

E1 Equalities Impact Assessment:

Summary of proposal

Name of proposal	E1, Studio Spaces,110 Pennington Street, London E1W 2BB Removal of Annex 1, Condition 1 (nudity and semi-nudity prohibition) from the Licensing Act 2003 Premises Licence
Reference number (if applicable)	
Date assessment completed	22 July 2022

1. Please provide a summary of the proposal.

Please provide:

- Context on how the service currently operates (if relevant) and the scope of suggested changes
- The intended beneficiaries and outcomes of the proposal
- Reference to any savings or income generation

Remove Annex 1 Condition 1 from the premises licence in respect of Studio Spaces, 110 Pennington Street, London E1W 2BB. The condition states: "No nudity or semi nudity permitted;"

This condition was imposed after the grant of the original licence by the Licensing Authority. It was not taken from the applicants operating schedule but independently added by the Licensing Authority.

The wording is vague and open to multiple interpretations. It has been suggested that to attempt to comply with the condition could require staff to engage in intrusive and sensitive vetting of customers and patrons as to their sex, gender, sexuality and attire. Such vetting could constitute a criminal offence.

Security staff have voiced concerns that such vetting could be considered harassment and discriminatory.

The challenge this presented staff is that some of customers attending the event might no longer identify as the same biological sex as the photo ID used on our entry scanning system.

I have copied the definition of hate crime below for your information. Any crime can be prosecuted as a hate crime if the offender has either:

- demonstrated hostility based on race, religion, disability, sexual orientation or transgender identity
- or been motivated by hostility based on race, religion, disability, sexual orientation or transgender identity.

A person can be a victim of more than one type of hate crime.

These crimes are covered by legislation (Crime and Disorder Act 1998 and section 66 of the Sentencing Act 2020) which allows prosecutors to apply for an uplift in sentence for those convicted of a hate crime.

The implementation and enforcement of the condition undermines diversity and inclusivity within the entertainment and night-time economy.

As an alternative to the removal of this condition the Licensing Authority as a Responsible Authority are suggesting the following amendment: "No nudity by either performance (*sic*) of customer shall be permitted on the premises. Nudity shall be defined by paragraph 2A(14) of the Local Government (Miscellaneous Provisions) Act 1982."

This alternative proposal perpetuates the intrusive, prohibitive, and discriminatory consequences of the existing condition.

Please provide:

- Context on how the service currently operates (if relevant) and the scope of suggested changes
- The intended beneficiaries and outcomes of the proposal
- Reference to any savings or income generation

This proposal incorporates legal definitions from a distinct and separate legal regime. It is unclear why the Licensing Authority as Responsible Authority are adopting this approach. The s 182 Guidance sets out clear guidelines in respect of adult entertainments on licensed premises which essentially seek to ensure that no person under 18 are allowed on the premises. These conditions are in place.

The Licensing Authority as Responsible Authority is subject to the Public Sector Equality Duty (s 149 Equality Act 2010). It is unclear whether this has been adhered to by the Licensing Authority as Responsible Authority.

The s 182 Guidance states that the statement of licensing policy should recognise the Equality Act 2010 and the PSED and the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (see s 182 Guidance paras [14.66] and [14.67]).

The Council's statement of licensing policy does **not** mention the Equality Act 2010 although it does have a policy statement in relation to the promotion of racial equality (see LBTH SLP para [29]) but does not mention the other protected characteristics. The Council has a separate policy in relation to sexual entertainment venues which are regulated by the 1982 Act. This policy is included as Appendix 4 of the SLP and includes the bare assertion that the Sex Establishment policy was prepared with regard to the Equalities Act 2010. Neither the SLP or the Sex Establishment Appendix seem to have had the benefit of the annual PSED review commended by the s 182 Guidance.

It seems unlikely that the licensing authority has grappled with its PSED in substance, with rigour or with an open mind (see *R (Brown) v Secretary of State for Work and Pensions* [2008] EWHC 3158 *per* Aikens LJ).

The existing condition and the proposed amendment by the Licensing Authority is moralistic.

It also imports censorship and a censorious approach contrary to the guidelines in the s 182 Guidance (para 10.16) and raises Art 10 (Freedom of Expression) concerns.

For the reasons stated above the proposed new condition is discriminatory and undermines diversity and inclusion.

As a result of the confusion pending the determination of this application, E1 has cancelled events for Klub Verboden, Hard On, Unicorn, Trough and events scheduled to have been hosted as part of Pride month in London and national fetish week.

All events at E1 are conducted with full regard to the welfare, well-being and safeguarding of all our staff, customers and patrons. Our safeguarding policies are kept under review and discussion with all our external promoters.

