

Notice of meeting and agenda

Regulatory Committee

9.00 am Monday 18th January 2021

Virtual Meeting - via Microsoft Teams

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The law allows the Council to consider some issues in private. Any items under "Private Business" will not be published, although the decisions will be recorded in the minute.

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1. Order of Business

- 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

- 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

- 3.1 If any.

4. Minutes

- 4.1 Minute of the Regulatory Committee of 2 November 2020 – submitted for approval as a correct record 5 - 8

5. Rolling Actions Log

- 5.1 Rolling Actions Log 9 - 18

6. Business Bulletin

- 6.1 Business Bulletin 19 - 22

7. Executive Decisions

- 7.1 Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions – Report by the Executive Director of Place 23 - 50
- 7.2 Licensing Policy Development – Street Trading Update – Report by the Executive Director of Place 51 - 86
- 7.3 Response to Consultation: Travelling Funfairs (Licensing) 87 - 94

8. Routine Decisions

8.1 None.

9. Motions

9.1 None.

Andrew Kerr

Chief Executive

Committee Members

Councillor Catherine Fullerton (Convener), Councillor Denis Dixon (Vice-Convener), Councillor Scott Arthur, Councillor Max Mitchell, Councillor Joanna Mowat, Councillor Susan Rae, Councillor Cameron Rose, Councillor Neil Ross and Councillor Donald Wilson

Information about the Regulatory Committee

The Regulatory Committee consists of 9 Councillors and is appointed by the City of Edinburgh Council.

This meeting of the Regulatory Committee is being held virtually by Microsoft Teams.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Rachel Gentleman or Sarah Stirling, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4240 / 0131 529 3009, email lesley.birrell@edinburgh.gov.uk / sarah.stirling@edinburgh.gov.uk.

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Minutes

Regulatory Committee

9.30am, Monday 2 November 2020

Present

Councillors Fullerton (Convener), Dixon (Vice-Convener), Doran (substituting for Councillor Arthur), Mitchell, Mowat, Rose, Neil Ross and Wilson.

1. Rolling Actions Log

The Regulatory Committee Rolling Actions Log for 2 November 2020 was submitted.

Decision

- 1) To agree to close the following actions:
 - Action 6 (6, 7, 8 & 11) – Internal Audit Findings – Timescales for Completion of Management Actions
 - Action 7 – Motion by Councillor Rae – Capping Private Hire Car Licences
 - Action 8 – Taxi Stance Appointment – St Andrew Square
 - Action 9 – Taxi Fares Review 2019-2020
 - Action 11 – Review of Taxi Fare Structure – Outcome of Consultation

- 2) To note the remaining outstanding actions.

(Reference – Rolling Actions Log, 2 November 2020, submitted)

2. Business Bulletin

The Regulatory Committee Business Bulletin for 2 November 2020 was submitted.

Decision

To note the Business Bulletin.

(Reference – Business Bulletin, 2 November 2020, submitted)

3. Coronavirus (COVID-19) Contingency Measures: Update Report

(a) Deputation – Unite Edinburgh Cab Branch

A written deputation was presented on behalf of the Unite Edinburgh Cab Branch in relation to the Coronavirus (COVID-19) Contingency Measures: Update Report.

The deputation expressed concern regarding the decrease in renewals of taxi driver licences due to the price of vehicles as a result of the Age and Emissions Policy. Frustration was also expressed at what they perceived to be a lack of communication from the City of Edinburgh Council (CEC), particularly with regards to airport fees.

The deputation requested that a compliance checklist for testing vehicles be made available to taxi operators and garages to allow for a standardised form of testing that did not require vehicles to be tested at the CEC's Taxi Examination Centre. They also requested that existing drivers who had already completed training be exempt for three years to relieve financial pressures.

(b) Report by the Executive Director of Place

The decisions made and actions taken as a result of the Covid-19 pandemic during the period since the Regulatory Committee last met on 9 March 2020 were set out. The decisions which the committee would require to take going forward were also outlined.

