



South Bucks

District Council

Sexual Entertainment Venues

Application Form & Licence Application Procedure

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SEXUAL ENTERTAINMENT VENUES - LICENCE APPLICATION PROCEDURES

INTRODUCTION

These procedures set out the Council's standards for determining applications for, and enforcement of, sexual entertainment venues in the South Bucks district.

South Bucks District Council has adopted Section 27 of the Policing and Crime Act 2009 which amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence sexual entertainment venues, where relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. The Council will apply these guidelines to sexual entertainment venues in its area to ensure consistency of decision making, however, each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

SECTION 1 - INTERPRETATION

In this procedure:

The Act means the Local Government (Miscellaneous Provisions) Act 1982

Applicant means the applicant for the grant, variation, renewal or transfer of a licence as appropriate.

Application means an application for one or more of the following, as the case may be:

- a) grant of a licence;
- b) transfer of a licence;
- c) renewal of a licence;
- d) variation of a licence

Audience includes an audience of one.

Authorised Officer means an officer employed by South Bucks District Council and authorised by Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Display of nudity means (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and (b) in the case of a man, exposure of his pubic area genitals or anus.

Financial gain for the purposes of the meaning of sexual entertainment venue and relevant entertainment it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

Licence means any sexual entertainment venue licence that the Council can grant under the Act. This includes any associated consent or permission.

Licensee means the holder of such a sexual entertainment venue licence.

Objector means any person who has given Notice of Objection in accordance with Paragraph 10 (15) of the Schedule.

Observations means the giving of views by the statutory authorities such as the Police Authority.

The Organiser in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of (a) the relevant entertainment ; or (b) the premises

Parties means the applicant(s) and any objector(s) to the grant of the application. In the case of revocation proceedings it means the licensee and the persons seeking revocation.

Premises includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

Relevant entertainment means any live performance; or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). The following are not sexual entertainment venues for the purpose of this Schedule

- sex cinemas and sex shops
- premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time:

there have not been more than eleven occasions on which relevant entertainment has been so provided which fall(wholly or partly) within the period of 12 months ending with that time;

no such occasion has lasted more than 24 hours; and

no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided(whether or not that previous occasion falls within the 12 month period mentioned above)

- premises specified or described in an order made by the relevant national authority.

Relevant National Authority means in relation to England, the Secretary of State

Revocation means the revocation of a licence under Paragraph 17 of the Schedule or a proposal to revoke the licence.

Sexual Entertainment Venue means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (ie a person who is responsible for organisation of management of the entertainment or the premises).

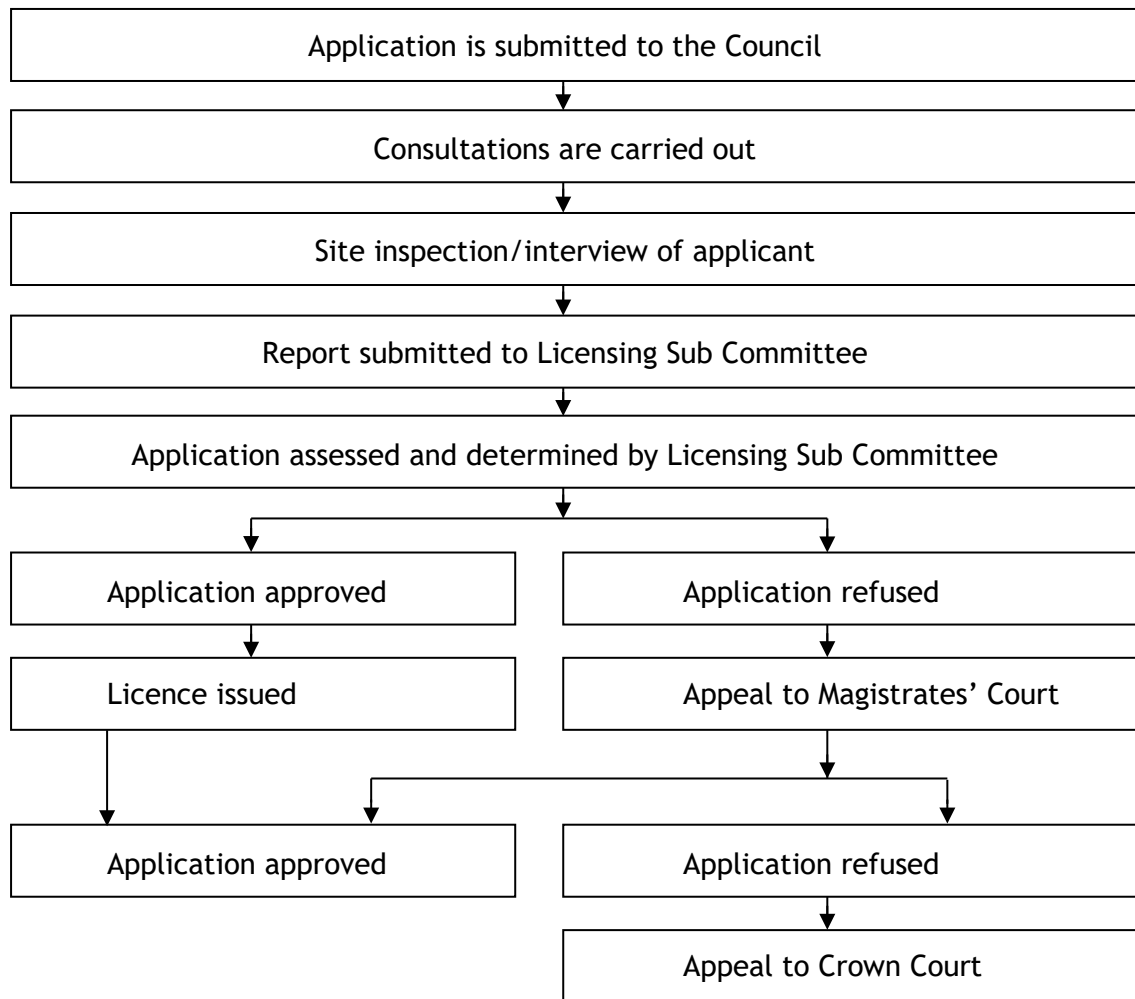
The Council means South Bucks District Council.