2. What impact will this change have on different groups of people?

Occasionally E1 is hired out to independent promoters, typically on a monthly basis.

Some of these promoters organise and present queer, fetish and / or kink events. The Licensing Authority as a responsible authority refers to these type of events as ‘‘KINK’’ nights’ (see LA representation). These are events to which consenting adults may present themselves in an array of fetish or kink clothing (commonly referred to as fetish or kink ‘‘gear’’).

The nature of queer, fetish and kink clothing / gear is such that breasts, pecs, nipples, genitalia and buttocks may be visible.

Such visibility is intentional and integral to the particular queer, fetish and kink lifestyle or scene.

This clothing / gear is integral to the expression of queer individuals to present their particular fetish and / or kink. It has been determined that Freedom of Expression can include clothing.

Under 18 are not allowed on the premises. Conditions require anyone who appears to be under 21 to provide proof of age (annex 2, condition 12) along with a general Challenge 25 condition (annex 3, condition 11).

All events at E1 are conducted with full regard to the welfare, well-being and safeguarding of all our staff, customers and patrons.

Attendance is strictly controlled and regulated by the promoters and the community.

The removal of this condition 1 Annex 1 will have a positive impact on persons of diverse sexualities, women, trans persons, non-binary persons and gender diverse customers.

Tower Hamlets has a proud history of supporting and promoting queer, kink and fetish venues and events. However, such venues and events are under threat. In July 2022 Backstreet announced it was closing. Also in July 2022, Crossbreed announced that it was being forced out of Tower Hamlets and that its final events at Colour Factory would be held in August 2022.

By default E1 remains the bastion of queer, fetish and kink events in the borough; though due to the uncertainty that arises from the continued condition queer, kink and fetish events have been cancelled.

3. What impact will this change have on people with protected characteristics and/or from disadvantaged groups?

This section of the assessment looks in detail at the likely impacts of the proposed changes on different sections of our diverse community.

3A. What data have you used to assess impacts?

An equalities impact assessment is a tool that may be used by public bodies to assess compliance with its PSED. E1 has used the draft LGBTQ+ Action Plan Equality Impact Assessment prepared by the Government for Wales as a template to consider the equalities impact of the existing condition and that being proposed by the licensing authority.

E1 is committed to diversity and inclusion within our operation. We are concerned that the London Borough of Tower Hamlets is seemingly failing to take into account concerns regarding diversity and inclusion within its representations and SLP.

For this first draft, E1 has consulted with the Night Time Industries Association, the team at Klub Verboten, our legal advisor (Leo Charalambides, Counsel) and relied upon our own in-house experience.

This first draft will be kept under review and we will seek the views of additional parties and partners to refine our assessment.

3: Assess the impacts on people with protected characteristics and from disadvantaged groups in the table below.

Please first select whether the potential impact is positive, neutral, or negative and then provide details of the impacts and any mitigations or positive actions you will put in place.

Please use the following definitions as a guide:

Neutral – The proposal has no impact on people with the identified protected characteristics

Positive – The proposal has a beneficial and desirable impact on people with the identified protected characteristics

Negative – The proposal has a negative and undesirable impact on people with the identified protected characteristics

Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
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Age	<p>Positive</p>	<p>Until 2021, the census did not capture information on sexual orientation and gender identity. According the ONS estimate figures in 2019, the proportion of the UK population aged 16 years and over identifying as heterosexual or straight decreased from 94.6% in 2018 to 93.7% in 2019.</p> <p>An estimated 2.7% of the UK population aged 16 years and over identified as lesbian, gay or bisexual (LGB) in 2019, an increase from 2.2% in 2018. Younger people (aged 16 to 24 years) were most likely to identify as LGB in 2019 (6.6% of all 16 to 24 year olds, an increase from 4.4% in 2018); older people (aged 65 years and over) also showed an increase in those identifying as LGB, from 0.7% to 1.0% of this age category. (1)</p> <p>Therefore has specific venue and clubs nights where people can attend when they are 18 is targeting a large number of the UK population.</p> <p>This information only relates to sexual orientation and not gender identity.</p>	<p>Use of ID to ensure persons are appropriate age in venue.</p> <p>Challenge 21 for entry and Challenge 25 at all bars.</p> <p>Staff and security training.</p>
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Sex	<p>Positive</p>	<p>Despite public attitudes to transgender people being broadly positive, it is recognised, has potential to negatively impact some rights of those with other protected characteristics.</p> <p>The specific club nights hosted by E1 for both LGBTQ+ and all other community are ones that promote inclusivity.</p> <p>The main thrust of concerns expressed by some people, centres on the perceived conflation of 'sex' and 'gender' in government policy and how the perceived misinterpretation of these characteristics (protected by the Equality Act 2010) could roll back protections for women and girls.</p> <p>Some examples of concerns already expressed and considered include fears there would be limits on access to women's safe spaces resulting in increased risk of abuse to women, limits on freedom of expression and an erosion on the rights of women and girls.</p> <p>In respect of trans-inclusion limiting access to women's safe spaces, there is a lack of evidence around the</p>	<p>The removal of the condition and the proposed condition and definition offered by the Licensing Authority will promote equality and reduce discrimination.</p> <p>Clear signpost and promotion for special nights so that customers are fully aware of the type of event they are attending at the premises.</p> <p>Kink events provide a welcoming and accepting space for non-binary forms of sexual expression. Our facilities are able to accommodate non-gendered spaces.</p>
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Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
		actual experienced impacts of trans inclusion at the venue.	
Disability (include carers)	Neutral / Positive	This proposal will have no impact on disabled people attending the venue.	<p>E1 is a fully accessible venue, with step free access to all areas and disabled accessible facilities.</p> <p>All kink events are fully accessible being on ground floor with accessible toilets. With efforts made by our promoters encourage greater accessibility and participation.</p>

