

# Notice of meeting and agenda

## Regulatory Committee

**1.15pm, Monday 11 March 2019**

Dean of Guild Court Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend.

### Contacts:

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## **1. Order of business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 If any

## **4. Minutes**

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- 4.1 Minute of the Regulatory Committee of 7 January 2019 (circulated) – submitted for approval as a correct record

## **5. Rolling Actions Log**

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- 5.1 Rolling Actions Log (circulated)

## **6. Business Bulletin**

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- 6.1 None.

## **7. Reports**

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- 7.1 Air Weapons and Licensing (Scotland) Act 2015 – Repeal of Theatres Act 1968 – report by the Executive Director of Place (circulated)
- 7.2 Air Weapons and Licensing (Scotland) Act 2015 – Commencement of Sexual Entertainment Venues Licensing Provisions – report by the Executive Director of Place (circulated)
- 7.3 Cinema Licensing: Update and Proposed Licensing Conditions - report by the Executive Director of Place (circulated)

## **8. Motions**

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- 8.1 If any

### **Laurence Rockey**

Head of Strategy and Communications

## Committee Members

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Councillors Fullerton (Convener), Arthur, Burgess, Dixon, Mitchell, Rose, Neil Ross, Smith and Wilson.

## Information about the Regulatory Committee

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The Regulatory Committee consists of 9 Councillors and is appointed by the City of Edinburgh Council. The Regulatory Committee usually meets every eight weeks.

The Regulatory Committee usually meets in the Dean of Guild Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

## Further information

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If you have any questions about the agenda or meeting arrangements, please contact Natalie Le Couteur or Sarah Stirling, Committee Services, City of Edinburgh Council, Waverley Court, Business Centre 2.1, 4 East Market Street Edinburgh EH8 8BG, Tel 0131 529 6160/0131 529 3009 email [natalie.le.couteur@edinburgh.gov.uk](mailto:natalie.le.couteur@edinburgh.gov.uk) or [sarah.stirling@edinburgh.gov.uk](mailto:sarah.stirling@edinburgh.gov.uk)

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/meetings](http://www.edinburgh.gov.uk/meetings) .

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If you have any queries regarding this, and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact Committee Services ([committee.services@edinburgh.gov.uk](mailto:committee.services@edinburgh.gov.uk)).

# Item 4.1 - Minutes

## Regulatory Committee

1.30pm, Monday 7 January 2019

### Present

Councillors Fullerton (Convener), Arthur, Burgess, Dixon, Mitchell, Rose, Neil Ross, Smith and Wilson.

### 1. Minutes

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#### Decision

To approve the minute of the Regulatory Committee of 22 October 2018 as a correct record.

### 2. Rolling Actions Log

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The Regulatory Committee Rolling Actions Log was submitted.

#### Decision

- 1) To agree to close the following actions:
  - Action 1 – Street Trader Licensing – Pedicabs: Update and Proposed Licensing Conditions
  - Action 3 – Animal Boarding Establishments
- 2) To otherwise note the remaining outstanding actions.  
(References – Regulatory Committee Rolling Actions Programme, submitted)

### 3. Business Bulletin

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The Regulatory Committee Business Bulletin of 7 January 2019 was submitted.

#### Decision

To note the Business Bulletin.

(Reference – Business Bulletin, submitted.)

## 4. Taxi Examination Centre – Performance Update

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Performance data on pass and fail rates in respect of vehicle inspections carried out at the Taxi Examination Centre was presented. Information was also provided on measures which had been implemented to address increased demand at the Centre including:

- Securing additional accommodation at the Murrayburn Road depot to accommodate two additional vehicle inspection ramps;
- Not carrying out any test where it was apparent that the vehicle has not been prepared for inspection and a retest fee applied.

### Decision

- 1) To note the report.
- 2) To support the proposals for improved efficiency and vehicle safety as outlined in paragraphs 3.9 to 3.13 of the report.
- 3) To note that consultation on these proposals with the Hire Car Consultation Group (HCCG) would commence in early 2019, with the final recommendations being reported to the next Committee in May 2019.
- 4) To ask the Executive Director of Place to provide a further report on the issue of missed appointments including measures to address this together with supporting statistical information on any financial impact.

(References – Regulatory Committee 8 January 2018 (item 6.1); report by the Executive Director of Place, submitted.)

## 5. Civic Government (Scotland) Act 1982 – Proposed Update to Licensing Policy on Applications

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Approval was sought for proposed measures to amend and improve the administrative policy on the timescales for receipt of applications under the Civic Government (Scotland) Act 1982.

### Decision

- 1) To note the report.
- 2) To adopt the amended administrative policy as summarised in paragraph 3.6 of the report.
- 3) That the matter be brought back to the Committee for review in the event of any significant issues arising as a result of the policy changes.

(Reference – report by the Executive Director of Place, submitted.)

## 6. Demand for Taxis: Six Monthly Update

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An update on the analysis of demand for taxis in the city was submitted. The report set out the most recent interim analysis of demand, carried out by Vector Transport Consultancy in June/July 2018.

### Decision

- 1) To note the attached report from Vector Transport Consultancy (Appendix 2).
- 2) To further note that on 12 March 2018 the Regulatory Committee agreed to maintain the limitation policy and to fix the number of available licences at 1316. This was last reviewed by the Committee when it considered a report on an interim survey of demand on 26 June 2018.
- 3) To agree that there was currently no evidence of significant unmet taxi demand and therefore maintain the limit of 1,316 on the number of taxis licensed in the city.
- 4) To agree to use this survey as the basis for determining demand in any future applications for a taxi licence until the next taxi stance survey was completed.

(References – Regulatory Committee 26 June 2018 (item 7); report by the Executive Director of Place, submitted.)

## 7. Electric Vehicle Infrastructure: Business Case – referral from the Transport and Environment Committee

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On 4 October 2018 the Transport and Environment Committee considered a report by the Executive Director of Place which set out the business case for electric vehicle infrastructure. The report was referred to the Regulatory Committee to consider how electric vehicle uptake could be better supported through the Council's regulatory regime.

### Decision

To note the report.

(References – Transport and Environment Committee of 4 October 2018 (item 7); report by the Executive Director of Place, submitted.)

## Regulatory Committee

11 March 2019

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	07.05.18	Street Trading: High Street and Hunter Square Update	To receive a further report in due course on wider issues of street trading and proposed policies in line with the Public Spaces Protocol.	Executive Director of Place	Summer 2019		Update in Business Bulletin reported to Committee on 7 January 2019.  Further report planned for submission to Committee in Summer 2019.
2	26.06.18	Private Rented Sector Enforcement Activities	1) To agree to receive a further report on future enforcement activities.	Executive Director of Place	April 2019		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			2) To agree to receive a further report proposing a draft policy on improving repairs and other matters as set out in paragraph 3.19 - 3.20 and 3.29 – 3.30 of the report by the Executive Director of Place.				
3	22.10.18	Licence Income	<p>1) To note the report.</p> <p>2) To agree that the content of Appendix 2 of the report by the Executive Director of Place was sufficient and to agree to receive information on the budget and spend on a yearly basis.</p> <p>3) To agree to receive annual reports in a similar format in future years.</p>	Executive Director of Place	October 2019		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
4	22.10.18	Cinemas Act 1985 – Proposed Update to Licensing Conditions	1) To note the report. 2) To agree to consult on the proposed conditions as set out in Appendix 2 of the report by the Executive Director of Place. 3) To note that a subsequent report on completion of the consultation would be prepared for Committee.	Executive Director of Place	March 2019		Consultation undertaken 14 November – 12 December 2018.  <b>Report on agenda for this meeting (item 7.3)</b>
5	22.10.18	Training of Taxi and Private Hire Car Drivers	To note the revised timelines for implementation of the taxi and private hire car driver training as follows and to receive an update:  new drivers - 1 May 2019 existing drivers – 1 Sept 2019	Executive Director of Place	October 2019		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
6	07.01.19	Taxi Examination Centre – Vehicle Inspections	<ol style="list-style-type: none"> <li>1) To note the report.</li> <li>2) To support the proposals for improved efficiency and vehicle safety as outlined in paragraphs 3.9 to 3.13 of the report.</li> <li>3) To note that consultation on these proposals with the Hire Car Consultation Group (HCCG) would commence in early 2019, with the final recommendations being reported to the next Committee in May 2019.</li> <li>4) To ask the Executive Director of Place to provide a further report on the issue of missed appointments including measures to address this together with supporting statistical information on any financial impact.</li> </ol>	Executive Director of Place	May 2019		