The Sub Committee means South Bucks District Council's Licensing Sub Committee.

The Schedule means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.

SECTION 2 - PROCEDURE FOR DETERMINING SEXUAL ENTERTAINMENT VENUE LICENCE APPLICATIONS

The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



SECTION 3 - SUBMISSION OF THE APPLICATION

An application for a sexual entertainment venue licence must be made to South Bucks District Council on the form shown in **Appendix 1** and include:

- A site plan (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue by marking the site/premises boundary with a red line.
- A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to license as a sexual entertainment venue. All areas requiring to be licensed should be outlined in red on the plan.
- Full Licence Fee and completed application form. This will be rejected and returned to the applicant if all the relevant boxes are incomplete or additional documentation not enclosed.

Fees

Grant	£2,500
Annual Renewal of Licence	£1,000

Cheques should be made payable to 'South Bucks District Council'.

The application must be complete and all information provided otherwise it will be rejected.

Additionally, public notice of the application shall be given by:

- Displaying a prescribed notice in, on or near the premises, in a place where it can be conveniently read by the public, continuously for 21 days beginning with the date of the application. The Notice shall be of a size equal or larger than A4, of a Yellow colour and printed legibly in black ink or typed in a font of a size equal to or larger than 16. The format of the approved notice is given at the end of this document.
- By publishing an advertisement detailing the above notice in a local newspaper circulating in the area not later than 7 days after the date of the application, see example at the end of this document.
- By sending South Bucks District Council one complete copy of the newspaper containing the Advertisement to the Council as soon as is reasonably practicable.

Note: Templates of both Notice and advert are available from the authority upon request (**Appendix 2**).

As well as sending a complete copy of the application together with the appropriate fee to South Bucks District Council, the applicant must also send a copy of the completed application form to the Chief Officer of Police at Thames Valley Police, Queen Victoria Road, High Wycombe, Bucks, HP11 1BE within 7 days of the application being made.

SECTION 4 - CONSULTATIONS ON APPLICATIONS MADE

Before a sexual entertainment venue licence is granted or renewed the applicant has to serve a copy of the application on the Chief Officer of Police at High Wycombe Police Station. Further, a Notice of the application has to be displayed on the premises for 21 days and another Notice advertised in a local newspaper, this forms the necessary consultation required (see Section 3 above). Details of all such applications will be posted on the Council's website at www.southbucks.gov.uk for residents and local people to comment on.

Objections to the application must be made in writing and be received by the licensing authority within 28 days of the application being made. The objection should state in general terms the grounds of objection

SECTION 5 - INSPECTION AND INTERVIEW OF SEXUAL ENTERTAINMENT VENUE / APPLICANT

On receipt of an application the premises will be visited and inspected by an Authorised Officer of the Council. In addition, the applicant will be invited to attend an interview with the authorised officer to fully discuss the applicant's proposals. Following on from both of these the authorised officer will prepare a report for submission to a hearing of the Council's Licensing Sub Committee. The applicant will be notified in writing of the date and time of the hearing when their application is to be considered. The date of this hearing will be within 30 working days from the day following the end of the consultation period. One extension, for a limited period of time can be made to this timescale but notice will be given to the applicant with reasons for the extension before the expiry of the original time period.

Please note that tacit consent will not apply for public interest reasons.

