasonable and proportionate to the cost of the procedures and formalities under the scheme, and must not exceed the cost of these procedures and formalities.
27. The regulations suggest that all fees within the scope of the directive be separable in two parts:
 - Part 1 – The first pre-application costs, mainly the administrative costs incurred when dealing with the application from when it is received up until it being determined (issued/refused).
 - Part 2 – The on-going costs, monitoring and enforcing the terms and conditions of that licence. This is to show clearly that the additional fee will be payable upon grant of a licence.
28. Fees are reviewed annually as part of the review of the Councils Scale of Charges with regards to the costs of administering and compliance with the licensing regime.

Crime and Disorder Act 1998

29. Under this act, local authorities must have regard to the likely effect of the exercise of their functions, and do all that they can to prevent crime and disorder in their area. This policy will have regard to the likely impact that the granting of licences may have on related crime & disorder in the borough.

Location of Licensed Premises

30. The council acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.

Whilst the council have not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application upon its own merits, the council will consider the characteristics of a locality and shall particularly take account of the density and proximity of:

- (a) residential areas;
- (b) schools, nurseries or any other premises substantially used by or for children under 16 years of age;
- (c) parks or other recreational areas used by or for children under 16 years of age;
- (d) churches or other place of religious worship.
- (e) community buildings
- (f) gateways to an identifiable locality.
- (g) alcohol or entertainment licensed premises

31. Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state the full address of where it is to be used as a sex establishment.
32. The council will inform its residents and other interested bodies of applications for the grant, renewal, transfer of licence through the maintenance of a public register of all applications received. This information will be available on the council's website in the form of a register and details communicated to the ward councillors. In addition, the council will inform those residents and other interested bodies which it considers are likely to be affected in the vicinity of the premises by applications for the grant, renewal, or transfer of licences, by supplying the details of the application.
33. For the purposes of this policy, vicinity generally means within a 100 metre radius of the application premises.

Making an application

34. An application for the grant, renewal, transfer or variation of a licence must be made in writing to the council in accordance with the requirements shown in Appendix B.
35. In keeping with the council's policy on the introduction of e-government, the council consents to applications being given electronically. Completed applications and notices are to be sent to the following addresses:
- Using our online service via the councils website www.luton.gov.uk/licensing
 - By post/ or in person to The Licensing Service, Town Hall, Upper George Street, Luton LU1 2BQ (Monday and Friday 09.00 till 16.00 and Wednesday 10.00 till 16.00)

Notices

36. An applicant for a grant, renewal or transfer of a licence must give a public notice of the application.
37. Notice shall in all cases be given be given by publishing an advertisement in a local newspaper circulating in the authority's area.

38. The notice must be published within the local newspaper no later than 7 days after the date of application.
39. An application in respect of a premise a notice shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
40. The notice must be on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16 pt.
41. The notice must state: -
- a. details of the application and activities that it is proposed will be carried on or from the premises,
 - b. the full name of the applicant,
 - c. the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - d. the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
 - e. that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
42. An applicant for the grant, renewal or transfer of a licence must no later than 7 days after the date of application, send a copy of the application to the chief officer of police at the following address:
- Luton Licensing Officer, Bedfordshire Police Headquarters, Woburn Road, Kempston, Bedford MK43 9AX or by email to licensingluton@bedfordshire.pnn.police.uk

43. A specimen notice for public advertisement is attached at Appendix C of this policy.

Grant, Renewal or Transfer of Licences

44. The council may grant to any applicant and renew a licence for the use of any premises as a sex establishment or sexual entertainment venue on such of the terms and Conditions specified by the council in Appendix D
45. A licence will remain in force for one year, or such a shorter period specified in the licence, unless previously cancelled or revoked.
46. The council may, if they think fit, transfer a licence to any other person upon application by that person.
47. Where an application for renewal or transfer of a licence is made before the date of expiry of the existing licence, the licence shall remain in force until such time the new application has been determined.

48. Where applications for licences have been granted, the council will send the licence to applicants by post.

Variation of Licences

49. If the holder of a licence wants to make changes to such licence, then they will need to apply to the council for a variation.

50. A variation is considered as a proposed change to the existing licence, this could be a change to the hours, a change to conditions of the licence or a change to the premises itself.

51. If you would like to apply for a variation of a premises licence you will need set out the terms of the proposed variation in an application and submit this to the council.

52. The council will consider the application for variation on its own merit however the council may:

- Approve the variation specified in the application or
- May make such variations as the council see fit
- May refuse the application

Objections and Petitions

53. The act allows for objections to be made against applications for sex establishment licences, and these may come from any person regardless of whether they live or work near to the proposed sex establishment. This power also extends to every type of application for a licence, including renewals, transfers and variations in addition to new licences.