Race or ethnicity	Positive	<p>Of the 108,000 respondents to the UK National LGBT Survey in 2017, 92.4% identified as White, 3.4% as Mixed/Multiple ethnic groups, 1.6% Asian, 0.9% as Black. (2)</p> <p>The low response in in Black, Asian and minority ethnic people possibly still shows that there is work needed in these communities and creating safe spaces such as the clubs previously hosted at E1 can only encourage support for these groups in the future.</p> <p><u>Relying on the feedback from our community we understand that providing spaces allowing for expression free of judgement is vital to those who may not find such spaces within their local communities.</u></p> <p><u>Since 2016 saw an ever increasing amount of attendees from ethnic minorities and can only see an increasing demand for such spaces.</u></p>	
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Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?

Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Religion or belief (include no faith)	Neutral	<p>69% of all respondents to the National LGBT Survey identified as having no religion. 17.6% identified as Christian while 1.4% were Buddhist, 0.9% as Jewish and 0.7% as Muslim. (3)</p> <p>LGBT people's experiences of religious institutions were typically negative – feelings of being unsupported in faith schools, perceived intolerance in religious communities and experiences of conversion therapy.</p>	<p>The hosting of an events with Condition 1 Annex 1 removed would have no impact on the faith communities.</p> <p>Despite significant press coverage of the Council policy and this licence application no local religious or faith groups have raised comment on this application.</p>

<p>Gender and gender reassignment (male, female, or non-binary)</p>	<p>Positive</p>	<p>The club nights impacted by the Council enforcement of the licence condition are a safe space for trans community.</p> <p>Full Gender Recognition Certificates have been granted since the Gender Recognition Act 2004 came into force. 427 of these were granted in 2020/20218. (4)</p> <p>No robust data on the UK trans population exists. Tentative estimates suggests there are 200,000-500,000 trans people in the UK. (5)</p> <p>Figures show there has been a marked increase of recorded hate crime incidents based on diverse gender identity. There were 820 incidents in 2015/16 and in 2019/2020, there were 2540 across England and Wales. This is an increase of 32%. (6)</p> <p>Mental health issues experienced by trans people are related to the prejudice and discrimination they. (7)</p> <p>Transitioning to the gender with which the person identifies helps resolve distress and mental health issues, (8)</p>	<p>Security staff will no longer have challenge customers to establish gender.</p> <p>Identification scanning will only be to verify customers age in relation to entering the venue as a licence premises.</p> <p>Customers will no feel unwelcome to attend the venue and wouldn't be reluctant to attend nights due scrutiny about dress codes.</p> <p>Promoters wouldn't cancel nights and the trans community will not lose a venue or club nights to express themselves.</p>
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Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Maternity or pregnancy	Neutral	This proposal will have no impact on maternity or pregnant person attending the venue.	

