



**Isle of Wight
Council**

**SEX ESTABLISHMENT
LICENSING POLICY**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – SCHEDULE 3
POLICING AND CRIME ACT 2009 – SECTION 27**

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1 Aim of the Policy

- 1.1 The aim of this policy is to provide guidance for prospective applicants and anyone who may wish to object to or support an application of a sex establishment within the Isle of Wight.
- 1.2 This document also sets out the expectations of the Licensing Authority on the applicant when receiving an application.

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2 Introduction

- 2.1 This policy will become effective on XXXX
- 2.2 This policy document relates to the administration of applications for licences for sex establishments. Sex establishments will fall into one of the following categories:
- Sex shops
 - Sex cinemas
 - Sexual entertainment venues
- 2.3 As defined by the Local Government (Miscellaneous Provisions) Act 1982, amended by the Police and Crime Act 2009. This includes lap dancing establishments.
- 2.4 The Isle of Wight Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) to licence sex shops, sex cinemas, and sexual entertainment venues on the Isle of Wight.
- 2.5 This Sex Establishment Licensing Policy sets out The Isle of Wight Council's requirement for premises to be licenced as 'sex establishments' within the meaning of the Act (as amended).
- 2.6 The advice and guidance contained in the appendices attached to this policy is intended only to assist readers in understanding the policy and should not be interpreted as legal advice.
- 2.7 The Isle of Wight Council is mindful of possible concerns and conflicts that may arise within our community with regard to applications for sex establishment licences. This policy will assist the Isle of Wight Council when considering applications for licences in balancing any conflicting needs between communities and commercial interests.

3 Purpose of the Policy

- 3.1 Inform the elected Members serving on the Licensing Committee of the parameters within which licensing decisions can be made.
- 3.2 Inform applicants, communities, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions.
- 3.3 Link into the wider context of services/strategies which provide support for individuals that encourage a safer experience on the Isle of Wight.
- 3.4 Provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

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4 Definitions

4.1 For the purposes of this policy, the following definitions will apply, provided that any subsequent amendments to the 1982 Act will also be considered:

Sex Shop

- 4.2 Any premises, vessel, vehicle 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 connections 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.

Sex Article

- 4.3 Anything made for use in connection with, or for the purpose of stimulating or encouraging:
- a) Sexual activity; or
 - b) Acts of force or restraint which are associated with sexual activity; and anything to which the sub-paragraph below applies:

This sub-paragraph applies:

- a) 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
- b) to 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.

Sex Cinema

- 4.4 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; or b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
 - iii. But does not include a dwelling-house to which the public is not admitted.

Sexual Entertainment Venue

- 4.5 Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer. Relevant entertainment is defined as:
- a) Any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).

Relevant Entertainment

4.6 In terms of considering what constitutes “relevant entertainment” each case shall be judged on its merits, but the informal guidance produced by the Home Office suggests that the definition of relevant entertainment would apply to the following forms of entertainment as they are most commonly understood:

- Lap dancing.
- Pole dancing.
- Table dancing.
- Strip shows.
- Peep shows.
- Live sex shows.

4.7 However, the above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should merely be used as an indicator for certain types of entertainment as ultimately decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

Nudity

4.8 In the case of a woman: exposure of her nipples, pubic area, genitals or anus; and in the case of a man: exposure of his pubic area, genitals or anus.

The Licenced Premises

4.9 The premises, vessel, vehicle or stall which is subjected to a sex establishment licence. The premises will be in possession of all appropriate consents and permissions to operate.