# Regulatory Committee

1.15pm, Monday, 11 March 2019

## Air Weapons and Licensing (Scotland) Act 2015 – Repeal of Theatres Act 1968

Item number	7.1
Executive/routine	
Wards	
Council Commitments	

### 1. Recommendations

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- 1.1 It is recommended that the Regulatory Committee:
  - 1.1.1 Notes the proposed approach and time line for inclusion of theatres within the Public Entertainment Resolution;
  - 1.1.2 Notes that this provides an opportunity to review existing policy and terms of the current Public Entertainment resolution; and
  - 1.1.3 directs that the statutory procedure for making a variation to the City of Edinburgh Public Entertainment Resolution 2014 should be commenced immediately.

**Paul Lawrence**

Executive Director of Place

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## Air Weapons and Licensing (Scotland) Act 2015 – Repeal of Theatres Act 1968

### 2. Executive Summary

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- 2.1 This report provides the Committee with an update on the implementation and changes to the licensing regime as a result of the Air Weapons and Licensing (Scotland) Act 2015. It is anticipated that the Theatres Act 1968 will be repealed early in 2021 and the current exemption within the Civic Government (Scotland) Act 1982 will be removed, thereby enabling a local authority to resolve under section 9 of the 1982 Act to license theatres under its public entertainment licensing regime.
- 2.2 It is proposed to carry out a wider review of the current Public Entertainment resolution in addition to including theatres. The Resolution was last updated in March 2014.

### 3. Background

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- 3.1 The Theatres Act 1968 ('the 1968 Act') provides a licensing regime for premises which are used for the public performance of plays. Section 41 of the Civic Government (Scotland) Act 1982 ('the 1982 Act') (Appendix 1) provides a discretionary licensing regime for places of public entertainment, and the definition of "place of public entertainment" in section 41(2) specifically excludes premises which are licensed under the 1968 Act. Prior to the commencement of section 74 of the Air Weapons and Licensing (Scotland) 2015 Act ('the 2015 Act'), theatres are required to be licensed under the 1968 Act and were therefore exempt from the licensing regime under the 1982 Act.
- 3.2 Section 74 of the 2015 Act amends the 1968 Act to repeal the theatre licensing regime under that Act. Section 74 also amends section 41 of the 1982 Act to remove the exemption of theatres from the definition of "place of public entertainment." A local authority could thereafter resolve under section 9 of the 1982 Act to license theatres under its public entertainment licensing regime.
- 3.3 Where a local authority passes a resolution to license theatres there is a required period of at least nine months between the date the resolution is passed and the date it comes into effect. As theatres must currently be licensed under the Theatres Act 1968, it is intended that the commencement of section 74 will be in two parts. The amendments to section 41 of the 1982 Act will be brought into force first, with

the repeal of the 1968 licensing regime expected in January 2021. This is to provide local authorities time to make a resolution to license theatres under the public entertainment licensing regime, and to have that regime in place by the time mandatory theatre licensing comes to an end, should they choose to do so. This should also give theatres requiring a licence sufficient time to apply and secure a licence under the new scheme, before the existing scheme is repealed.

- 3.4 The licensing of places of public entertainment is governed by section 41 of the Civic Government (Scotland) Act 1982 ('the 1982 Act'). A public entertainment licence is required for the use of premises as a place of public entertainment. The 1982 Act defines "place of public entertainment" as:

"any place where on payment of money or money's worth, members of the public are admitted or may use any facilities for the purposes of entertainment or recreation..."

The Council's Public Entertainment Resolution 2014 sets out a list of premises which are required to be licensed (Appendix 2).

- 3.5 The current public entertainment resolution took effect on 7 March 2014 following previous changes to policy. It is intended to take the opportunity to review previous changes and address any perceived short comings as part of a wider consultation process.

## 4. Main report

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- 4.1 The purpose for regulating this type of activity is not to restrict trade or competition but to help prevent crime, ensure public safety and protect the environment. In addition, every person who applies for a licence is assessed to see if they are 'fit and proper' to have a licence.
- 4.2 Council Officers understand that a commencement order may be laid shortly, and that the indicated timeline for consideration of legislation at a local level in respect of theatres being included within the 1982 Act is April 2019, with the 1968 Act finally being repealed in early 2021.
- 4.3 Should theatres no longer be included within the Public Entertainment resolution, premises would no longer be licensed unless the Council takes steps to address this. As a 'festival city', it is considered essential to ensure a continuity of approach and maintain theatres within a licensing system, while not disrupting normal operations.
- 4.4 It is proposed to start a consultation exercise in April 2019 with a view to adopting theatres within the Public Entertainment resolution. A full time line for this process is included at Appendix 3.
- 4.5 Following previous changes to policy, the current public entertainment resolution took effect on 7 March 2014. It is proposed to take the opportunity to consider whether a full review of the resolution is necessary to ensure that it remains fit for purpose.

## **5. Next Steps**

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- 5.1 The steps for varying the resolution are specified in Section 9 of the 1982 Act. This would allow the Council to add or delete certain events from the requirement to obtain a licence. These include formal publication of proposal to vary, followed by a 28 day public consultation period. After consideration of the outcome of the consultation, the Council may then make a new resolution, which would not take effect until the expiry of a period of nine months. The nine months is a statutory period intended in the main to allow businesses or persons affected by any new licence requirement time to prepare.
- 5.2 The nine month period does not apply if the variation is confined to reducing the scope of the resolution, but any such variation would still require to be prepared, publicised and consulted upon.
- 5.3 Council Officers understand that whilst a commencement order may be laid shortly, this would be subject to Parliamentary process and accordingly if there is a delay it could affect the indicated timeline for consideration of legislation at a local level. Any changes would be notified to committee and the time line amended.

## **6. Financial impact**

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- 6.1 The loss in licence fee income created by the repeal of the Theatres Act 1968 would be offset by the inclusion of theatres within the Public Entertainment Licensing regime.
- 6.2 The Council's scale of fees for licensing applications was approved with effect from 1 April 2018. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.

## **7. Stakeholder/Community Impact**

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- 7.1 The development of policy in respect of the licensing of theatres is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the revised conditions are consistent with these.
- 7.2 There is a requirement to carry out a statutory consultation as part of the resolution process and the timeline is outlined in Appendix 3.
- 7.3 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.4 The contents and recommendations described in this report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.

