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Consultation

# **Review of Sexual Entertainment Venue Licensing Policy**

**Consultation Closing Date: 23:59 on 24 March 2025**

[**https://www.cheltenham.gov.uk/consultations**](https://www.cheltenham.gov.uk/consultations)

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## How you can Respond

This consultation closes at 23:59 on 24 March 2025 (6 weeks). There are several ways to respond to this consultation:

* **Online using the electronic consultation form -** [cheltenham.gov.uk/sev-policy-consultation-form](https://www.cheltenham.gov.uk/sev-policy-consultation-form)
* By completing and returning this form to [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk) or by post to:

Cheltenham Borough Council

Licensing Section

Municipal Offices

Promenade

Cheltenham

GL50 9SA

## Privacy and Data Protection

The Licensing Consultations Privacy Statement can be found on the authority’s website at <https://www.cheltenham.gov.uk/info/81/how_we_use_your_data/1375/licensing_privacy_data>.

**Note: For this consultation, the authority will not, without consent, make available or reveal the name and/or address of any individual submitting comments in relation to this consultation. This is pursuant to schedule 3(10)(17) of the Local Government (Miscellaneous Provisions) Act 1982.**

# Introduction

## Legislation

Sexual Entertainment Venues (referred to as “SEVs” in this document) are licensed as sex establishments under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 and schedule 3 of the Policing and Crime Act 2009.

The authority, Cheltenham Borough Council, does not take any moral stand in setting and adopting SEV policy. The authority 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 this authority’s role as the licensing authority to administer the licensing regime in accordance with the law.

*“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.

*“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).

Any premises that offers “relevant entertainment” more frequently than once a month, lasting longer than 24 hours at a time, or on more than eleven occasions per year requires a SEV licence.

Premises that offer infrequent “relevant entertainment” (i.e. no more than once/month, lasting no longer than 24 hours on each of these occasions and no more than 11 occasions/year) can do so without the need for a licence and are free from council regulation and control. This is frequently referred to as the “infrequency exemption”.

## **Determination**

The legislation prescribes the circumstances under which the authority can refuse or revoke a SEV licence:

1. Mandatory grounds:
   1. to a person under the age of 18;
   2. to a person who is for the time being disqualified under paragraph 17(3)[[1]](#footnote-1);
   3. to a person, other than a body corporate, who is not resident in the United Kingdom or an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made;
   4. to a body corporate which is not incorporated in the United Kingdom or an EEA state;
   5. to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
2. Discretionary grounds:
   1. that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
   2. that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application themselves;
   3. that the number of sex establishments in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
   4. that the grant or renewal of the licence would be inappropriate, having regard:
      1. to the character of the relevant locality; or
      2. to the use to which any premises in the vicinity are put; or
      3. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

The authority has the power to prescribe conditions. The authority’s standard conditions [are included in the current policy document](https://www.cheltenham.gov.uk/downloads/file/3378/sexual_entertainment_venues_policy).

## Current Policy

The authority has adopted Policing and Crime Act 2009 in so far as it relates to SEVs and consequently also a SEV licensing policy.

The most current version of the SEV policy was adopted at full council in July 2020. [The policy](https://www.cheltenham.gov.uk/downloads/file/3378/sexual_entertainment_venues_policy)[[2]](#footnote-2)should be read in conjunction with this consultation document.

This authority’s SEV policy has set limits on the number of SEV as follows:

1. The appropriate number of SEVs for outside of the adopted “Designated Permitted Area” is nil.
2. The authority’s current policy has resolved that it will not set a limit on the number of permitted SEVs in the adopted “Designated Permitted Area” providing those premises are not near properties with sensitive uses or in sensitive locations.

Properties with sensitive uses or in sensitive locations are defined as:

1. The fact that the premises are sited in a residential area;
2. Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
3. Whether the premises are sited near properties which are sensitive for religious; and/or;
4. Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families.

## SEVs in Cheltenham

Cheltenham does not have any SEVs that operate permanently or for any significant periods of time. Cheltenham presents a very unique situation nationally in that, SEVs are very clearly linked to horse racing events. There is no market for SEVs during any other time(s) in the year in the town.

Consequently, licensed SEVs operate for approximately 16 days a year which reflects the number of racing days throughout the calendar year.

The unique circumstances locally also present a unique situation in Cheltenham with regards to the “infrequency exemption”. The authority is not aware of anywhere else in the country where the relevance and impact of this exemption plays such a crucial role in the regulation of SEVs.