Decision

- 1) To note the report.
- 2) To agree to extend the current temporary modification to the Age and Emissions policy for taxis and Private Hire Vehicles in respect of Euro 5 vehicles as set out in paragraph 4.40 of the report by the Executive Director of Place.
- 3) To note that the roll-out of refresher training for existing licensed drivers would be postponed due to the current public health emergency until April 2021 as detailed in paragraph 4.42 of the report.
- 4) To agree to the revised training programme to be delivered online for new taxi or Private Hire Car (PHC) drivers as set out in paragraphs 4.43 to 4.49 of the report.
- 5) To note the contents of the report which explained the concerns that the licensed Taxi and Private Hire trade had expressed regarding ongoing financial hardship throughout the pandemic as a result of the public health restriction.
- 6) To note that officers, after consultation with the Convenor, Vice-Convenor and group spokespersons, had agreed to an operational change to allow vehicles which were not compliant with the Age & Emissions policy to present their vehicles for testing to allow them to keep operating until such time as the policy position was reviewed or the applicant's Age and Emissions appeal application could be considered.
- 7) To note that the current Age and Emissions policy required all vehicles to be less than 10 years old generally when presented for test effective from 1 April 2020 and as a result an additional 270 vehicles had been expected to upgrade over between April 2020 and April 2021.
- 8) To note that the Low Emission Zone implementation dates had been extended by a period of 12 months due to the effect of the pandemic and would not take effect until 2023 at the earliest.

- 9) To therefore agree that the policy in relation to the age of vehicles be amended such that the requirement for all vehicles to be less than 10 years old generally when presented for test would now not take effect until 30 September 2021.
- 10) To agree to extend to 30 September 2021 the requirement that any Taxi or PHC including those from out with the fleet presented for licensing as a Taxi or PHC or as a replacement vehicle for an existing Taxi or PHC licence unless it was a Euro 6, and therefore only Euro 5 or above vehicles would be accepted.

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

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Rolling Actions Log

Regulatory Committee

18 January 2021

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	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:	Executive Director of Place	April 2021		<p>Recommended for Closure – An update was included in the Coronavirus (COVID-19) Contingency Measures: Update Report on 2 November 2020.</p> <p>Training sessions for new drivers commenced 14 December 2020.</p>
2	20.05.19	Age Limitation and Emissions Standards for Taxis and Private Hire Cars - Update	Instructs the Chief Executive to include this additional delegation (with respect to notification of intended retirement and one year extension) in future drafts of	Chief Executive	Feb 2021		This will be included in the next review of the Scheme of Delegation.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			the Council's Scheme of Delegation when submitted to Council for approval.				
3	19.08.19	Request for Variation: Taxi Vehicle Licence Conditions (Advertising)	Instructs the Chief Executive to include this additional delegation in future drafts of the Council's Scheme of Delegation when submitted to Council for approval.	Chief Executive	Feb 2021		This will be included in the next review of the Scheme of Delegation.
4	21.10.19	Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Update After Initial Consultation	<ol style="list-style-type: none"> 1) To note the report and the responses to the initial public consultation on the licensing of sexual entertainment venues. 2) To agree, in principle, to adopt a scheme to licence sexual entertainment venues. 3) To instruct that officers draft a proposed Sexual Entertainment Venue (SEVs) resolution, 	Executive Director of Place	March 2021		<p>Recommended for Closure</p> <p>Report on agenda for January 2021</p>

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>policy and conditions of licence for the Committee to agree.</p> <p>4) To note that a statutory consultation on the agreed policy would then be carried out with the results and recommendations to be brought back to the Committee for final approval.</p>				
5	21.10.19	Street Trading: High Street and Hunter Square Update	<p>1) To note the report and affirms the terms of the existing street trading policy as set out in Appendix 2 of the report.</p> <p>2) To support, in principle, the proposals and changes to policy detailed in paragraphs 4.6, 4.7, 4.8, 4.9, 4.11 and 4.17 and to include a review of options for</p>	Executive Director of Place	Spring 2021		<p>Recommended for Closure</p> <p>Report on agenda for 18 January 2021</p>

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>the management of Hunter Square during the August Festivals, the report to be brought back to committee in 3 cycles.</p> <p>3) To note the commitment that further work will be undertaken by Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps, following the completion of the construction work.</p> <p>4) To agree that in the meantime no changes will be made to the High Street (with the exception of the area outside 329 High Street) and Playfair Steps/Mound Precinct,</p>				

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>as recommended in paragraph 4.12.</p> <p>5) To agree that no further licences are granted for the area outside 329 High Street as recommended in paragraph 4.13.</p> <p>6) To agree to introduce a daily rate for charitable organisations as recommended in paragraph 4.20.</p> <p>7) To instruct officers to engage with Visit Scotland in relation to any objections they may have to four stalls being sited at 249 High Street.</p>				
6	21.10.19	Internal Audit Findings – Timescales for	To include expected completion dates of management actions identified in the Audit in the Committee's	Executive Directors of Place and Resources			