## **8. Background reading/external references**

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- 8.1 [Item 5 – Regulatory Committee 27 January 2012 - Public Entertainment licensing - Amendments](#)
- 8.2 [Item 7 – Regulatory Committee 9 March 2012 - Public Entertainment licensing - Interim Fee Proposals](#)
- 8.3 [Item 5 - Public Entertainment Licensing - Public Consultation on the amendments to the Consultation - Regulatory Committee 20 April 2012](#)
- 8.4 [Item 5.1 – Public Entertainment Licensing – Recommendations of Member Officer Working Group – Regulatory Committee 16 November 2012](#)
- 8.5 [Item 7.1 Regulatory Committee 3 May 2013 - Public Entertainment Licensing – Public Consultation on Amendments to the Resolution](#)
- 8.6 [Item 7.1 Regulatory Committee 15 Nov 2013 - Proposed Changes to Public Entertainment Resolution](#)
- 8.7 [Item 7.3 Regulatory Committee 3 February 2014 - Review of Public Entertainment Licensing](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Civic Government (Scotland) Act 1982
- 9.2 Appendix 2 - The City of Edinburgh Public Entertainment Resolution 2014
- 9.3 Appendix 3 - Implementation timeline

## Appendix 1 – Civic Government (Scotland) Act 1982

### Section 9 - Application of sections 10 to 27 and 38 to 44.

- (1) Sections 10 to 27 (except section 20), any regulations made under the said section 20, and sections 38 to 43 (except section 41A) of this Act and any order made under section 44(1)(a) of this Act (which sections regulations and order are in this section called the “optional provisions”) shall have effect in the area of a licensing authority only if and insofar as the authority have so resolved in accordance with subsections (2) to (8) below.
- (2) A licensing authority may, in accordance with this section, resolve that, as from a day specified in the resolution (which must not be before the expiration of the period of nine months beginning with the day on which the resolution was made) any activity provision for the licensing and regulation of which is made by the optional provisions shall require to be licensed in accordance with the provisions of this Act relating to that activity and shall be regulated by those provisions.
- (3) Subject to subsections (4) and (5) below, a resolution under this section may be made—
  - (a) in relation to all or any of the activities referred to in subsection (2) above;
  - (b) in relation to the whole or any part of the area of the licensing authority;
  - (c) in relation to—
    - (i) all classes of an activity referred to in any of the optional provisions; or
    - (ii) all such classes subject to exceptions; or
    - (iii) any particular such class or classes.
- (4) A licensing authority may not make a resolution under this section relating to any of the activities provision for the licensing and regulation of which is made in sections 10 to 23 of this Act (that is to say the operation of a vehicle as a taxi, the operation of a vehicle as a hire car, the driving of a taxi and the driving of a hire car) unless it relates to all these activities.
- (5) A resolution made under this section by the licensing authority relating to—
  - (a) the activity provision for the licensing and regulation of which is made in sections 24 to 27 of this Act (that is to say the carrying on of business as a second-hand dealer) shall specify the particular class or classes of that activity which shall thereby fall to be licensed and regulated;
  - (b) the activity provision for the licensing of which is made in section 41 of this Act (that is to say the use of premises as a place of public entertainment) shall specify the place or places, or class or classes thereof, which shall thereby fall to be licensed.
- (6) A licensing authority shall not make a resolution under this section unless they have—
  - (a) published in a newspaper or newspapers circulating in their area the terms of the proposed resolution together with a notice stating—

- (i) that they intend to make the resolution; and
    - (ii) that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice; and
  - (b) considered any representations so made.
- (7) A licensing authority, before proceeding to make a resolution under this section, may make such modifications to the proposed resolution as they think fit in the light of representations made to them about it provided such modifications do not extend its scope.
- (8) The licensing authority shall, as soon as they have made a resolution under subsection (2) above, publish in a newspaper or newspapers circulating in their area—
- (a) the terms of the resolution so made; together with
  - (b) a notice stating—
    - (i) that with effect from the date specified as that on which the resolution comes into effect it will be an offence under section 7(1) of this Act to do without a licence whatever the resolution specifies as being an activity requiring to be licensed; and
    - (ii) that applications for licences in respect of the activity will be considered by the authority after the expiry of one month after the date of the making of the resolution.
- (9) A resolution under this section may be varied or rescinded by a subsequent resolution made in like manner except that, in relation to the time when it takes effect, a resolution under this subsection—
- (a) varying a resolution under this section so as to reduce its scope; or
  - (b) rescinding a resolution under this section
- shall take effect on such date as may be specified in it being any date subsequent to the making of the resolution.
- (10) Anything which must or may be done under or by virtue of Part I or this Part of this Act may, at any time after the making by the licensing authority of the resolution, be done so far as may be necessary or expedient for the purpose of giving full effect to the resolution at or after the time it takes effect but no application for a licence in respect of an activity requiring to be licensed in consequence of the re

#### **41 Public entertainment licences.**

- (1) A licence, to be known as a “public entertainment licence”, shall be required for the use of premises as a place of public entertainment.
- (2) In this section, “place of public entertainment” means any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation but does not include—
  - (a) an athletic or sports ground while being used as such;
  - (aa) premises in respect of which a licence is required under section 41A of this Act while such premises are being used for the purposes mentioned in that section;
  - (b) an educational establishment while being used as such;
  - (c) premises belonging to or occupied by any religious body while being used wholly or mainly for purposes connected with that body;
  - (d) premises licensed under the Theatres Act 1968 or section 1 of the Cinemas Act 1985 ;
  - (e) premises in respect of which there is a club gaming permit (within the meaning of section 271 of the Gambling Act 2005 (c.19)) or a prize gaming permit (within the meaning of section 289 of that Act of 2005);
  - (f) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect] in which public entertainment is being provided during licensed hours within the meaning of that Act;
  - (g) premises in which machines for entertainment or amusement are being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment. or
  - (h) such other premises as the Scottish Ministers may by order made by statutory instrument specify.
- (2A) A statutory instrument containing an order made under subsection (2)(h) is subject to annulment in pursuance of a resolution of the Scottish Parliament.]
- (3) Without prejudice to section 3B of and paragraph 5 of Schedule 1 to this Act, a licensing authority may attach conditions to a public entertainment licence—
  - (a) restricting the use of the premises to a specified kind or specified kinds of entertainment or recreation;
  - (b) limiting the number of persons to be admitted to the premises;
  - (c) fixing the days and times when the premises may be open for the purposes of the entertainment or recreation.
- (4) In this section, “educational establishment” has the meaning given by paragraphs (i) and (ii) of the definition of that expression in section 135(1) of the Education (Scotland) Act 1980 but includes a university and a theological college.

#### **Appendix 2 - THE CITY OF EDINBURGH PUBLIC ENTERTAINMENT RESOLUTION**

**THE CITY OF EDINBURGH COUNCIL  
CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (“the Act”)**

**THE CITY OF EDINBURGH PUBLIC ENTERTAINMENT RESOLUTION Number 1 of 2014**

The City of Edinburgh Council, in exercise of its powers in terms of sections 9 and 41 of the Act, hereby makes the following resolution:-

- (1) Section 41 of the Act relating to Public Entertainment shall continue to have effect throughout the Council’s area.
- (2) Subject to the terms of the Act, a Public Entertainment licence shall be required for the use of the premises specified in (3) below as places of Public Entertainment as from 7 March 2014.
- (3) Subject to paragraphs (4) and (5) below, the premises in the Council’s area which require to be licensed under the Resolution are as follows:

- (a) Billiard, snooker and pool halls
- (b) Premises used for circuses
- (c) Premises used for firework displays
- (d) Premises used as sun-tan centres
- (e) Premises used for laser displays and games
- (f) Premises used for performing animals
- (g) Premises used for video machine arcades, Amusement Devices (including rides or machines or other such equipment including stalls, tents, booths or structures), which are installed or erected and operated for or in connection with the amusement or entertainment to the public, including without prejudice to the foregoing generality bouncy castles, carousels and bungee jumping and bungee running equipment
- (h) Premises used for paintball games
- (i) Premises used for the performance of music (whether live, recorded or amplified), any other concert venue, any rave or dance event and theatrical performances
- (j) Premises used for go-carting, off road driving courses or similar or any facility where the operator provides access to vehicles for entertainment purposes. Does not include the provision of vehicles as part of learner driver tuition.
- (k) Premises used for exhibitions
- (l) Premises used as gymnasiums

(4) BUT excluding the following places where **(a) where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or money’s worth and (b) the capacity does not exceed 500 persons:**

- (a) premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
- (b) premises used for exhibitions of art work;
- (c) premises in which live music is being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment.