This is particularly relevant to the policy considerations. As outlined above (“Overview of Current Policy”), the current policy prefers an approach whereby SEVs are licensed and regulated rather than the alternative under the unregulated infrequency exemption.

Linked to this, and a relevant consideration within the context of the infrequency exemption, operators have been clear with the authority that they *could* operate under the exemption if the regulation of SEVs become overly burdensome and costly and/or if the authority decides to set a zero limit as part of the policy review.

The practical consequence of this is that the amount and/or frequency of sexual entertainment in Cheltenham is unlikely to decrease by any policy decision that will either limit the number of SEVs or increase the regulation to the extent that licensing a SEV becomes overly burdensome and costly.

The important difference is that sexual entertainment that may continue under the exemption will be largely unregulated which likely will increase the risks to performers, customers and will not mitigate the equality concerns expressed by some residents and objector groups.

# Policy Proposals

This section of the consultation documents **outlines the proposed policy changes and amendments that the authority is specifically seeking feedback on** as part of the consultation.

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| **About You**  Name (optional): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Which best describes the capacity in which you are responding to this consultation (**required**):  🞏 A councillor/committee  🞏 A Member of Parliament  🞏 A resident of Cheltenham  🞏 A resident not of Cheltenham  🞏 A performer  🞏 A sexual entertainment venue operator/licensee  🞏 A customer of sexual entertainment venues in Cheltenham  🞏 A licence holder (bars, clubs etc)  🞏 A non-licensed/other business in Cheltenham  🞏 A statutory body (police, OPCC, council departments, NHS etc.)  🞏 An advocacy or other group/organisation that promotes equality or other social issues/values (i.e. VAWG, gender equality etc.)  🞏 A support service/organisation (commissioned or otherwise)  🞏 A religious organisation, group or body  🞏 Other not specified (please specify): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

## An approach where SEVs are licensed and regulated

**Generally, the authority continues to prefer an approach where SEVs are licensed and regulated rather than operating unlicensed under the infrequency exemption**. This general approach is driven by:

1. Acknowledgement that there is a high probability that SEVs would continue to operate regardless of a nil limit set in policy;
2. The fact that SEVs would continue to operate unlicensed and unregulated also means the public protection and public safety risks are substantially increased.
3. Equally, unlicensed and unregulated SEVs will not serve to alleviate or mitigate the equality concerns raised. Unlicensed and unregulated SEVs will likely have the opposite effect as an unregulated activity.

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| **Question: Do you agree, or disagree, with the authority’s continued preference towards licensing and regulation as opposed to SEV operating unlicensed under the infrequency exemption? (required)**  🞏 Agree  🞏 Disagree  Please provide any further comments you wish to make in relation to your answer. (**optional**) |

## A nil limit

The authority has the discretion[[3]](#footnote-3) to set a nil limit for licensed SEVs in any “relevant locality”. Relevant locality could be defined as the entire borough of Cheltenham or different parts within the borough.

The authority’s existing licensing policy sets two relevant localities:

1. An adopted “Designated Permitted Area” where the policy sets no limit on the number of licensed SEVs; and
2. The rest of the borough where the policy sets a nil limit.

**The authority is not proposing a change to the existing two relevant localities.**

The authority is of the view that the existing policy rationale for the two relevant localities remains relevant. That is that Cheltenham is a relatively small urban borough that is predominantly residential in nature. The authority has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the authority’s view therefore that there is no locality outside of the Designated Permitted Area in which it would be appropriate to license a SEV.

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| **Question: Do you agree, or disagree, with the authority’s proposal to maintain the existing to relevant localities and the limit(s) set for each? (required)**  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (**optional**) |

However, the authority recognises that the Designated Permitted Area within the town centre offers a more varied situation in as much as it has a much wider mix on offer, particularly in the night-time economy and it may therefore be appropriate to consider applications for SEVs in the area.

**Within the Designated Permitted Area the town centre, the authority is proposing to set a maximum limited of two licensed SEVs.**

The rationale for setting this maximum limit is based the fact that licensing history and experience has suggested two licensed SEVs are sufficient to satisfy demand for this type of licensed activity and supports the proposed “Acquired Rights” (discussed later in this consultation document) policy.

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| **Question: Do you agree, or disagree, with the authority’s proposal to set a maximum limit of two licensed SEVs within the Designated Permitted Area the town centre? (required)**  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (**optional**) |

Additionally, the authority is proposing to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered.