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
		Completion of Management Actions	rolling actions log for ongoing monitoring of progress.				
			1. Implementation of system upgrade to APP Civica CX	Executive Director of Resources	March 2021 September 2021		It is hoped that this system update will be completed by September 2021.
			2. Performance assessment of system issues with APP as part of a wider performance report	Executive Director of Place	March 2021		This action is currently being progressed.
			3. BACS payment reference	Executive Director of Place	March 2021		Further work is required to identify a manageable solution for BACs payment processing for licence application payments.
			4. Inspection Revisit Policy	Executive Director of Place	March 2021		This has been delayed due to COVID-19.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			5. Allocation of Inspection Visits	Executive Director of Place	November 2019	29 January 2020	closed by service area on 29/1/20. Waiting on audit closing the recommendation
			6. Inspection documentation	Executive Director of Place	October 2019	29 January 2020	Closed on 2 November 2020 – this action has now been implemented and the action closed.
			7. Request Refund Policy	Executive Director of Place	October 2019		Closed on 2 November 2020 – this action has now been implemented and the action closed.
			8. Reconciliation between physical applications and APP system	Executive Director of Resources	October 2019		Closed on 2 November 2020 – this action has now been implemented and the action closed.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			9. HMO Key Performance Indicators and Performance Reporting	Executive Director of Place	March 2021		It is hoped to complete this action by March 2021
			10. Training and Guidance documentation	Executive Director of Place	November 2020		Recommended for Closure
			11. HMO application processing procedures	Executive Director of Place	December 2019		Closed on 2 November 2020 – this action has now been implemented and the action closed.
7	09.03.20	Private Hire Car Overprovision	To instruct officers to undertake the actions as detailed in section 5 of the report: <ul style="list-style-type: none"> Officers would undertake necessary actions to appoint an appropriately experienced and skilled external consultant to undertake the required 	Executive Director of Place	June 2021		Procurement of consultants was delayed by the public health emergency. Procurement has now recommenced.

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<p>research and analysis work on taxi demand and assessment of PHC overprovision. A full equalities impact assessment would be required with regard to any recommendations that the consultant submitted to the Council.</p> <ul style="list-style-type: none"> • In addition, officers would continue to engage directly with relevant stakeholders. • Upon conclusion of any research and analysis completed by an appointed contractor, officers would present the collected data and any supporting information to the committee. 				

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			<ul style="list-style-type: none"> It was intended to undertake consultation with a wider group, including making the results of the research and any recommendations brought forward by officers, available for public consultation. 				



Business bulletin

Regulatory Committee

9.00am, Monday, 18 January 2021

Microsoft Teams

Regulatory Committee

Convenor:	Members:	Contact:
<p>Councillor Catherine Fullerton</p>  <p>Vice-Convenor Councillor Denis Dixon</p> 	<p>Councillor Scott Arthur Councillor Susan Rae Councillor Cameron Rose Councillor Donald Wilson Councillor Max Mitchell Councillor Neil Ross Councillor Joanna Mowat</p>	<p>Rachel Gentleman, Committee Services 0131 529 4107</p> <p>Andrew Mitchell Regulatory Services Manager 0131 469 5822</p>