(5) and additionally **excluding the following places where (a) members of the public are admitted or may use any facilities for the purposes of entertainment and (b) the capacity does not exceed 250 persons:**

- (a) Premises used for functions or events by any charity, religious, community or political group or any similar non-commercial organisation.

**Appendix 3 - Implementation timeline**



# Regulatory Committee

1.15pm, Monday, 11 March 2019

## Air Weapons and Licensing (Scotland) Act 2015 – Commencement of Sexual Entertainment Venues licensing provisions

Item number	7.2
Executive/routine	
Wards	
Council Commitments	

### 1. Recommendations

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- 1.1 Notes the possible commencement of Sexual Entertainment Venue licensing legislation and intention to carry out a consultation exercise.

#### Paul Lawrence

Executive Director of Place

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## **Air Weapons and Licensing (Scotland) Act 2015 – Commencement of Sexual Entertainment Venues licensing provisions**

### **2. Executive Summary**

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- 2.1 This report provides the Committee with an update on the implementation and changes to the licensing regime as a result of the Air Weapons and Licensing (Scotland) Act 2015 in respect of Sexual Entertainment Venues.
- 2.2 Council Officers understand that a commencement order may be laid shortly and it will give an indicative timeline for possible implementation of legislation at a local level in respect of Sexual Entertainment Venues in early 2021

### **3. Background**

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- 3.1 Section 76 of the 2015 Act adds new sections 45A to 45C to the Civic Government (Scotland) Act 1982 in order to introduce a discretionary licensing regime for sexual entertainment venues (SEVs). Section 76 also amends section 41 of the 1982 Act to specifically exclude sexual entertainment venues from the definition of places of public entertainment so that a public entertainment licence cannot also be required for those venues. A sexual entertainment venue licence will only be required where a local authority makes a resolution in these terms under new section 45B of the 1982 Act.
- 3.2 Council Officers understand that a commencement order may be laid shortly and that the indicated timeline for consideration of the introduction of a licensing regime at a local level in respect of SEVs being included within the 1982 Act is April 2019.
- 3.3 The key aims of civic licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for sexual entertainment venues will allow local authorities to consider local circumstances in setting the number of venues able to operate within their areas and to exercise appropriate control and regulation of these venues. A published sexual entertainment policy statement would be required to provide local communities with a clear indication of the local authority's policy and examples of licensing conditions, along with enforcement details. The policy should also demonstrate how the local authority

intends to help protect the safety and wellbeing of performers, customers and the wider public

- 3.4 Where a local authority opts to licence SEVs, the provisions at section 45A of the 1982 Act require a licence for premises operated as a SEV where the sexual entertainment is performed live, is for the direct or indirect financial benefit of the organiser and is for the sole or principal purpose of sexual stimulation of members of the audience. However, premises where sexual entertainment is provided on no more than three occasions in a twelve month period are not to be treated as SEVs.
- 3.5 Scottish Government has indicated that local authorities are best placed to reflect the views of the communities they serve and to determine whether sexual entertainment establishments should be licensed within their areas, and if so, under what conditions. To assist in the process Scottish Government intends issuing guidance at the time of the commencement of the legislation.
- 3.6 A local authority licensing SEVs will have to publish a SEV policy statement, developed in consultation with relevant interest groups (including violence against women partnerships and similar groups) which will provide local communities with a clear indication of the local authority's policy.

## 4. Main report

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- 4.1 The purpose of regulating this type of activity is the preservation of public safety and order and the prevention of crime. The introduction of the legislation is aimed at giving local authorities powers to improve standards in the industry, ensuring the safety of performers and customers, regulating the impact on the locality, improving local accountability and control.
- 4.2 Currently local licensing boards have regulated adult entertainment via the existing licensing regime for alcohol. The introduction of this legislation removes that control.
- 4.3 Unlike many local authority areas, Edinburgh currently has a small number of venues that fall under the criteria for SEVs, should a licensing scheme be introduced.
- 4.4 Where a local authority decides to license SEVs, section 45B of the 1982 Act, requires the local authority to pass a resolution to implement SEV licensing.
- 4.5 In considering whether to pass a resolution a local authority should consider whether it will wish to control SEVs either now or in the future. If there is no resolution in place, then no licence is required to operate an SEV. If the Council does not adopt this discretionary power then SEVs will continue to operate without any direct control from the Council.
- 4.6 As part of the implementation process Scottish Government has committed to issuing guidance to assist local authorities in the development of SEV Policy statements, and intends to include draft licensing conditions as part of the documentation. This Guidance is not yet published.

- 4.7 It is proposed to start a consultation exercise in April 2019, with a view to gaining a broader understanding of community views in relation to the potential introduction of a resolution which, if implemented, would require such premises to be licensed in 2021. A proposed time line for consideration is included in Appendix 2.

## **5. Next Steps**

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- 5.1 Given the complexity of the issues involved in the introduction of a policy in respect of SEVs, it is proposed to commence a consultation exercise as outlined in Appendix 2.
- 5.2 Where a local authority passes a resolution, it must specify a date from when it is to take effect in their area. This must be at least one year from the date the resolution is passed. The local authority must also publish notice that it has passed a resolution not less than 28 days prior to the date the resolution is to take effect. The notice must state the general effect of the licensing procedure and provisions at Schedule 2 of the 1982 Act, as modified for SEVs, and be published either electronically or in a local newspaper
- 5.3 Council Officers understand that, whilst a commencement order may be laid shortly, this would be subject to Parliamentary process. Accordingly if there is a delay it could affect the indicated timeline for consideration of legislation at a local level. Any changes would be notified to committee and the time line amended.

## **6. Financial impact**

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- 6.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2018. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.
- 6.2 A new fee would need to be devised and approved by committee.

## **7. Stakeholder/Community Impact**

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- 7.1 There is a requirement to carry out a statutory consultation as part of the resolution process and the timeline is outlined in Appendix 2.
- 7.2 In developing a policy, it will be necessary to consult with a wide range of stakeholders and this should include organisations such as violence against women partnerships, child protection committees, community councils, local residents, gender groups, local business communities, existing businesses and Police Scotland.
- 7.3 It is recognised that concerns have been raised previously that such activity may be commercial sexual exploitation and encourages unhealthy attitudes to women and therefore damages society as a whole.

- 7.4 The Scottish Government stated during the passage of the 2015 Act that it acknowledges through the introduction of this legislation the freedom of adults to engage in legal activities and employment. However, it continues to promote, through all relevant means gender equality and actions that tackle out-dated attitudes that denigrate or objectify particular groups or individuals.
- 7.5 Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published in 2014 and updated in 2016. It sets out a definition of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking'. Whilst recognising the conflict between this definition and the licensing of sexual entertainment venues, Scottish Government intends that it will help to ensure that such activities take place in safe and regulated environments
- 7.6 At the Regulatory Committee meeting on 3 February 2013, following a period of consultation the committee agreed to amend the Public Entertainment Resolution to remove premises used as 'saunas or massage parlours' from the requirement to obtain a public entertainment licence. This report and possibly regulatory regime will not apply to such premises and there is no scope to include them in any new scheme.
- 7.7 A full equalities impact assessment will be completed as part of the consultation process.