54. Objections must be given to the council no later than 28 days after the date of the application.

55. Objections received after 28 days will not be considered nor will any objection that does not contain the name and address of the person making it.

56. Any objections must:

- Made in writing to the council
- Indicate the name and address of the person submitting the objection (which will not be revealed to the applicant without the objector's consent)
- Indicate the application to which the objection relates
- Indicate the general grounds for making the objection.

57. Where the council receives a notice of objection, the council shall before considering the application give notice in writing of the general terms of the objection to the applicant.

58. Where objections citing legitimate concerns are received, or other concerns in respect of the discretionary grounds for refusal arise, that application will be considered at a public hearing by a sub-committee under delegated powers.

59. Where applications are referred to the licensing sub-committee the hearing will normally be held within 20 working days of the end of the period in which objections might be made, unless all parties agree a hearing is unnecessary.

60. The council will not give any weight to any objections which are considered to be frivolous or vexatious, or those which relate to moral opposition to the licensable activities.
61. Where no objections are made, the council will in most cases grant the licence subject to the terms and conditions shown at Appendix D.
62. Details of the application and the anonymised contents of objections referred to the sub-committee for determination will be published in reports which will be made publicly available in accordance with the Local Government Act 1972.
63. The names and addresses of persons making objections will not be disclosed to the applicant without their consent. The information will, however, be shared with the councillors sitting on the relevant sub-committee and their advisors.
64. In all cases, applicants and those making objections that are genuinely aggrieved by a decision of the council are entitled to appeal to the Magistrates Court'

Important Message: Petitions received will be treated as one representation from the person sending it in, supported by other signatories. Petitions will not be treated as individual representations from everyone who has signed it. Each page of the signatures must have the premises details and the reasons for submitting the representation and the licensing objectives the representation relates to.

Please see Appendix F for a suggested petition format.

Determining Applications

65. When considering applications, the council will have regard to:
 - The Local Government (Miscellaneous Provisions) Act 1982
 - Police and Crime Act 2009
 - Any supporting regulations
 - This Statement of Licensing Policy
66. This does not, however undermine the rights of any person to apply for a licence and have an application considered nor does it override the right of any person to make objections on any application where they are permitted to do so under the act.
67. Where determining applications, the council will take account of any comments made by the chief officer of police and any other relevant objection made.
68. In all cases, the council reserves the right to consider each application on its own merit.
69. The council will give clear reasons for its decisions.

Conditions

70. The will attached standard conditions in accordance with paragraph 13(1) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to all licences for sex establishments.

71. The council may also attach further conditions to a licence if they feel appropriate however no condition will be imposed that cannot be shown to be necessary.

72. Further conditions that may be attached to the licence are shown in Appendix D

Refusal of Licences

73. Except where the council are prohibited from granting, renewing, varying or transferring a licence, the council will not refuse a licence without first:

- Notifying the applicant or holder of the licence in writing of the reasons:
- Giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Sub-Committee.

74. The circumstances in which the council must or may refuse a licence are shown in Appendix E

Revocation of Licences

75. The council may at any time revoke a licence –

- On any ground specified in Appendix E of this policy

76. Where a licence is revoked the council will give the licence holder a statement in writing of the reasons for the decision within 7 days of the decision being made.

77. Where the licence is revoked the holder shall be disqualified from holding or obtaining a licence within the borough for a period of 12 months beginning with the date of revocation.

Cancellation of Licences

78. The Licence holder may surrender the licence at any time however a request must be made to the council in writing to cancel the licence.

79. In the event of the death of the licence holder, the licence will be deemed to have been granted to his/her personal representatives and shall unless previously revoked remain in force until the end of the period of 3 months beginning with the date of death, and shall then expire.

80. Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence holder, it may extend or further extend the period in which the licence remains in force.