Recent News	Background
<p>Short Term Lets</p> <p>On 10 December 2020 the Scottish Government published a consultation analysis report detailing its response to comments received from a public consultation on the definition of short term lets, as well as proposals for a licensing scheme and planning control area.</p> <p>The legislative process has now commenced in the Scottish Parliament, with powers expected to come into force by Spring 2021, subject to parliamentary approval.</p> <p>The Local Government Committee of the Parliament is currently scrutinising the draft legislation.</p> <p>The licensing scheme will include a mandatory safety requirement that will cover every type of short term let. Local authorities will also have discretion to add further conditions to address local concerns and will be able to designate control areas to ensure that planning permission will be required for the change of use of whole properties to short term lets.</p> <p>The full report can be viewed here.</p>	<p>The Council has previously expressed strong concern about the impact of certain aspects of the short term letting industry on the city. The Council has previously agreed a position calling for additional regulation of the sector, through the introduction of a licensing system. The Scottish Government would be required to take action to introduce legislation to achieve the objective of additional regulation.</p>
<p>Taxi training</p> <p>The first Driver Skills Development Program: Foundation Course ran from 14 – 18 December 2020 with the final assessment on 21 December 2020.</p> <p>Eight participants included a mix of prospective taxi and PHC drivers. The seven participants who completed the full course all passed the final assessments.</p> <p>All training and the final assessment were delivered online, which worked well. Feedback has been very positive, with participants commenting that it was a good entry level course which covered an interesting range of topics. It is planned that courses will run regularly through 2021.</p>	<p>Taxi and PHC Training was due to start in Spring 2020, but this was not possible due to lockdown and the requirement to physically distance.</p> <p>Given the constraints created by the current situation, the need for an online solution and, in recognition that training for new taxi and PHC drivers should be a priority, the Regulatory Committee approved the introduction of a 'Foundation' training course.</p> <p>The training is aimed solely at new taxi and PHC drivers and provides an interim solution to replace the Edinburgh College Course. It covers all the core</p>

skills and knowledge required to enter the trade, with a focus on safety, quality of service, compliance with conditions and communication skills.

Age and emissions

Several outstanding applications for variation to licence conditions are being reviewed and assessed in line with the changes to policy made on 2 November 2020.

The table below gives an update on the number of applications for exemption to the policy which have been considered and resolved. The next 12 month update is due to be reported in May 2021.

Total Considered	Granted	Withdrawn	Refused	Continued
486	285	48	143	10

On 2 November 2020 the Regulatory Committee decided to make amendments to the Age and Emissions Policy for licensed vehicles.

Forthcoming activities:

Regulatory Committee

9.00am, Monday, 18 January 2021

Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions

Executive/routine	
Wards	All
Council Commitments	

1. Recommendations

- 1.1 Regulatory Committee is asked to:
- 1.1.1 note the evidence presented to the Committee at three evidence sessions on Sexual Entertainment Venues (SEVs) held in January and February 2020 (Appendix 5);
 - 1.1.2 instruct that a statutory consultation on the draft resolution, policy and conditions set out in Appendices 1, 2 and 3 is carried out, with the results and recommendations to be brought back to the Committee for agreement in principle.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4042

Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions

2. Executive Summary

- 2.1 The Air Weapons and Licensing (Scotland) Act 2015 ('the 2015 Act') adds new sections to the Civic Government (Scotland) Act 1982 which enable local authorities to introduce a discretionary licensing system for sexual entertainment venues (SEVs). This report provides Committee with a proposed policy statement, licence conditions and resolution for SEVs, as a result of information gathered from an initial public consultation and subsequent evidence sessions.
- 2.2 The report recommends that Committee agrees to publish the draft Resolution, policy and conditions in principle and instructs officers to carry out a statutory consultation exercise to gather further views.

3. Background

- 3.1 Section 76 of the Air Weapons and Licensing (Scotland) Act 2015 adds new sections 45A to 45C to the Civic Government (Scotland) Act 1982 ('the 1982 Act') in order to introduce a discretionary licensing regime for 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, which ensures that a public entertainment licence cannot also be required for those venues. A SEV 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 On 21 March 2019 a commencement order was laid before the Scottish Parliament which provides local authorities with the necessary powers to introduce a discretionary licensing regime for SEVs.
- 3.3 Following a period of consultation, on 3 February 2014 the Regulatory 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. Any new regulatory regime which is introduced will not apply to such premises.

- 3.4 The key aims of civic licensing are the preservation of public safety and the prevention of crime and disorder. A specific licensing regime for SEVs will allow local authorities to consider local circumstances and to exercise appropriate control and regulation of these venues in setting the number of venues able to operate within their area. A published SEVs policy statement would be required to provide a local authority's policy and examples of licensing conditions, along with enforcement details. The policy should demonstrate how the local authority intends to help protect the safety and wellbeing of performers, customers and the wider public.
- 3.5 Where a local authority opts to license SEVs, the provisions at section 45A of the 1982 Act require a licence for premises operated as a SEV where the sexual entertainment is operated 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 to be treated as exempt from the SEVs licensing system.
- 3.6 A local authority which licenses SEVs will have to publish a SEV policy statement, developed in consultation with relevant interest groups (including violence against women partnerships, trade organisations and other similar groups) which will provide local communities with a clear indication of the local authority's policy. On 11 March 2019 the Regulatory Committee instructed officers to commence the initial consultation process in respect of SEV licensing.
- 3.7 To view the recordings of evidence sessions with relevant interest groups such as the Violence Against Women's partnership, members can follow the link [here](#). To view the session with Police Scotland and NHS Scotland, members can follow the link [here](#)