## **8. Background reading/external references**

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- 8.1 [Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls](#)
- 8.2 [The Trafficking and Exploitation Strategy](#)
- 8.3 [Item 73- Review of public entertainment licensing - Regulatory Committee Report 3 February 2014](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Civic Government (Scotland) Act 1982
- 9.2 Appendix 2 - Proposed timeline

## Appendix 1 – Civic Government (Scotland) Act 1982

### Section 45A - Licensing of sexual entertainment venues: interpretation

- (1) This section applies for the purposes of the interpretation of section 45B and Schedule 2 (as modified for the purposes of section 45B).
- (2) “Sexual entertainment venue” means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.
- (3) For the purposes of that definition—

“audience” includes an audience of one,

“financial gain” includes financial gain arising directly or indirectly from the provision of the sexual entertainment,

“organiser”, in relation to the provision of sexual entertainment in premises, means—

  - (a) the person (“A”) who is responsible for—
    - (i) the management of the premises, or
    - (ii) the organisation or management of the sexual entertainment, or
  - (b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person,

“premises” includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted,

“sexual entertainment” means—

  - (a) any live performance, or
  - (b) 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).
- (4) For the purposes of the definition of “sexual entertainment”, “display of nudity” means—
  - (a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,
  - (b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.
- (5) Sexual entertainment is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the organiser.

- (6) References in Schedule 2 (as modified for the purposes of section 45B) to the use of any premises by a person as a sexual entertainment venue are to be read as references to their use by the organiser.
- (7) The following are not sexual entertainment venues—
  - (a) a sex shop (within the meaning of paragraph 2(1) of Schedule 2),
  - (b) such other premises as the Scottish Ministers may by order specify.
- (8) An order under subsection (7)(b) may make different provision for different purposes.
- (9) Premises at which sexual entertainment is provided as mentioned in subsection (2) on a particular occasion (“the current occasion”) are not to be treated as a sexual entertainment venue if sexual entertainment has not been provided on more than 3 previous occasions which fall wholly or partly within the period of 12 months ending with the start of the current occasion.
- (10) For the purposes of subsection (9)—
  - (a) each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion, and
  - (b) where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.
- (11) The Scottish Ministers may by order provide for—
  - (a) descriptions of performances, or
  - (b) descriptions of displays of nudity,which are not to be treated as sexual entertainment for the purposes of this section.
- (12) An order under subsection (7)(b) or (11) is subject to the negative procedure.

#### **Section 45B          Licensing of sexual entertainment venues**

- (1) A local authority may resolve that Schedule 2 (as modified for the purposes of this section) is to have effect in their area in relation to sexual entertainment venues.
- (2) If a local authority passes a resolution under subsection (1), Schedule 2 (as so modified) has effect in their area from the day specified in the resolution.
- (3) The day mentioned in subsection (2) must not be before the expiry of the period of one year beginning with the day on which the resolution is passed.
- (4) A local authority must, not later than 28 days before the day mentioned in subsection (2), publish notice that they have passed a resolution under this section.
- (5) The notice must—
  - (a) state the general effect of Schedule 2 (as modified for the purposes of this section), and

- (b) be published electronically or in a newspaper circulating in the local authority's area.
- (6) or the purposes of this section, paragraphs 1 and 3 to 25 of Schedule 2 apply with the following modifications—
- (a) references to a sex shop are to be read as references to a sexual entertainment venue,
  - (b) references to the use by a person of premises, vehicles, vessels or stalls as a sexual entertainment venue are to be read as references to their use by the organiser,
  - (c) in paragraph 1—
    - (i) in sub-paragraph (b)—
      - (A) the word “or” immediately following paragraph (i) is omitted,
      - (B) paragraph (ii) is omitted, and
    - (ii) sub-paragraph (c) is omitted,
  - (d) in paragraph 7—
    - (i) in sub-paragraph (2), at the beginning insert “ Subject to sub-paragraph (3A), ”, and
    - (ii) after sub-paragraph (3) insert—
      - “(3A) If a local authority consider it appropriate to do so in relation to an application, the local authority may dispense with the requirement to publish an advertisement under sub-paragraph (2) and may instead publish notice of the application electronically.
      - (3B) Publication under sub-paragraph (3A) must be not later than 7 days after the date of the application.
      - (3C) The applicant must also, not later than 7 days after the date of the application—
        - (a) send a copy of the application to each person or body listed in the local authority's determination under sub-paragraph (3D), and
        - (b) submit to the local authority a certificate stating that the applicant has complied with this sub-paragraph.
      - (3D) For the purposes of sub-paragraph (3C), a local authority must—
        - (a) from time to time determine the persons or bodies who must receive a copy of the application, and
        - (b) publicise the determination in such manner as they consider appropriate.”,

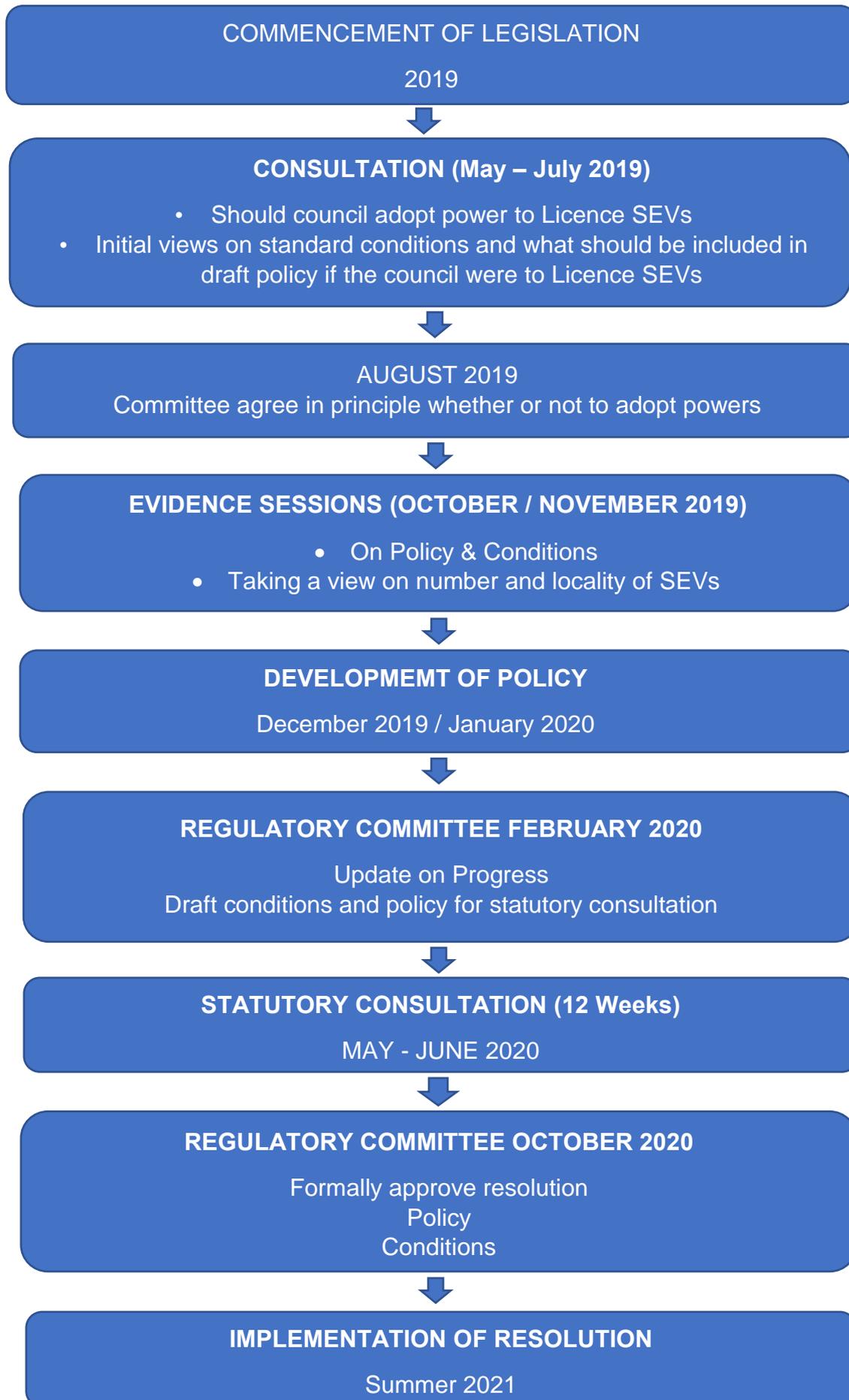
- (e) in paragraph 9—
    - (i) in sub-paragraph (5)(c)—
      - (A) after the word “in” insert “ the local authority's area or ”,
      - (B) after the word “for” insert “ their area or ”,
    - (ii) after sub-paragraph (5) insert—
      - “(5A) For the purposes of sub-paragraph (5)(c), a local authority must—
        - (a) from time to time determine the appropriate number of sexual entertainment venues for their area and for each relevant locality, and
        - (b) publicise the determination in such manner as they consider appropriate.”,
    - (iii) after sub-paragraph (6) insert—
      - “(6A) A local authority may refuse an application for the grant or renewal of a licence despite the fact that a premises licence under Part 3 of the Licensing (Scotland) Act 2005 is in effect in relation to the premises, vehicle, vessel or stall to which the application relates.”,
  - (f) in paragraph 12(2)(b), for “shorter” substitute “ other ”,
  - (g) in paragraph 19(1)(e), for the words from “without” to the end of paragraph (e) substitute “knowingly permits any person under the age of 18 to enter the sexual entertainment venue—
    - (i) at a time when sexual entertainment is being provided, or
    - (ii) without reasonable excuse, at any other time.”, and
  - (h) in paragraph 25, in each of sub-paragraphs (1)(a) and (2), for “45” substitute “ 45B ”.
- (7) In carrying out functions conferred by virtue of this section, a local authority must have regard to any guidance issued by the Scottish Ministers.