<p>Sex and sexual orientation</p>	<p>Positive</p>	<p>The Independent LGBTQ+ Expert Panel report identified significant inequalities across many areas of life, including legal protections, safety, education, health and social care, housing, community inclusion, the workplace and Covid-19 recovery. There is limited population data available on sexual orientation and gender identity. This situation should change in the future due to sexual orientation and gender identity capture being included in Census 2021 requirements.</p> <p>According to the ONS estimate figures in 2019, the proportion of the UK population aged 16 years and over identifying as heterosexual or straight decreased from 94.6% in 2018 to 93.7% in 2019. An estimated 2.7% of the UK population aged 16 years and over identified as lesbian, gay or bisexual (LGB) in 2019, an increase from 2.2% in 2018. (9)</p> <p>Evidence suggests that LGBT+ people are experiencing deepening and widening inequalities as a result of the COVID-19 crisis³⁵. Figures show a marked increase in incidents of reported hate crime based on sexual orientation.</p>	<p>The removal of the conditions allows for queer events to continue to be hosted at E1 – this is ever more pressing given the closure of Backstreets and Crossbred leaving Tower Hamlets.</p>
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In 2015/16, there were 6,700 recorded incidents and in 2019/20 there were 15,835 incidents. This is an increase of 42%. (10)

Evidence points to almost half of all LGBT pupils experience bullying at school for being LGBT, and more than two in five trans young people have tried to take their own life. (11)

The UK National LGBT Survey found that large numbers of respondents had difficulty accessing healthcare services and especially gender identity clinics. It also showed many respondents had experienced inappropriate questioning and curiosity from healthcare staff, and that some respondents feel their specific needs were ignored or not taken into account when accessing healthcare. (12)

Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?

4. How do you plan to mitigate negative impacts?

Please provide:

- An outline of actions and the expected outcomes

Negative impacts are mitigated by the removal of the condition and the rejection of the Licensing Authority's alternative.

5. Please provide details of your consultation and/or engagement plans.

Please provide:

- Details of what steps you have taken or plan to take to consult or engage the whole community or specific groups affected by the proposal
- Who has been or will be consulted or engaged with
- Methods used or that will be used to engage or consult
- Key findings or feedback (if completed)

It is important to engage with Tower Hamlets to confirm the Council's approach to Diversity and Inclusion and its own assessment of the PSED.

We will ask the Council to:

[1] Confirm what, if any, PSED assessment has been carried out by Tom Lewis to inform his representation dated 9th May 2022; and

[2] Confirm details of the five most recent annual reviews by the Licensing Authority demonstrating compliance with their Equality Duty (see s 182 Guidance, para 14.67).

Also, we will share this first draft EQIA and consult with other promoters and agencies we work with to refine and further inform our approach.

Please provide:

- Details of what steps you have taken or plan to take to consult or engage the whole community or specific groups affected by the proposal
- Who has been or will be consulted or engaged with
- Methods used or that will be used to engage or consult
- Key findings or feedback (if completed)

6. Once the proposal has been implemented, how will impacts be monitored and reviewed?

Please provide details in the table below.

Action	Responsible person	Deadline
Review in three months time	Jack Henry	
Invite comments from the LBTH	Jack Hnery	

This Equality Impact Assessment has been completed in accordance with the guidance and using appropriate evidence.

Member	Name	Signed	Date
Staff member completing this form	Jack Henry, Operations Manager		22.07.2022

Member	Name	Signed	Date
Fairness and Equality Team			

References

- (1) ONS (2021) Sexual orientation, UK: 2019
<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>
- (2) UK Government Equalities Office (2018) National LGBT Survey Research Report.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-surveyresearch-report.pdf
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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-surveyresearch-report.pdf
- (4) UK Ministry of Justice (2021) Official Statistics Tribunal Statistics Quarterly, January to March 2021
<https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2021/tribunal-statistics-quarterlyjanuary-to-march-2021#gender-recognition-certificates>
- (5) UK Government Equalities Office (2018) Trans People in the UK
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBTfactsheet.pdf
- (6) UK Home Office (2020) Official Statistics Hate crime, England and Wales, 2019 to 2020
<https://www.gov.uk/government/statistics/hatecrime-england-and-wales-2019-to-2020>
- (7) Robles, R., Fresan, A., Vega-Ramirez, H., Cruz-Islas, J., Rodriguez-Perez, V. Dominguez-Martinez and T. (2016) Removing transgender identity from the classification of mental disorders: a Mexican field study for ICD-11'. The Lancet Psychiatry. 3(9), 850-850
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- (8) Dhejne, C., Vlerken, R.V, Heylens, G. and Arcelus, J. (2016) 'Mental health and gender dysphoria: a review of the literature'. International Review of Psychiatry. 28(1). p.44-57 <http://hdl.handle.net/1854/LU-7081076>
- (9) ONS (2021) Sexual orientation, UK: 2019
<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

(10) Stonewall (2017) The School Report.

https://www.stonewall.org.uk/system/files/the_school_report_2017.pdf

(11) UK Government Equalities Office (2018) National LGBT Survey Research Report

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-surveyresearch-report.pdf

(12) Stonewall (2018) LGBT in Wales Work Report

<https://www.stonewallcymru.org.uk/system/files/LGBT%20in%20Wales%20Work%20Report%202018.pdf>