4. Main report

- 4.1 As directed by the Committee at its meeting on 21 October 2019, a series of evidence sessions were held with key stakeholders such as existing operators and performers, Police Scotland, NHS and community councils. In addition, the Committee also held sessions with the appropriate internal Council officers and the relevant interest groups (e.g. Violence Against Women Partnership and Community Safety Partnership) to provide members with a detailed and robust evidence base from which to inform any decision making.
- 4.2 Having reviewed the initial consultation responses in conjunction with the views presented to the Committee during evidence sessions, it is clear that there is broad support for the introduction of a licensing system for SEVs. There are a range of views with regard to the setting of any limits on the number of SEV premises in the city and certain localities. Accordingly, officers recommend that the Committee agrees to publish the SEV licensing resolution, policy and conditions set out in

Appendices 1-3, and to instruct officers to carry out statutory consultation on the draft policy and conditions.

- 4.3 At this stage, the Committee had been expecting to be asked to make an in principle decision on numbers, locations or appropriate areas of the city in relation to SEVs.
- 4.4 However, recognising that there has been a significant gap between the consultation and this stage due to the public health emergency, Committee asked to publish the draft documents for a further period of consultation in order to be assured that stakeholders have been given an opportunity to engage with this work. This approach recognises that businesses most directly affected by the new licensing regime have been closed since March 2020 and may require further support to effectively engage with the consultation.
- 4.5 The draft policy sets initial views from officers, taking into account the previous consultation, that the city centre would be the only area of the city in which the Committee might consider it suitable to allow licensed premises of this type. This view is without prejudice to what decisions the Committee will have to take on the number of licensed SEVs which might be appropriate, or the locations which might be suitable. It is intended to allow stakeholders and others to respond based on an understanding of views set out in response to the initial consultation. Finally, it is acknowledged that some responses argued that the whole city, including the city centre was not appropriate as a location for licensed SEVs. Members will ultimately have to balance this range of views in reaching a conclusion.
- 4.6 When considering these issues, it is recommended that the Committee considers the responses to the initial consultation along with the information presented at evidence sessions.
- 4.7 In deciding whether to pass a resolution a local authority should consider whether it will wish to control SEVs now or in the future. If there is no resolution in place, then no licence is required to operate a SEV. If the Council does not adopt this discretionary power then SEVs may continue to operate without any direct influence from the Council. The four SEV premises currently operating in Edinburgh all have a Premises Licence under the Licensing (Scotland) Act 2005, however the Council's powers are limited to the sale of alcohol.

5. Next Steps

- 5.1 Council officers will review the comments made during the consultation process and a further report will be brought forward detailing the responses to the statutory consultation and providing recommendations for the Committee to consider.
- 5.2 All premises which could be affected by a SEV policy were previously written to and advised of the initial consultation. Officers will continue to consult with the trade and other interested parties to ensure that all views are taken into account when considering the proposed policy and conditions.

- 5.3 Where a local authority passes a resolution, it must specify a date from which it is to take effect in their area. This must be at least one year from the date on which 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.

6. Financial impact

- 6.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2019. Any costs incurred by implementing policy are, at present, an unfunded pressure on the Directorate's budget.
- 6.2 Officers will carry out work to devise a new fee structure for SEVs and will bring this back to the committee for approval.

7. Stakeholder/Community Impact

- 7.1 There is a requirement to carry out a statutory consultation as part of the formation of a SEVs resolution and the timeline is outlined in Appendix 4. The Committee is asked to note that the timeline has been amended from previous reports to reflect the pause in policy work due to the COVID-19 pandemic.
- 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 operators and Police Scotland.
- 7.3 It is recognised that concerns have been raised previously that such activity may be commercial sexual exploitation, encourages unhealthy attitudes towards women and therefore damages society as a whole.
- 7.4 The Scottish Government stated during the passage of the 2015 Act that the introduction of this legislation acknowledges the freedom of adults to engage in legal activities and employment. Nevertheless, it continues to promote, through all relevant means, gender equality and actions that tackle outdated 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, the Scottish Government intends that licensing will help to ensure that such activities take place in safe and regulated environments.