### **Section 45C - Statements of policy in relation to sexual entertainment venues**

- (1) This section applies where a local authority passes a resolution under section 45B(1).
- (2) The local authority must prepare a statement of their policy with respect to the exercise of their functions in relation to the licensing of sexual entertainment venues (a “SEV policy statement”).
- (3) In preparing a SEV policy statement, a local authority must—
  - (a) consider the impact of the licensing of sexual entertainment venues in their area, having regard, in particular, to how it will affect the objectives of—

- (i) preventing public nuisance, crime and disorder,
  - (ii) securing public safety,
  - (iii) protecting children and young people from harm,
  - (iv) reducing violence against women, and
- (b) consult such persons or bodies as they consider appropriate.
- (4) The local authority must publish the SEV policy statement at the same time and in the same manner as they publish the notice of the resolution under section 45B(4).
- (5) The local authority must—
  - (a) from time to time review the SEV policy statement and make such revisions as they consider appropriate (if any), and
  - (b) publish the revised statement in such manner as they consider appropriate.
- (6) Subsection (3) applies to a review of a SEV policy statement as it applies to preparing such a statement.
- (7) In exercising their functions in relation to the licensing of sexual entertainment venues, a local authority must have regard to their SEV policy statement or revised statement.
- (8) In this section—
  - “children” means persons under the age of 16,
  - “young people” means persons aged 16 or 17.]

## Appendix 2 - Proposed timeline



# Regulatory Committee

1.15pm, Monday, 11 March 2019

## Cinema Licensing: Update and Proposed Licensing Conditions

Item number	7.3
Executive/routine	
Wards	Citywide
Council Commitments	N/A

### 1. Recommendations

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- 1.1 The Regulatory Committee is asked to:
  - 1.1.1 Note the contents of this report; and
  - 1.1.2 Agree proposed conditions of licence for cinemas as set out in Appendix 1; these to be effective from 1 April 2019.

**Paul Lawrence**

Executive Director of Place

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# Report

## Cinema Licensing: Update and Proposed Licensing Conditions

### 2. Executive Summary

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- 2.1 On 22 October 2018 the Regulatory Committee approved in principle proposals to introduce revised conditions for licences issued under the Cinemas Act 1985. This report provides an update after statutory consultation was carried out.

### 3. Background

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- 3.1 Any public performance of a film exhibition is controlled by the Cinemas Act 1985. A cinema licence allows 'any exhibition of moving pictures' other than TV programmes on terrestrial TV or cable programmes which are licensed under the Cable and Broadcasting Act 1984.
- 3.2 The operation of cinemas is licensed by means of cinema licensing. At present there are 14 licensed cinemas in the city.

### 4. Main report

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- 4.1 The Council has previously approved draft standard licensing conditions for cinemas.
- 4.2 Following the in principle decision of the Regulatory Committee to amend licensing conditions for cinema licensing, the Committee instructed the Executive Director of Place to consult on the proposed revised conditions and to report back to the Regulatory Committee.
- 4.3 The proposed revised conditions are attached at Appendix 2 and, if agreed, will thereafter be applicable in respect of any Cinema Licence granted or renewed from 1 April 2019.
- 4.4 A consultation on the proposed changes was published on the council's Consultation Hub between 14 November and 12 December 2018. There were 10 responses in total.

- 4.5 60% of respondents either agreed or strongly agreed with the proposed conditions. 30% disagreed or strongly disagreed. Respondents were asked for further comments and these are attached at Appendix 3.
- 4.6 Having reviewed the comments, the Directorate has made one change to the draft conditions, amending the proposed condition 4 (Appendix 2) to reproduce the current condition (condition 4 in Appendix 1). The Directorate does not propose any further amendments and does not recommend any further change to the draft conditions.
- 4.7 Queries were raised about draft condition 4. This has been reworded to make it more restricted, similar to a previous condition. Members will wish to consider the comments made. Any exercise of the power contained in condition 4 would require a committee hearing. In respect of draft condition 2, concerns have been raised but members are advised that the condition (as read with draft condition 3) is necessary to regulate which films are suitable to be shown to children.
- 4.8 Respondents were also asked for comments on the policy on parent/infant screenings agreed by the committee on 26 June 2018. Responses are attached at Appendix 4. Having reviewed the comments, the Directorate does not propose any amendments and does not recommend any change to the agreed policy.
- 4.9 The Regulatory Committee is asked to approve the proposed revised conditions (Appendix 2). It is proposed that these conditions would take effect from 1 April 2019 and therefore would be attached to any licence granted or renewed after that date.

## **5. Next Steps**

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- 5.1 The Council's website will be updated with the new conditions.
- 5.2 Any renewal granted after 1 April 2019 will have the new conditions of licence attached.

## **6. Financial impact**

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- 6.1 The Council's current scale of fees for licensing applications was approved with effect from 1 April 2018. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.
- 6.2 Cinema licence fees are fixed by legislation.

## **7. Stakeholder/Community Impact**

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- 7.1 The development of policy in respect of licensing of cinemas is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the revised conditions are consistent with these.