SECTION 6 - REPORT SUBMITTED TO THE LICENSING SUB COMMITTEE

Following inspection of the proposed establishment and interview of the applicant, a report will be prepared by the authorised officer for consideration by the Council's Licensing Sub Committee.

Note: All new and variation applications shall be referred to the Council's Licensing Sub Committee.

If objections are received against the granting of a sexual entertainment venue licence, copies of such objections will be included in the authorised officer's report to the Licensing Sub Committee for consideration when determining the application.

Persons making written objections will also be informed of the date and time of the Licensing Sub Committee hearing where they will be invited to address the Sub Committee and ask questions relating to the application. The Council shall not, without the written consent of the person making the objection, reveal his name or address to the applicant.

SECTIONS 7 - DETERMINING AND GRANTING AN APPLICATION

In determining applications for SEV licenses the Council's Licensing Sub-Committee shall treat each application on an individual basis, on its own merits, and in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ("the 1982 Act"), National Guidance and having regard to the relevant matters of the Schedule shown in **Appendix 3**.

The Licensing Sub Committee has been established to consider applications, hear objections and appeals in relation to licensing matters. The Licensing Sub Committee consists of three elected members of South Bucks District Council and is supported by the Council's Solicitor and Licensing Officer. Licensing Sub Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

The role of the Licensing Sub Committee is to:

- Determine applications

As stated above once arrangements have been made for the application to be heard by the Licensing Sub Committee, the applicant will be advised, in writing, of the date, time and place where the application will be heard.

The applicant will be expected to attend the hearing and can be accompanied by a solicitor, or supported by a friend or colleague. The Licensing Sub Committee hearing will follow the same procedure that currently applies to applications under the Licensing Act 2003. Copies of this procedure will be sent to the applicant in advance of the meeting, along with the officers reports that will be presented at the hearing.

In determining an application the Licensing Sub Committee will consider the applicants presentation and the Council's authorised Officers report. Either side may use witnesses and supporting documentation may be submitted to the Licensing Sub Committee for consideration.

The Licensing Sub Committee will consider all the evidence presented to it during the hearing and members may ask questions of officers and the applicant. After hearing the evidence presented to it, the Licensing Sub Committee will retire and come to a decision on the application. When a decision has been reached the Licensing Sub Committee will inform the applicant of their decision and the reasons for coming to that particular decision. The decision of the Licensing Sub Committee will be confirmed, in writing, to the applicant within 5 working days of the meeting at which the application was considered giving reasons for the decision.

Where objections have been raised to the granting of a sexual entertainment venue licence the Licensing Sub Committee will consider the objections made. Persons who have raised objections to the application will be allowed the opportunity to address the Licensing Sub Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be circulated to members of the Licensing Sub Committee (contained in the authorised officers report) in advance of a meeting where a contested application is being considered. The letters of objection will also be sent to the applicant but without any information that would identify the person submitting the objection. The applicant will be given a broad indication of the proximity of the objector's property in relation to the proposed Sexual Entertainment venue.

The Licensing Sub Committee will always strive to ensure that when it is considering an application that all persons get a proper and fair hearing through:

1. Considering each case on its merits.
2. Using these guidelines to assess applications where it is felt appropriate.
3. Dealing with the application in a balanced and impartial manner.
4. Ensuring that the rules of natural justice are applied in any hearings held.
5. Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Panel and present information for consideration in support of their appeal or objection.

When a sexual entertainment venue licence is granted by the Licensing Sub Committee, the Licence will be provided to the applicant as soon as possible.

SECTION 8 - CRITERIA FOR REFUSAL OF AN APPLICATION

The grounds for refusal are given in **Appendix 3**.

SECTION 9 - APPEALS AGAINST DECISIONS

The Local Government (Miscellaneous Provisions) Act 1982, Section 27 permits appeals against the decisions of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates' Court. An appeal should be made within 21 days of the decision to the Magistrates Courts'.

An appeal can be made in the following circumstances:

1. Refusal of an application for the grant, renewal or transfer of a licence.
2. Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held.
3. A grievance relating to any term, condition or restriction on or subject to which a licence is held.
4. Revocation of a licence.
5. There is no right of appeal for objectors

There is a right of appeal against refusal on mandatory grounds, only where appellant alleges ground did not apply to them. There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

A person wishing to appeal against a Council decision on a sexual entertainment venue licence is strongly advised to seek assistance from a solicitor, prior to commencing action in a Court of Law.

SECTION 10 - ISSUE OF SEXUAL ENTERTAINMENT VENUE LICENCES

Sexual entertainment venue licences will be issued for a maximum period of 12 months following payment of the full fee and will be renewable on the date specified in the Licence.

Cheques should be made payable to 'South Bucks District Council'.

Fees

Grant	£2,500
Annual Renewal of Licence	£1,000