- 7.6 A full equalities impact assessment will be completed as part of the statutory consultation process.

8. Background reading/external references

- 8.1 [Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls](#)
- 8.2 [Air Weapons and Licensing \(Scotland\) Act 2015 – Commencement of Sexual Entertainment Venues licensing provisions - Regulatory Committee, 21 October 2019](#)

9. Appendices

- 9.1 Appendix 1 – draft Sexual Entertainment Resolution
- 9.2 Appendix 2 – draft Sexual Entertainment Venues Policy
- 9.3 Appendix 3 – draft Sexual Entertainment Venues conditions
- 9.4 Appendix 4 – proposed timeline
- 9.5 Appendix 5 – briefing notes from evidence sessions

Appendix 1 - Draft SEV Resolution

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

THE CITY OF EDINBURGH SEXUAL ENTERTAINMENT VENUES RESOLUTION Number X of 2021

The City of Edinburgh Council, in exercise of its powers in terms of sections 9 and 45A-45C of the Act, hereby makes the following resolution:-

(1) Sections 45A-45C 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 Sexual Entertainment Venue licence shall be required for the use of the premises specified in (3) below as places of Sexual Entertainment as from *TBC*

(3) Subject to paragraphs (4) below, the premises in the Council's area which require to be licensed under the Resolution will be those which provide the following:

(a) Sexual entertainment which is operated live, 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.

Appendix 2 - Draft Policy Sexual Entertainment Venue Policy

Introduction

- 1.1 The City of Edinburgh Council (“the Council”) is able to regulate sexual entertainment venues through the Civic Government (Scotland) Act 1982.
- 1.2 Section 76 of the Air Weapons and Licensing (Scotland) Act 2015 added new sections 45A to 45C to the 1982 Act 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 to ensure that a public entertainment licence cannot also be required for those venues.
- 1.3 The Council’s Regulatory Committee resolved on dd/mm/yyyy to pass a resolution under section 45B(1) to gain regulatory control of SEVs through a licensing regime with effect from dd/mm/yyyy. Consequently, this SEV policy applies to the whole of Edinburgh.
- 1.4 The adoption of the resolution under section 45B(1) of the 1982 Act allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.5 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of SEVs. The policy will have regard as to how it will affect the objectives of:
 - 1.5.1 Preventing public nuisance, crime and disorder
 - 1.5.2 Securing public safety
 - 1.5.3 Protecting children and young people from harm
 - 1.5.4 Reducing violence against women
- 1.6 The policy will also provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Sub-Committee when determining an application. This policy will be reviewed regularly and revised when necessary.
- 1.7 The key aims of civic licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime allows the Council to consider local circumstances in setting the number of venues able to operate within their areas and to exercise appropriate control and regulation of those venues.

Definitions

- 2.1 A SEV is defined in the 1982 Act as any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.
- 2.2 For the purposes of that definition, “sexual entertainment” means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). An audience can consist of just one person.
- 2.3 This definition would apply to the following forms of entertainment as they are commonly known:
 - 2.3.1 Lap dancing
 - 2.3.2 Pole dancing
 - 2.3.3 Table dancing
 - 2.3.4 Strip shows
 - 2.3.5 Peep shows
 - 2.3.6 Live sex shows
- 2.4 This list above is not intended to be exhaustive and should only be treated as indicative. The decision to licence premises as SEVs shall depend on the content of the relevant entertainment rather than the name given to it.
- 2.5 Premises at which sexual entertainment is provided on a particular occasion will not require to obtain a SEVs licence if the sexual entertainment has not been provided on more than 3 occasions within a 12-month period.

Locality

- 3.1 The Council considers that the character of the relevant locality, the use to which premises in the vicinity are put, and the layout, character or condition of the venue in respect of which the application is made, are relevant considerations when determining the grant of a SEV licence.
- 3.2 With reference to paragraph 9(7) of Schedule 2 of the 1982 Act, “relevant locality” means:
 - a. In relation to the premises, the locality where they are situated;
 - b. In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a SEV.