The rationale for this is the acknowledgment that the Licensing Committee has consistently granted a SEV licence in this location despite it falling outside the designated area. Whilst each application is determined on its individual merits, the licensing in this proposed area has set some precedence to justify the proposed change.

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| **Question: Do you agree, or disagree, with the authority’s proposal to amend the Designated Permitted Area within the town centre so to extend that area to incorporate parts of the Promenade (A4015) not currently covered? (required)**  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (**optional**) |

## Amendments to Standard Licensing Conditions

The authority is proposing to amend a number of standard licensing conditions:

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| **Existing Condition** | **Change/amendment** |
| Condition 4 - There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises. | Remove – substantially addressed by condition 6 below. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 4 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |
| Condition 6 – There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements that indicate or suggest that any form of Relevant Entertainment takes place on the premises. | Add – “…with the exception of any registered trademark, trading name or trading symbol that has been provided to the authority in connection with the most recent application for licence, its renewal or variation as the case may be.”  The authority, believes provides a reasonable balance that will:   1. allow the greater flexibility for operators (recognising SEVs are a legitimate part of the retail and leisure industries); 2. whilst ensuring public protection and safeguarding though: 3. restricting the “exempt” advertisement content; and 4. implementing a proposed process whereby the authority will scrutinise and approve “exempt” advertisement content. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 6 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |
| Conditions 22 & 26 references to “state of undress” | Replace “state of undress” with “display of nudity”.  This is to provide clarity of definition. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend conditions 22 & 26 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |
| Condition 24 - An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises. | Amend condition 24 to read:  An appropriate room, or rooms, shall be set aside to provide a changing and rest area for performers. As a minimum:   1. Access to such room(s), must be restricted to performers only and reasonable measures put in place to ensure security and exclusive use; 2. The location of such room(s), must be marked on the plan of the premises; 3. Such room(s) should provide separate and private sanitary facilities for performers. Where direct access to separate and private sanitary facilities for performers is not available or practical, other arrangements for separate and private sanitary facilities may be implemented subject to the approval of the authority; 4. Such room(s) must be fully accessible and unrestricted to performers during all times the premises is open and operating for Relevant Entertainment; 5. Such room(s) must be of decent standard, including, but not limited to, general condition and safety, occupiable space, seating provision, access to free drinking water or other non-alcoholic refreshments and sufficiently heated; and 6. Such room(s) should provide separate and private smoking facilities for performers. Where direct access to separate and private smoking facilities for performers is not available or practical, other arrangements for separate and private smoking facilities may be implemented subject to the approval of the authority. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 24 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |
| Condition 25 - Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden. | Partly amend to remove “Any bodily contact between entertainers or performers or” **but retain** “Any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.”  This is to address a technical breach where accidental bodily contact between entertainers or performer could occur. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 25 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |
| Condition 35 - A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer. | Replace “Police Crime Reduction Officer” with “Gloucestershire Constabulary”. |
| Question: Do you agree, or disagree, with the authority’s proposal to change/amend condition 35 as stated? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) | |

## “Acquired Rights” Policy

**The authority is proposing to adopt an “Acquired Rights” policy.** Under such a proposed policy, the authority seeks to acknowledge that there are currently licenced Sexual Entertainment Venues within the borough that have been licensed for a number of years.

As such, under the proposed “Acquired Rights” policy, the authority proposes to determine that these licensed SEVs will continue to be renewed, on application, by the existing operators during the lifetime of this policy if there is no material change in the character of the area in the intervening period. If there are any objections to an application, it will be considered by the Licensing Committee in accordance with the relevant statute.

This essentially provides acquired rights to these existing operators for the current time.

The High Court on [CDE v Bournemouth, Christchurch and Poole Council [[2023] EWHC 194 (Admin)](https://dpglaw.co.uk/wp-content/uploads/2023/02/CO-490-2022-R-CDE-v-Bournemouth-Poole-Christchurch-Final-Approved-Judgment-003.pdf)](https://dpglaw.co.uk/wp-content/uploads/2023/02/CO-490-2022-R-CDE-v-Bournemouth-Poole-Christchurch-Final-Approved-Judgment-003.pdf) ruled such a policy lawful if applied correctly. Such a policy would not fetter the authority’s discretion because the statutory grounds for refusal would continue to apply, and the proposed policy does not preclude objections. The implications of the proposed “Acquired Rights” policy would create a presumption in favour of renewal if there were no material change in the character of the area in the intervening period.