Complaints

81. If you wish to make a complaint about alleged unlicensed activity or a breach of licence then you can contact the Licensing team during normal office hours either by telephone 01582 546040 or emailing licensing@luton.gov.uk
82. Complaints made to the licensing service will be investigated by a Licensing Officer who will also inform you of any action taken as a result of your complaint.
83. Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

Compliance and Enforcement

84. The council is responsible for the compliance and enforcement of the licensing regime and will have regard to the Department of Business Enterprise & Regulatory Reforms Regulators compliance code and the Better Regulation Commissions five principals of good regulation. The council will carry out its regulatory functions in a fair, open and consistent manner.
85. Specifically, the council is committed to:
- Being proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed
 - Being accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed
 - Being consistent – to implement rules and standards fairly
 - Being transparent – to be open and to provide clear explanations of what is needed, by when the rights of appeal.
 - Target its regulatory action at cases in which action is needed.
86. The council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.
87. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.
88. The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.
89. This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website: www.luton.gov.uk

Appendices

Appendix A

Definitions

'Sex Cinema'

1. A sex cinema is any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—
 - are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—
 - sexual activity; or
 - acts of force or restraint which are associated with sexual activity; or
 - are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

But does not include a dwelling-house to which the public is not admitted.

2. No premises shall be treated a sex cinema by reason only—
 - If they are licensed under section 1 of the Cinemas Act 1985, of their use for a purpose for which a licence under that section is required or –
 - Of their use for an exhibition to which section 6 of the Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of that Act.

'Sex Shop'

3. A 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—
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity.
4. The phrase “significant degree” is not defined in legislation, although the courts have previously considered its meaning. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the council will consider:
 - The ratio of sex articles to other aspects of the business
 - The absolute quantity of sales
 - The character of the remainder of the business
 - The nature of the displays in the business
 - Turnover generated by sales of sex articles
 - The format of literature, publicity or advertising materials
 - Any other fact which appear to be materially relevant
5. For the purpose of the act, it is immaterial as to whether the sex shop is open for customers to visit or is used to supply goods to fulfill orders by mail or via the internet. However, it should be noted that the supply of pornographic video recordings by remote order is an offence under the Video Recordings Act 1984.

6. No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

'Sex Article'

7. A sex article means—

- anything made for use in connection with, or for the purpose of stimulating or encouraging—
 - i) sexual activity; or
 - ii) acts of force or restraint which are associated with sexual activity;
- anything to which sub-paragraph 4 below applies.

8. This sub-paragraph applies to—

- any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- any recording of vision or sound which—
 - i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

'Sexual Entertainment Venue'

9. A “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. In this paragraph “relevant entertainment” means—

- Any live performance
- Any live display of nudity

10. Luton Borough Council will judge each case on its merits, we would expect that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows
- Nude or topless waitress service

11. The above list is not exhaustive and as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence a premises as a sexual entertainment venue shall depend on the content of the entertainment provided and not the name given. How the authority will determine an application is laid out within this policy.

12. Premises providing relevant entertainment on no more than 11 occasions per year, with each occasion lasting no more than 24 hours and separated from another occasion by at least a month are exempt from the licensing requirement. For example, a pub that provided two events annually with strip-tease entertainment, on the 1st September and the 2nd October, would not require a licence. However, if the events were held on the 01st September and 30th September, a licence would be required.

13. Entertainment which is not classed as “relevant entertainment” as defined under the Act may still require licensing under the Licensing Act 2003.

Appendix B

Application Requirements

Grant of a licence

1. To apply for the grant of a sex establishment licence an applicant must: -
 - send the council: -
 - i) a completed application form;
 - ii) a scale plan of the premises to which the application relates;
 - iii) an application fee
 - display a notice on the premises;
 - advertise the application in a local newspaper;
 - send a copy of the application and plan to Luton Licensing Officer, Bedfordshire Police Headquarters, Woburn Road, Kempston, Bedford MK43 9AX or by email to licensingluton@bedfordshire.pnn.police.uk

Plan requirements

2. The plan shall show: -
 - the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - the location of points of access to and egress from the premises;
 - the location of escape routes from the premises;
 - in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
 - fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
 - in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
 - the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
 - the location of a kitchen, if any, on the premises.
3. The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Public notices

4. A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the

application was given to the council, where it can be conveniently read from the exterior of the premises.

5. The notice must be on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16 pt.
6. The notice must state: -
 - details of the application and activities that it is proposed will be carried on or from the premises,
 - the full name of the applicant,
 - the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
 - that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
7. A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the council.

Variation of a licence

8. The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
9. The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

Renewal of a licence

10. The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
11. The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

Transfer of a licence

12. A person may apply for transfer of a licence at any time.
13. The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

Appendix C
Notice of Application for Grant / Renewal / Variation /
Transfer of Sex Establishment

Full Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Full details of application (hours of trading, type of licence, etc):	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Luton Borough Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at the offices of Luton Borough Council, Licensing Service, Town Hall, Luton LU1 2BQ between 9.00 am and 4.00 pm (Monday and Friday) and between the hours of 10.00 am and 4.00 pm Wednesday.</p> <p>Any person wishing to object to the application should give notice in writing of the objection to the Licensing Service Manager at the above address stating in general terms the grounds of the objection not later than 28 days after the date of application. The name or address of any person so objecting will not be revealed except with the objector's consent.</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application, the maximum fine for which a person is liable on summary conviction is a level 5 fine on standard scale.</p> <p>Dated</p>	

**THIS NOTICE TO BE DISPLAYED ON THE PREMISES TO WHICH IT
RELATES AND WITHIN A LOCAL NEWSPAPER**

Notes:

This Notice may be used to display the application on the premises and/ or for publication in a local newspaper.