- 7.2 There is a recognised process for amending the policy and this approach is in line with the statutory requirements.
- 7.3 No protected groups are affected.
- 7.4 A consultation on the proposed revised conditions was posted on the Council's Consultation Hub between 14 November and 12 December 2018.

## **8. Background reading/external references**

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- 8.1 [Regulatory Committee report – Cinemas Act 1985 - 22 October 2018](#)

## **9. Appendices**

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- 9.1 Current conditions: Cinemas Act 1985
- 9.2 Proposed conditions: Cinemas Act 1985
- 9.3 Comments on proposed conditions
- 9.4 Comments on policy regarding parent/infant screenings

## **Appendix 1 – current cinema licensing conditions**

### **Cinemas Act 1985**

#### **LICENCE CONDITIONS**

1 'Film' in these conditions means 'Film exhibition' as defined in the Cinemas Act 1985. 'Council' means the Council as Licensing Authority under the 1985 Act.

2 Subject to conditions 3 and 4:

- (a) No film shall be exhibited unless it has received a 'U', 'PG', '12A', '15' OR '18' certificate from the British Board of Film Classification.
- (b) No one under the age of 18 shall be admitted to see a film with an '18' certificate.
- (c) No one under the age of 15 years shall be admitted to see a film with a '15' certificate.
- (d) No one under the age of 12 years shall be admitted to see a film with a '12A' certificate unless accompanied by a responsible adult.

3 Any film may be exhibited if the permission of the Council is first obtained and any conditions of such permission are complied with.

4 The Council may prohibit the showing of any film by giving written notice to the Licensee.

5 The terms of any certificate given by the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates.

6 There shall be prominently exhibited at each public entrance whenever premises are open to the public for the showing of films a notice indicating clearly:-

- (a) the title of each film to be shown on that day, other than trailers and films of less than 5 minutes duration.
- (b) the approximate time of commencement of each film;
- (c) whether each film has received a 'U', 'PG', '12A', '15' OR '18' certificate from the British Board of Film Classification and (d) the effect of the certificates on the admission of persons under the age of 18 years.

7 The type of certificate received from the British Board of Film Classification shall be clearly indicated by 'U', 'PG', '12A', '15' OR '18' in any advertisement of the film displayed at the premises.

8 No advertisement displayed at the premises of a film to be exhibited there shall depict any scene or incident not included in the film as certified by the British Board of Film Classification or as approved for exhibition by the Council.

9 Where the Council has given notice in writing to the Licensee objecting to an advertisement, that advertisement shall not be displayed at the premises.

10 The premises shall only open between 8am and 1am the following day unless the written consent of the Council is given to open earlier or later.

11 No animals shall be permitted in the premises during the exhibition of a film except guide dogs. The Licensee shall not refuse admission to patrons with guide dogs.

12 All attendants on duty shall wear a distinguishing uniform or armband, and shall, have in their possession an electric torch in working condition.

13 Films in the 'RESTRICTED (18)' category shall not be shown without the consent in writing of the Council.

Any consent granted in terms of this condition shall be subject to all the following conditions being complied with and any other conditions the Council consider necessary.

(a) Films in the 'RESTRICTED (18)' category shall not be exhibited except at licensed premises being operated as a club.

(b) No films in the 'RESTRICTED (18)' category shall be shown in a multi-screen complex unless the area used for such films and all facilities (including foyers, lavatories, and refreshment areas) are wholly segregated and accessible only through a separate entrance and box office.

(c) A register of members shall be maintained and made available for immediate inspection by Council officials or police constables. A membership card (with a photograph of the member) shall be issued to each member.

(d) Tickets shall not be sold to persons other than members.

(e) No one shall be admitted to view a film in the 'RESTRICTED (18)' category unless a valid membership card for that person is displayed at the time of admission.

(f) Advertising for films in the 'RESTRICTED (18)' category shall specify only the title of the film and the category and will not include pictorial material or other information about the names of performers or the plot.

(g) No one under 18 years shall be employed in any capacity at premises showing films in the 'RESTRICTED (18)' category.

(h) Membership rules for club cinemas shall include the following:-

(i) Membership shall only be open to people of not less than 18 years of age. Applications for membership, including name and address, shall be in writing and signed by the applicant. Applicants shall provide proof of their age to the Licensee.

(ii) No one shall be admitted to membership until at least 24 hours after the application has been approved by the Licensee.

(iii) Membership cards shall not be transferable.

14 The Licensee or Manager shall be responsible for the day to day running of the premises. There shall be sufficient staff on duty when the premises are open to the public.

15 The Licensee or Manager shall give clear instructions to staff on their duties in the event of fire. A legible statement of such duties shall be posted in conspicuous positions in the premises. The Licensee shall comply with any requirements of the Firemaster.

16 The number of people admitted to the premises shall be strictly controlled to ensure that there is no overcrowding.

17 The general layout and arrangement of the premises shall be such as to allow safe and orderly evacuation to the Council's satisfaction, in the event of an emergency.

18 All approaches, staircases and passageways shall be kept free from obstruction. No seat or other obstruction shall be placed in any of the passageways and no-one shall be allowed to stand or sit in any passageway during performances.

19 All doors and barriers shall open outwards and shall not be fastened or locked except by push bar mechanisms which release the door under pressure.

20 All exit doors in the premises shall be indicated by a fixed lighting transparency bearing the word 'EXIT' in letters no less than 10 centimetres high. All exit doors shall be useable at the end of each performance. The transparency shall be illuminated by a maintained system of lighting and must be visible from the auditorium at all times when the premises are open to the public.

21 Any decorative surface finishes shall be either non-combustible or durably flame-proofed.

22 All scenery, curtain drapes and fabrics shall be flame resistant.

23 The use of smoke bombs, smoke generators, flash powder, flash boxes, detonators and similar items is not permitted without the written approval of the Firemaster and the Council.

24 All upholstered furniture shall comply with the Smouldering Cigarette Test and Butane Flame Test in British Standard 5852, Part 2; 1982.

25 The Licensee or the Manager shall intimate every outbreak of fire to the Firemaster immediately.

26 Lasers or other similar devices shall not be used without the Council's written permission.

27 The premises shall be lit to the satisfaction of the Council. A maintained system of secondary lighting shall be provided throughout the building, kept in proper working order and kept on when the premises are open to the public.

28 The electric installation of the premises shall be kept in proper working order to the satisfaction of the Council. No alterations or additions to the electrical installation shall be made without the Council's written approval.

29 No temporary electric lighting installation shall be used in any part of the premises without the Council's written consent. All temporary connections to the permanent installation in the premises shall be disconnected immediately after each performance.

30 All electrical lighting switches to public areas shall be inaccessible to the public.

31 The premises shall be properly ventilated and heated to the satisfaction of the Council. Temporary or moveable forms of heating shall not be used without the Firemaster's written approval.

32 Sanitary accommodation shall be provided to the satisfaction of the Council.

33 The Food Hygiene Regulations and The Health and Safety at Work Act 1974 shall be complied with.

34 Any amplified music and speech shall be controlled so as not to cause annoyance to the satisfaction of the Director of Environmental and Consumer Services.

35 A telephone shall be installed in the premises.

36 The Licensee shall display the Cinema Licence and Conditions in a prominent position.

37 No alteration shall be made to the structure, seating arrangements or exists without the Council's written consent.

38 The Firemaster, any Police Constable and any authorised Council Officer shall be permitted free access to the premises at any time.

39 The Council or Firemaster shall have the power to set a limit on the maximum number of people to be admitted to the premises for any performance.