Character & Vicinity of Relevant Locality

- 3.3 In considering whether the grant, renewal or variation of the licence would be inappropriate given the vicinity in which the SEV premises operates, the Committee shall consider the existing character and function of the area. Due regard will be given to the following:
- a. Whether the premises are situated in a residential area
 - b. Whether there are any schools and other places of education near the vicinity of the premises
 - c. Whether there are any places of worship in that vicinity
 - d. Whether there are other relevant businesses or charities operating in the area e.g. homelessness shelters, women's refuges, supported accommodation, recovery units
 - e. Whether there are certain landmarks or facilities in the vicinity (e.g. historic buildings, sports facilities, cultural facilities, family leisure facilities, play areas or parks, youth facilities, retail shopping areas, and places used for celebration of commemoration
 - f. Whether there have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area
 - g. Whether there have been incidents of human trafficking or exploitation in that area
- 3.4 The Council will consider relevant locality on a case by case basis, taking into account the particular circumstances of each application.

Appropriate Number of SEVs in a Relevant Locality

- 3.5 As set out within paragraph 9(5)(c) of Schedule 2 of the 1982 Act, the Council may refuse an application for a SEV if it is satisfied that the number of SEVs in the relevant locality at the time the particular application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.
- 3.6 The Council may choose to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Council's control. That being the case, each application will be considered on its own merits at the time the application is submitted to the Council.
- 3.7 The Council considers that the city centre Ward 11 (appendix 1) is the only area in which it is appropriate to have an upper limit guide on the number of SEVs within it. The Council considers the appropriate upper limit for this area is {TO BE DETERMINED AFTER CONSULTATION}. It is considered that all other Council wards are not appropriate to have any SEVs operating within them.

Suitability of Premises

- 3.8 Under the 1982 Act the Council has the discretion to refuse applications relating to SEVs if it is considered that the grant or renewal of the licence would be unsuitable, having regard to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 3.9 It is expected that when an application for a SEV licence is made, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

SEV Application Process

- 4.1 The 1982 Act allows the Council to issue a licence for a maximum period of one year. A licence can also be issued for a shorter period, if it is deemed appropriate.
- 4.2 An application for the grant, variation, renewal or transfer of a licence must be made in writing to the Council together with the appropriate fee, layout plan as well as complying with the following requirements:
- a. Within seven days of the application being lodged with the Council, the applicant must publish an advertisement of the application in a local newspaper within Edinburgh. A suggested form of advertisement is available from the Licensing Service website. A copy of the newspaper in which the advertisement appears must be lodged with the Licensing Service within 3 days of the publication.
 - b. The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing Service website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.
 - c. Applicants will be required to provide pictures or sketches of the exterior design of the premises for consideration, in order to ensure that it complies with the standard conditions of licence.
 - d. Application packs must include a copy of the premises 'house rules' for performers and proposed code of conduct of patrons.
- 4.3 Applicants should note that the application fee is non-refundable in the event of the licence being refused or the application being withdrawn prior to determination. To view the Council's policy on refunds, click [here](#).

Making an Objection

- 4.4 It is possible to lodge an objection against the grant of an application for a SEV licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service (licensing@edinburgh.gov.uk) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Licensing Sub-Committee to consider if it is satisfied that there is sufficient reason why it was not made in the time required.
- 4.5 To be considered as competent, objections should include the following information:
- a. The name and address of the person or organisation making the objection
 - b. The premises to which the objection relates
 - c. The objection must be signed by the objector, or on their behalf
- 4.6 Objections to a SEV application will be considered by the Licensing Sub-Committee when determining the application. A copy of the objection will be sent to the applicant, however certain contact details such as telephone numbers, email addresses and signatures will be removed.

Determining an Application

- 4.7 Every application for a SEV licence will be scrutinised and determined at a meeting of the Licensing Sub-Committee. As stated above, if any objections are received in relation to an application, they will be considered at the Committee meeting.
- 4.8 Objectors will be given the opportunity to speak to their written objection at a meeting of the Committee. Similarly, applicants will be given the opportunity to speak to their application and address any questions that the Committee may have.
- 4.9 Under the terms of the 1982 Act, there are mandatory and discretionary grounds for refusal of a SEV licence. The specific mandatory grounds for refusal are set out in section 9(3) of Schedule 2 of the 1982 Act.
- 4.10 Section 9(5) of Schedule 2 of the 1982 Act sets out the terms of the discretionary grounds on which a SEV application can be refused. They are as follows:
- a. That the applicant is unsuitable to hold a licence by reasons of having been convicted of an offence or for any other reason;
 - b. That if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be otherwise refused the grant/renewal of a licence if they made the application themselves.
 - c. That the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the Council considers appropriate;