The Organiser

4.10 Any person who is responsible for the organisation or management of the relevant entertainment on the premises.

Permitted Hours

4.11 The hours of activity and operation that have been authorised under a sex establishment licence.

5 Application Process

- 5.1 An application should be made in writing to The Licensing Authority, Isle of Wight Council, County Hall, Newport, Isle of Wight, PO30 1UD. Telephone 01983 823159 or email licensing@iow.gov.uk.
- 5.2 Applications can also be made via the council's website at [Sex Establishments \(iow.gov.uk\)](#)
- 5.3 Each applicant must supply their full name, address, any alternative names used by that person together with their date of birth and full contact details including an email address.
- 5.4 To apply for the grant of a sex establishment licence an applicant must submit to the Licensing Authority:
- a) A completed application form.
 - b) Any continuation sheets (with name and premises details added to every sheet)
 - c) Floor Plans
 - i. A scaled plan of 1:100 showing the premises to which the application relates showing layout, fixtures, indication of colour scheme and shop signage, naming and branding.
 - ii. Plan(s) (1:100) showing the sex establishment in relation to other premises within 100 metres.
 - d) The application fee.
 - e) Proof of address for all individual applicants – for example a current utility bill or bank statement.
 - f) Endorsed photographs of all individual applicants. Photos must be full faced and passport style and endorsed as a true likeness by a professional person of standing in the community such as a doctor, solicitor, teacher, fire officer, local government officer or councillor. The contact details for the person endorsing the photos should also be provided with the photographs as validation checks will be made.
 - g) Photographic proof of identity and age documentation for individual applicants – for example a passport or DVLA photocard driving licence containing a date of birth. Any house rules, policy or similar documents you propose to operate at the sex establishment, provided in support of your application – for example performer vetting and welfare, customer rules, management and supervision policy/structure, details of membership of a trade association, details of previous relevant experience etc.
 - h) Criminal records basic level disclosure or equivalent certificates – which should be no older than one calendar month. The Police may also conduct background checks of any person connected to this application.
 - i) Any documentation relating to verification of the entitlement of any applicant to reside or work in the UK (should this be applicable).
 - j) Copy of Licensing Act 2003 premises licence or club premises certificate if applicable.
- 5.5 Upon receipt of an application for the grant, renewal, transfer or variation of a licence, the Licensing Authority will consult with the following bodies/individuals and will have regard to any observations received as a result:
- Hampshire and Isle of Wight Constabulary
 - Hampshire Fire and Rescue Service
 - Local elected member

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- The relevant town or parish council
 - Planning Authority
 - The Council's Environmental Health Department
 - The Council's directorate of Children's Services

5.6 The Licensing Authority will also consider representations received during the consultation period from the following:

- Local residents/business living within the vicinity of the proposed venue.
- Any representations made by the applicant.
- Residents or tenant associations.
- Community associations.
- Trade associations (where appropriate).

5.7 An application for the grant, renewal, transfer or variation of a licence must be formally advertised in two specific ways:

5.8 Within 7 days after the date of application, the applicant must arrange for a public notice to be published in a local newspaper.

5.9 Where the application is in respect of premises, the applicant must also display a notice of the application on or near the premises in question. The notice must be placed in such a position so that it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of the application.

5.10 The notice must include information relating to:

- Details of the premises to which the application relates.
- Details of the applicant.
- Type of sex establishment licence being applied for.
- Whether the application is for the grant, renewal, transfer or variation of a licence.
- Details of how persons may object.
- Closing date for representations.

5.11 The applicant must also send a copy of the application to the Chief Officer of Police no later than 7 days after the date of application, unless the application is submitted electronically and in which case the Licensing Authority will serve notice on the Police.

Renewal

5.12 There is no separate process for renewing a sex establishment licence, the process outlined above must be followed.

5.13 It is recommended that an application is made to the Licensing Authority at least 2 months prior to the expiry of an existing Licence. This will ensure that the start date of the new licence (if issued) will be granted from the day after the expiry date of the old licence. This will enable the premise to continue to operate without any break between licenses.

6 Determination of Applications

- 6.1 The Act at section 12 headed Refusal of Licences provides a list of instances when a licence will not be issued. Applicants are advised to consider this before making an application.
- 6.2 There is no right of appeal if an application has been refused on the grounds listed above.
- 6.3 The council may also refuse a licence if:
- a) The applicant is unsuitable to hold a licence because they have been convicted of a relevant offence or for any other reason.
 - b) Were the licence granted, renewed, or transferred, the business to which it relates would be managed or carried out for the benefit of a person other than the applicant, who would have been refused a licence if they had applied themselves.
 - c) The number of sex establishments or sex establishments of a particular kind in the relevant locality at the time of the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality.
- 6.4 The grant or renewal of the licence would be inappropriate having regard to:
- a) The character of the relevant locality.
 - b) The use of which any premises in the vicinity are put, or
 - c) The layout, character or condition of premises, vehicle, vessel or stall in respect of the application is made.
- 6.5 Existence of a management structure to demonstrate compliance with operating conditions incorporating such matters as:
- a) Managerial competence.
 - b) Security and supervision competence.
 - c) Viable and ethical business plan.
 - d) Preparation and enforcement of a written welfare policy for performers.
 - e) Procedures in place to ensure performers are adults and entitled to live and work in UK.
 - f) Enforcement of a modern-day slavery policy.
 - g) Demonstrate measures to protect the public (such as transparent rate of charges and prevention of solicitation).
- 6.6 The determination of all applications will be made by a Licensing Sub Committee made of three members of the Licensing Committee.
- 6.7 Section 27 of the Act provides an appeal process in respect of any decision taken by the Licensing Sub Committee. Any appeal must be made to the Magistrates' Court within 21 days of the hearing.