40 One or more leakage circuit breakers must be installed if live amplified music is to be performed on the premises. The installation should comply with the current Institute of Electrical Engineers Regulations.

## Appendix 2 – proposed revised cinema licensing conditions

### Cinemas Act 1985

#### LICENCE CONDITIONS

- 1 'Film' in these conditions means 'Film exhibition' as defined in the Cinemas Act 1985. 'Council' means the Council as Licensing Authority under the 1985 Act.
- 2 Subject to conditions 3 and 4:
  - (a) No film shall be exhibited unless it has received a 'U', 'PG', '12', '12A', '15' OR '18' certificate from the British Board of Film Classification;
  - (b) No one under the age of 18 shall be admitted to see a film with an '18' certificate;
  - (c) No one under the age of 15 years shall be admitted to see a film with a '15' certificate;
  - (d) No one under the age of 12 years shall be admitted to see a film with a '12' certificate;
  - (e) No one under the age of 12 years shall be admitted to see a film with a '12A' certificate unless accompanied by an adult.
- 3 Any other film may be exhibited if the permission of the Council is first obtained and any conditions of such permission are complied with.
- 4 The Council may prohibit the showing of any film by giving written notice to the Licensee.
- 5 The terms of any certificate given by the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates.
- 6 There shall be prominently exhibited at each public entrance whenever premises are open to the public for the showing of films a notice indicating clearly:
  - (a) the title of each film to be shown on that day, other than trailers and films of less than 5 minutes duration;
  - (b) the approximate time of commencement of each film;
  - (c) whether each film has received a 'U', 'PG', '12', '12A', '15' OR '18' certificate from the British Board of Film Classification; and
  - (d) the effect of the certificates on the admission of persons under the age of 18 years.
- 7 The type of certificate received from the British Board of Film Classification shall be clearly indicated by 'U', 'PG', '12', '12A', '15' OR '18' in any advertisement of the film displayed at the premises.

- 8 No advertisement displayed at the premises of a film to be exhibited there shall depict any scene or incident not included in the film as certified by the British Board of Film Classification or as approved for exhibition by the Council.
- 9 Where the Council has given notice in writing to the Licence holder objecting to an advertisement, that advertisement shall not be displayed at the premises.
- 10 The premises shall only open between 8am and 1am the following day, unless the written consent of the Council is given to open earlier or later.
- 11 No animals shall be permitted in the premises during the exhibition of a film except assistance dogs. The licence holder shall not refuse admission to patrons with recognised assistance dogs.
- 12 All staff on duty shall wear a distinguishing uniform or armband or otherwise be identified by name badge, and shall, have in their possession an electric torch in working condition.
- 13 Films in the 'RESTRICTED (18)' category shall not be shown without the consent in writing of the Council. Any consent granted in terms of this condition shall be subject to all the following conditions being complied with and any other conditions the Council consider necessary.
  - (a) Films in the 'RESTRICTED (18)' category shall not be exhibited except at licensed premises being operated as a club.
  - (b) No films in the 'RESTRICTED (18)' category shall be shown in a multi-screen complex unless the area used for such films and all facilities (including foyers, lavatories, and refreshment areas) are wholly segregated and accessible only through a separate entrance and box office.
  - (c) A register of members shall be maintained and made available for inspection by Council officials or police constables. A membership card (with a photograph of the member) shall be issued to each member.
  - (d) Tickets shall not be sold to persons other than members.
  - (e) No one shall be admitted to view a film in the 'RESTRICTED (18)' category unless a valid membership card for that person is displayed at the time of admission.
  - (f) Advertising for films in the 'RESTRICTED (18)' category shall specify only the title of the film and the category and will not include pictorial material or other information about the names of performers or the plot.

(g) Membership rules for club cinemas shall include the following:

- (i) Membership shall only be open to people of not less than 18 years of age. Applications for membership, including name and address, shall be in writing and signed by the applicant. Applicants shall provide proof of their age to the Licence holder;
- (ii) No one shall be admitted to membership until at least 24 hours after the application has been approved by the licence holder;
- (iii) Membership cards shall not be transferable.

- 14 The number of people admitted to the premises shall be strictly controlled to ensure that there is no overcrowding., in line with the capacity stated on the licence.
- 15 All approaches, staircases and passageways shall be kept free from obstruction. No seat or other obstruction shall be placed in any of the passageways and no-one shall be allowed to stand or sit in any passageway during performances.
- 16 All doors and barriers shall open outwards and shall not be fastened or locked except by push bar mechanisms which release the door under pressure.
- 17 Emergency lighting signs should be either internally illuminated or illuminated by a light no more than 2 metres away and from a maintained system with 3 hours duration, in accordance with BS 5266: Part 1: 2011 at all material times. All exit doors shall be useable at the end of each performance. The transparency shall be illuminated by a maintained system of lighting and must be visible from the auditorium at all times when the premises are open to the public.
- 18 Any decorative surface finishes shall be either non-combustible or durably flame-proofed.
- 19 The premises shall be lit to the satisfaction of the Council. A maintained system of secondary lighting shall be provided throughout the building, kept in proper working order and kept on when the premises are open to the public.
- 20 The electric installation of the premises shall be kept in proper working order.
- 21 No temporary electric lighting installation shall be used in any part of the premises without the correct certification being in place. All temporary connections to the permanent installation in the premises shall be disconnected immediately after each performance

- 22 Any amplified music and speech shall be controlled so as not to be an audible nuisance to the satisfaction of the relevant Executive Directors.
- 23 The licence holder shall display the Cinema Licence and Conditions in a prominent position.
- 24 The relevant fire authority, any Police Constable and any authorised Council Officer shall be permitted free access to the premises at any time.

- END -

### Appendix 3 – comments on proposed conditions

- In general most of these proposals are fine (safety etc) However, I am rather uncomfortable with the proposals that the Council can refuse to allow a cinema to show an film that it deems unsuitable. Film is often made to provoke debate about difficult and divisive subjects. How is the Council to decide what is unsuitable for viewing -surely that is subjective? This feels like a step back to censorship and a continuation of the nanny state attitude that is discouraging adults practising self responsibility.
- While I don't have an objection to the vast majority of the proposed changes, I do have take issue with conditions 2 and 4. I do not believe it is fare to legislate to allow the council to undermine the decision of a board set up specifically to regulate cinema content. Especially when the bases of that decision is as subjective as finding the content distasteful. Cinema is often powerful and provocative and there to make it's audience think in a way they did not before or would not normally. Allowing the council to make the decision not to screen some of these types of films is censorship and I will not agree to allow you to do this.

In addition needing to obtain a licence to show films that are not rated by the BFI could be damaging to local film and arts festivals who are often independently run and may not have the time to go through the review board at the BFI. The Edinburgh international film festival, Edinburgh short film festival and Hidden Door are some that spring to mind. There are also universities within Edinburgh that screen their final year degree films at the Filmhouse that would have to rethink their exhibitions because there is already a tight enough turn around between completion and exhibition. They would loose the chance to screen their work to an audience and that is a real shame.

- Clause 4 is a blatant attempt to curb or deny free speech in subjects which could be nationally important.
- The prohibition of films not given a classification, or that "would offend against good taste or decency" is open to misuse and may effectively be seen as censorship.

#### **Appendix 4 – comments on policy on parent/infant screenings**

- I'd be interested to know the justification as to why 12 months. There's enough research to suggest that children shouldn't be watching any screen media before the age of 2 so I feel as though 12 months is a little arbitrary.

Also I feel as though beginning parental status at the age of 16 will not allow some parents in with their infants as there are groups of mothers in Edinburgh who fall beneath that age.

- Seems reasonable.