Newspaper Notice

It must be published in a local newspaper circulating in the vicinity of the premises.

The Notice must be published on **AT LEAST ONE OCCASION** during the period of **SEVEN DAYS** starting on the day after the day on which the application was given to the council.

It is for the applicant to decide in which local newspaper to publish this Notice to satisfy the requirements of the regulations.

Premises Notice

This Notice must be of a size **EQUAL TO OR LARGER THAN** A4 paper and must be on **WHITE** paper. It must be **PRINTED IN BLACK INK** or **TYPED IN BLACK** in a **FONT SIZE EQUAL TO OR LARGER THAN 16**.

It must be displayed prominently on the premises to which the application relates where it can be conveniently read from the exterior of the premises.

The Notice must be displayed for a period of **NO LESS THAN 21 CONSECUTIVE DAYS** starting on the day after the day on which the application was given to the council.

Appendix D



Local Government (Miscellaneous Provisions) Act 1982

STANDARD CONDITIONS

APPLICABLE TO

SEX ESTABLISHMENTS

Licensed by

Luton Borough Council

REGULATIONS PRESCRIBING STANDARD CONDITIONS

APPLICABLE TO LICENCES FOR SEX ESTABLISHMENTS

- Definition
1. In these regulations, unless otherwise stated, the following expressions shall have the following meanings:
 - (i) “Sex Establishment” “Sex Entertainment Venue” “Sex Cinema” “Sex Shop” and “Sex Article” shall have the means ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
 - (ii) “Premises” means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex establishment granted under the said Third Schedule.
 - (iii) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.
 - (iv) “Approved” means approval by the Council in writing.
 - (v) “The Council” means Luton Borough Council.
 - (vi) “Film” shall have the meaning ascribed to it in the Films Act 1960 – 1980.
- General
2. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
 3. The granting 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.
 4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.
- Times of Opening
5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9.00am and shall not be kept open after 6.00pm.
 6. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays or any public holidays.
- Conduct and Management*
7. 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

of Sex Establishment

notified in writing to the council within 14 days of such change and 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.

8. The licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of any upon the premises during the whole time they are open to the public.
9. The name of the person responsible for the management of a Sex Establishment shall be prominently displayed within the premises.
10. The licensee shall maintain a register. It must record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence and the names and addresses of those employed in the Sex Establishment. The Register is to be available for inspection by the Police and by authorised officers of the Council.
11. The licensee shall maintain good order in the premises.
12. No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment.
13. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
14. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
15. Neither the licensee or any employer or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation anywhere in the Borough of Luton.
16. The licensee shall comply with all statutory provisions and any regulations made thereunder.
17. The copy of the licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproduced to the same scale as those issued by the Council. The copy of the licence shall be displayed, framed, and exhibited to the satisfaction of the Council. A clean and legible copy of these Regulations shall be retained on the premises and available upon request.
18. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.

User

19. No change of use of any portion of the premises from that approved by the council shall be made without the consent of the council.
20. Change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall not be effected without the consent of the Council.
21. 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 shall not be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema or Sexual Entertainment Venue.

Goods available in Sex Establishments

22. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices to be charged.
23. 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.
24. 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 the effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
25. The Licensee shall, without charge, display and make available in the Licensees Sex Establishment, such free literature on infections, safer sex, local services and other related sexual health issues as may be published by Luton Teaching Primary Care Trust (Luton tPCT)) and by other such organisations (e.g. Family Planning Association) as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash points in the Licensed Sex Establishment.
26. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or 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 conditions 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 as shall have been approved by the Council.

(iii) The wording “Private Shop” or “Adult Shop” and no other indication as to the nature of the business carried out at the licensed premises.

27. The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by, and shall be so provided with a partition as to ensure that the interior of the premises remain invisible to such passers by when the entrance is open.

28. Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the licensee under Regulation 26.

State, condition and layout of the premises

29. The premises shall be maintained in good repair and condition.

30. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of the time the Sex Establishment is open to the public.

31. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of 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”.

(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 unlicensed premises adjoining or adjacent.

32. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such device provided for their automatic closure shall be maintained in good working order.

33. The licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.

34. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.

*Conditions for Sexual
Entertainment Venues*

35. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.
36. The licensee shall take all reasonable precautions for the safety of the public and employees.
37. The licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.
38. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliances shall be maintained in a proper working order and shall be available for instant use.
39. The Licensee shall in all things conduct the premises in a decent sober and orderly manner and take whatever steps are necessary to ensure that there is no profanity nor obscene, immoral, licentious or indecent behaviour likely to cause a breach of the peace.
40. No persons aged under 18 by way of staff, visitors, customers, entertainers or others to be present whilst premise is operating.
41. When striptease/table dancing is being provided there shall be no physical contact between dancers and customers.
42. Dancers shall re-dress at the conclusion of the performance and are to remain fully clothed (minimum bikini top and bottom) at all times except when giving a performance.
43. No persons other than dancers shall be in the licensed area in a state of undress.
44. Access to the dressing rooms shall be restricted and monitored at all times.
45. External advertising shall not show photographs or any visual representation of women and shall be in accordance with the advertising code.
46. A nominated person should supervise the dancers' cloakroom.
47. Dancers must not be propositioned in any manner.
48. A member of staff shall escort dancers arriving and exiting the club.
49. Employees, entertainers or dancers may not sit with customers unless fully clothed.
50. No dancer shall arrange to meet with, whether it is inside or outside of the premises, or have any correspondence (notes or business cards) with customers.

51. Dancers/entertainers may not leave the premises until the end of the agreed shift or performance, and not be re-admitted that day or night unless part of a written contract.
52. Any person who can be observed from outside the premises must be properly and decently dressed, scantily clad persons must not exhibit in the entrance way or in the area surrounding the premises.
53. When striptease is taking place no performer shall dance with towards any other performer and shall make no physical or contact with another performer.

Appendix E

Refusals and Revocations of Licences

1. A number of grounds for refusing applications for sex establishment licences are set in paragraph 12 of schedule 3 to the 1982 Act.
2. Applications for licences cannot lawfully be granted if:
 - The applicant is under the age of 18 years
 - A licence held by the applicant has previously been revoked, which would disqualify him or her from obtaining or holding a licence in the area of that authority for 12 months from the date of revocation.
 - The applicant where this is an individual, is not a resident in an EEA state or was not a resident throughout the period of six months immediately preceding the date when the application was made
 - The applicant, where the body corporate, is not incorporated in an EEA state
 - The applicant 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.
3. The authority may also decide to refuse applications for licences if:
 - The applicant is considered unsuitable to hold the licence, by reason of having been convicted of an offence or for any other reason
 - The business to which the licence relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused a grant, renewal or transfer of such licence if he made the application himself
 - The grant or renewal of the licence would be inappropriate having regard to:
 - (1) The character of the relevant locality, or
 - (2) The use in which any premises in the vicinity are put, or
 - (3) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
4. Relevant locality means, in relation to premises, the locality where they are situated. In considering the question of relevant locality the council may take into account the following:
 - The size of the neighbourhood
 - The presence of important thoroughfares or use of the locality as a gateway district
 - The density and proximity of residential accommodation
 - The proximity of parks and children's play areas
 - The nature, density and proximity of other retail units and their uses
 - The proximity of schools
 - The proximity of community buildings
 - The proximity of places of religious worship
 - The proximity of premises licensed for the sale by retail of alcohol and the provisions of entertainment regulate under the Licensing Act 2003.
5. A decision to refuse a licence must be relevant to one or more of the above grounds.
6. When determining a licence application, the council will have regard to the rights of the applicant under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

7. The provisions of Services regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal, variation or transfer of a licence, if the council deems the application as refused on one or more of the above grounds, the council will provide the applicant with reasons for the decision in writing.

Appendix F Petition Template

Luton

Petition summary and background	[enter background reasons for and details of petition]
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Lead Petitioner details

Name	
Address	
Contact Number	
Email	
Signature	

Premises Details

Premises Name	
Premises Address	
Reasons for objection	

Name	Address	Signature

This is a suggested format for a petition. You can request the form from the Licensing Service.

- If you choose to do the petition format yourself you must do the following; State the lead petitioner details
State the premises name and address
- State the grounds for your objection
Signatories must state their name, address and signature
- Additional pages of signatures must have the premises name and reasons for representation on the top of each page

Premises Name	
Reason for objection	

Name	Address	Signature