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| Question: Do you agree, or disagree, with the authority’s proposal to adopt an “Acquired Rights” Policy? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) |

## Plans

**The authority is seeking to strengthen the policy requirements as it relates for plans accompanying applications for SEVs**. The authority acknowledges feedback from those who have engaged in the licensing process that, at times, plans accompanying applications have not been sufficiently clear, up to date and/or sufficient for the purpose of commenting on individual applications.

Section 6 of the existing policy outline the policy requirements as they relate to plans accompanying applications. Proposed changes (where in bold sections indicate the proposed changes):

1. 6.1 Replace “The plan shall be drawn at a scale of 1:100 and shall show” with “**All plans submitted must be drawn at a scale of 1:100, clearly indicate the scale and must be clear and fully legible.**”
2. Replace h) “The dressing room of performers” with **“****The room(s) allocated to allow performers to rest, dress and store personal items including any bathrooms or other facilities set aside for exclusive use by performers.”**
3. **New section o) “****Must clearly indicate the location, layout and sizes of all booths inside the premises used for “Relevant Entertainment””.**
4. **New section p) “****All plans accompanying the application must have a clear drawn date and reference number indicated.”**

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| Question: Do you agree, or disagree, with the authority’s proposal to amend the policy requirements for plans to accompany applications? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) |

## Designated Person in Charge

**The authority is proposing to implement a new requirement on applicants for SEV licenses, including subsequent/renewal applications, to clearly identify a designated person in charge**.

Similar to the role of a Designated Premises Supervisor under the Licensing Act 2003, the designated person in charge will be the key person who will be responsible for the day-to-day management of the licensed SEV, including (but not limited to):

1. responsibility to ensure compliance with law and licensing conditions;
2. being available during inspections and;
3. able to respond to requests by the police or authorised officers of the council for information, evidence (i.e. CCTV footage) and/or addressing immediately issues arising from the operation of the SEV.

The designated person in charge will be specified on the licence.

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| Question: Do you agree, or disagree, with the authority’s proposal to implement a “Designated Person in Charge” requirement? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) |

## Factors for consideration - Discretionary grounds (a) and (b)

**The authority is proposing to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b).**

This is to assist licence holders, potential licence holders, the public and the Licensing Committee with further guidance on relevant matters to consider when determining applications. Grounds (a) and (b) are:

*A licence may be refused where:*

1. *the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;*
2. *if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application themselves.*

The proposed supplementary guidance is:

In considering the suitability of those persons referred to in (a) and (b) above, the factors the Council may take into account includes:

* relevant experience;
* relevant criminal convictions;
* whether the person has committed relevant offences;
* relevant observations or findings by public authorities, including licensing authorities, in connection with the conduct of the person or their ability to manage and control premises;
* relevant findings by courts and tribunals in connection with the treatment of protected groups (within the meaning of the Equality Act 2010)
* information germane to the person’s ability to, among other things:
  + ensure the safety and wellbeing of performers;
  + ensure the proper protection of the public;
  + ensure the suitability of employees, performers and others using the venue;
  + prevent performance by or for those who may thereby be harmed, including minors;
  + understand and adhere to conditions imposed on any licence granted and ensure they are observed by others on the premises; and/or
  + engage constructively with the Council and other relevant regulators.

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| Question: Do you agree, or disagree, with the authority’s proposal to supplement its licensing policy with additional guidance on discretionary grounds (a) and (b)? (required)  🞏 Agree  🞏 Disagree  Do you have any other comments to make in relation to this? (optional) |

# Equality Impact Assessment

In accordance with the authority’s duties under the Equality Act 2010, an Equality Impact Assessment has been undertaken to inform the policy proposals outlined in this document.

As part of this consultation, the authority is seeking feedback on the Equality Impact Assessment that underpins the various policy proposals.

The Equality Impact Assessment is a separate document (to this consultation document) but forms part of the overall SEV policy consultation.

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| Question: Do you have any comments on the Equality Impact Assessment accompanying the proposed draft policy? (required)  🞏 Yes  🞏 No  If “Yes”, please provide your comments below: (optional) |

1. Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation. [↑](#footnote-ref-1)
2. Please refer to the [policy](https://www.cheltenham.gov.uk/downloads/file/3378/sexual_entertainment_venues_policy) for reference. [↑](#footnote-ref-2)
3. 12(3)(c) of the Local Government (Miscellaneous Provisions) Act 1982 [↑](#footnote-ref-3)