7 Application Consultation

- 7.1 The consultation period will last for 28 days, starting from the first working day after the date a valid application is accepted by the Licensing Authority.
- 7.2 Applicants are required to provide a copy of their application to the police no later than 7 days after their application to the Licensing Authority.
- 7.3 All applications will be available to view on the council's website for the duration of the 28-day consultation period.
- 7.4 The following organisations will be notified and will be able to provide representations to all applications:
- Local Elected Member.
 - The Relevant Parish or Town Council.
 - Fire Authority.
 - Hampshire & Isle of Wight Constabulary.
 - Planning Authority.
 - Environmental Health.
 - Children And Young People's Services.
- 7.5 The licensing section will consider representations received during the consultation period from the following:
- Interested parties (local residents/businesses living within the vicinity of the proposed venue); Any representations made by the applicant.
 - Residents or tenants' associations.
 - Community associations.
 - Appropriate trade association(s).
- 7.6 All representations must be received during the 28-day consultation period. Any representations received outside of this period will not normally be considered when determining an application.
- 7.7 All objections must be made in writing (email is acceptable) and must include the following:
- The name and address of the person or organisation making the objection.
 - The premises to which the objection relates.
 - The proximity of the premises to the person making the objection.
 - The reason and justification for making the objection.
- 7.8 The licensing section will not consider objections that are believed to be frivolous or vexatious, or which relate to moral grounds. Decisions on whether objections are frivolous or vexatious will be made objectively by licensing officers and not on the basis of any political judgement.
- 7.9 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.

8 Duration of Licence

- 8.1 Sex establishment licences will normally be issued for one year but may be issued for a shorter period if deemed appropriate by the Council.

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9 Licence Conditions

- 9.1 The Licensing Authority will impose standard conditions that are relevant to all licenced sex establishments. These may include, but are not limited to:
- Opening and closing hours.
 - Displays and advertisements on or in sex establishments.
 - Visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another.
- 9.2 The Licensing Authority has made regulations as to standard conditions which are set out at Appendix A to this policy. Such conditions will be imposed unless they are varied in an individual case. Any applicant for such variation must set out the variation requested in the application, together with reasons why the variation is sought and how it intends to achieve the objectives of the standard conditions if a variation is permitted.
- 9.3 The Licensing Authority may also specify other conditions specific to individual premises dependant on the type of activity undertaken and the type of premises. These may include, but are not limited to:
- Specifying minimum distances between the audience and performers
 - Control of access to changing room facilities
 - Control of private viewings
- 9.4 Additional conditions may be imposed where appropriate and necessary.

10 Appeals

- 10.1 A right of appeal exists for applicants in respect of the refusal of applications for the grant, renewal, transfer or variation of a sex establishment licence. A right of appeal is also available in relation to the imposition of conditions and revocation of licences.
- 10.2 However, appeals against mandatory refusals (see section 8 of this policy document) can only be lodged on the basis that the mandatory ground does not apply to the appellant.
- 10.3 Additionally, no appeal provisions exist in respect of refusals to grant or renew licences on the discretionary grounds of:
- The number of sex establishments in the relevant locality
 - The character of the relevant locality
 - The use to which any premises in the vicinity are put
 - The layout, character or condition of the premises.
- 10.4 The time limit for lodging an appeal to the Magistrates' Court is 21 days beginning with the date of notification of the decision. The commencement time for the purposes of this section will be from when the applicant receives formal written notification of the decision and reasons.
- 10.5 The Magistrates' Court will determine the appeal application and the council must comply with its decision.

