

The Position relating to the Licensing of Entertainment Involving Striptease and Nudity

1. The position relating to the provision of entertainment involving striptease and nudity is a complex one.
2. Currently, the licensing of public music and dancing entertainments is governed by Schedule 12 to the London Government Act 1963, while the Cinemas Act 1985 covers the licensing of film exhibitions.
3. Separately, the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Greater London Council (General Powers) Act 1986 governs the licensing of “Sex Shops”, “Sex Cinemas” and “Sex Encounter Establishments”.
4. Under the 1982 Act 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 –
 - (a) sex articles; or
 - (b) 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”.
5. The same Act defines “Sex Cinema” as “any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures by whatever means produced which
 - (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity”.
 - (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.
6. The Act, as amended by the 1986 Act, defines “Sex Encounter Establishment” as
 - (a) premises at which performances which are not unlawful are given by one or more persons present and performing, which wholly or mainly comprise the sexual stimulation of persons admitted to the premises (whether by verbal or any other means); or
 - (b) premises at which any services which are not unlawful and which do not constitute sexual activity are provided by one or more persons who are without clothes or who expose their breasts or genital, urinary or excretory organs at any time while they are providing the service; or

- (c) premises at which entertainments which are not unlawful are provided by one or more persons who are without clothes or who expose their breasts or genital, urinary or excretory organs during the entertainment; and
 - (d) premises (not being a sex cinema) at which pictures are exhibited by whatever means (and whether or not to the accompaniment of music) in such circumstances that it is reasonable for the appropriate authority to decide that the principal purpose of the exhibition, other than the purpose of generating income, is to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity.”
7. Under the terms of the above premises it might be reasonably anticipated that premises that provide striptease and like entertainment might be licensed as “sex encounter establishments”. However, the 1982 Act carries an exemption which states that premises that are licensed (and used) under Schedule 12 to the London Government Act 1963 (for public music and dancing) or under the Cinemas Act 1985 (for film exhibitions) shall not be regarded as a sex encounter establishment.
 8. The practice in London seems to be that striptease performances generally and table dancing / lap dancing clubs are licensed under Schedule 12 to the London Government Act 1963 and not under the Local Government (Miscellaneous Provisions) Act 1982, as amended. This is confirmed with the likes of Westminster City Council and Camden Borough Council – the authorities which cover Soho and surrounding areas and also Croydon Borough Council which has recently licensed a new table dancing club. Legally, the position is not entirely clear as case law suggests that activities such as table dancing and lap dancing may not be music, dancing or public entertainment of a like kind.
 9. Generally, however, licensing authorities require that express consent is given before such entertainment may be provided under a public music and dancing licence. This is effected by way of a clause inserted in the standard public music and dancing licence conditions which prohibits the provision of striptease and like entertainment unless the expressed consent of the licensing authority is sought and given. Under the Council’s current standard licence conditions (which are adapted from the Model National Standard Conditions for Places of Entertainment) recommended by the Association of British Theatre Technicians, the District Surveyors’ Association and the Local Government Licensing Forum, the relevant condition can be found as Additional Condition SX. This states that “The premises shall not be used for any purpose which, but for this licence, would require a sex establishment licence.” Conditions of such nature have been present within the Council’s standard licence conditions for many years.
 10. This has meant that every application for consent for striptease and similar entertainment has always been reported to the Council Committee or Sub-Committee carrying responsibility for licensing.
 11. Under the Licensing Act 2003, striptease and similar entertainment remains a entertainment form that may be licensed by way of a “premises licence”. However, the approach taken by the Act is that unless an application for a premises licence is subject to representations lodged by a responsible authority or local residents the application must be granted and the Council has no discretion to impose any licence conditions relating to the proposed activities other than conditions that can be developed directly from the applicant’s own operating schedule. The lodging of representations does engage the licensing authority’s discretion to impose conditions but only conditions that arise directly from the representations and which can be shown to be necessary for the promotion of the four licensing objectives.
 12. The Council thereby has very limited scope to intervene in any application.

- 13.** However, the Licensing Committee has indicated that it would wish the Council to continue to monitor applications received to ensure that a consistent approach in securing the licensing objectives is achieved.