11 Guidance

- 11.1 The Licensing Authority will seek to liaise with applicants and/or mediate between applicants and others who may make objections, to achieve a satisfactory outcome for all involved wherever possible.
- 11.2 Where an applicant considers there may be need for mediation and liaison it is recommended that they discuss this with the Licensing Authority and those from whom they think likely to object prior to submitting their application.

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12 Information Management

- 12.1 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. Personal details will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold about you. The Council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 12.2 The Authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1988 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime in the area.

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13 Enforcement

- 13.1 There are serious penalties for breaching the law relating to the control and supervision of sex establishment premises. The Isle of Wight Council will take robust action to prosecute individuals and businesses operating outside of the law and will maintain this stance to ensure protection of the public and to enforce this policy.
- 13.2 Therefore, the Licensing Authority will establish protocols with other statutory agencies on enforcement issues. This is to enable the more effective deployment of staff who are commonly engaged in enforcing licensing law and the inspection of licenced premises. The aims of the protocol are to target agreed problem and high-risk premises which require greater attention while providing a lighter touch in respect of low-risk premises which are well run.
- 13.3 All enforcement action will be undertaken in accordance with the [Regulatory Services Enforcement Policy](#).

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14 Fees & Charges

- 14.1 The appropriate fees for applications can be found on the council's website. Application fees must be paid in full at the time of submission of the application or otherwise agreed with the Licensing Authority.
- 14.2 Any refused or unsuccessful applications will qualify for a refund of 25% of the application fee.

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15 Related Documents

Corporate Plan

[Corporate Plan 2021 - 2025
\(iow.gov.uk\)](http://www.iow.gov.uk)

Local Government (Miscellaneous Provisions) Act
1982 Schedule 3

[Local Government \(Miscellaneous
Provisions\) Act 1982 \(legislation.gov.uk\)](http://www.legislation.gov.uk)

Policing and Crime Act

[Policing and Crime Act 2017
\(legislation.gov.uk\)](http://www.legislation.gov.uk)

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Appendix A

Management of Premises

- A.1 The Licence holder, or some responsible person nominated by him and approved in writing by the council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the premises at all times when the premises are open to the public.
- A.2 In accordance with section 14 of the 1982 Act, the Licence holder shall display, on the licenced premises in a conspicuous position, a copy of the licence and/or any special conditions attached.
- A.3 The name of the person responsible for the management of the sex establishment, whether the licence holder or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
- A.4 The licence holder shall retain control over all parts of the licenced premises as set out on the approved premises plan and shall not let or part with possession of any part.
- A.5 No person under the age of 18 shall be admitted to the premises and rigorous identity checks SHALL be made on any person who appears to be under the age of 18.
- a) To ensure compliance of 5 above, the licence holder shall exhibit appropriate warning notices as to the minimum age requirements on both the exterior (frontage) door and conspicuously on the appropriate inner lobby door.
- A.6 No person under the age of 18 shall be employed to work at the premises in any capacity or shall be allowed to work at the premises on a self-employed basis.
- A.7 Where the licence holder is a body corporate or an unincorporated body, any change of director, or other person responsible for the management of the body is to be notified in writing to the council within 14 days of any such change.
- A.8 In addition, the licence holder shall provide any details as the council may require in respect of any new director, officer or manager upon request in writing from the council.

Use of Premises

- A.9 No change from one type of sex establishment to another shall be made without the written consent of the council.
- A.10 No part of the premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

Premises Interior and Layout

- A.11 The premises layout shall comply with deposited plans unless otherwise approved in writing by the council.
- A.12 No alterations, additions or modifications to either the internal or external parts of the licenced premises shall be made without the prior written consent of the council.

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- A.13 External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- A.14 The premises shall be fitted with an inner entrance lobby door or partition screen so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises.
- A.15 No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
- A.16 No part of the interior of the licenced premises shall be visible whatsoever to persons outside the premises.
- A.17 No external advertising, words, signs, displays or illuminations shall be permitted unless previously approved by the council.
- A.18 The external fabric, appearance and look of the licenced premises shall consist of materials and colours approved by the council in order to:
- a) Ensure that the frontage is of a discreet nature.
 - b) Ensure that it is appropriate to the character of the locality.