- d. That the grant or renewal of the licence would inappropriate having regard:
 - i. To the character of the relevant locality; or
 - ii. To the use to which any premises in the vicinity are put; or
 - iii. To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

Variation of a SEV Licence

- 4.11 The licence holder of a SEV licence may apply to vary any term, condition or restriction placed upon the licence. The statutory requirements for advertising, giving notice and timeline for the consideration of the application are the same as those for initial grants or renewals as set out at section 4 of this policy.
- 4.12 Variation applications will be considered by the Licensing Sub-Committee where the applicant will be given an opportunity to speak to their application and answer any questions that Committee members may have. When determining an application, the Committee can either:
 - a. Grant the variation as requested;
 - b. Make such variations as it thinks fit;
 - c. Refuse the application.
- 4.13 In the event of the Committee agreeing a condition or restriction other than the one sought in the original variation application, the decision will not take effect until the time for bringing an appeal has expired, or if an appeal is lodged, the abandonment of the appeal or the conclusion of the appeal, if found in favour of the Council.

Renewal Application

- 4.14 Provided an application for renewal has been accepted and deemed competent by the Licensing Service prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal application has been determined.
- 4.15 The statutory requirements for advertising and giving notice are the same as those applying to initial grants. Furthermore, renewal applications will be considered by the Licensing Sub-Committee.

Right to Appeal

- 4.16 An appeal against the decision of the Licensing Sub-Committee in respect of the grant, renewal, variation or refusal of a licence must be made to the Sheriff Court within 28 days of the decision being made.

Conditions

- 5.1 The Licensing Sub-Committee is able to grant or renew a SEV licence on such terms and conditions as it considers appropriate. This will typically take the form of standard conditions which are applicable to all SEV licences. Additional conditions may also be placed on the licence which are specific to the applicant or premises.
- 5.2 The Committee agreed a set of standard conditions on (dd/mm/yyyy) and these shall apply to every licence granted, varied or renewed by the Committee, unless they have been expressly excluded or varied. The standard conditions are found at appendix 1 of this policy.
- 5.3 It is an offence to operate a SEV without a licence or contravene a condition of any granted licence. Licence holders found to breaching the terms of their licence may be referred to the Licensing Sub-Committee for suspension or revocation of the SEV licence.

Relationship with Other Strategies

- 6.1 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, the Scottish Government intends that it will help to ensure that such activities take place in safe and regulated environments

Related Documents

- 7.1 [Air Weapons & Licensing \(Scotland\) Act 2015 – Sexual Entertainment Venues – Update After Initial Consultation – Regulatory Committee – 21 October 2019](#)
- 7.2 [Civic Government \(Scotland\) Act 1982 – Sections 45A-45C](#)

Review

This policy will be reviewed annually or more frequently, if required.

Appendix 3 – Proposed Conditions

Standard Conditions on the Licensing and Regulation of Sexual Entertainment Venues (SEVs)

Definitions

- **Sexual Entertainment** means live performance or any live display of nudity which is of a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience (whether by verbal or other means)
- **Performer** is defined in these conditions as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of relevant entertainment.
- **Sexual Entertainment Venue (SEV)** 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.

1. Conditions

Opening Hours

1. The licensed premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence

Control of Entry to the Premises

2. No person under the age of 18 shall be admitted to the premises at any time or employed in the business of the establishment.
3. A prominent, clear notice shall be displayed at each entrance to the premises which states that no person under the age of 18 will be admitted to the premises and that proof of age may be required.
4. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age, to ensure that no one under 18 enters the premises. Such credible evidence, which shall include a photograph of the customer will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.
5. The premises shall maintain a refusals log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised Council officer.
6. Any authorised Council officer, Police Constable or officer of the Scottish Fire & Rescue Service shall be permitted access to the premises at any time, including any area not accessible to customers.

Exhibition of SEV Licence

7. A copy of the licence shall be prominently exhibited on the premises in a position that can easily be read by all persons frequenting the premises.
8. A copy of the licence and conditions attached to the licence shall be kept on the premises and be available for inspection by any of those persons referred to in condition 6.

Security & CCTV

9. An adequate number of door supervisors registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times whilst relevant entertainment is taking place.
10. A CCTV system shall be installed and working to the satisfaction of the Police and Council officers. The system shall cover the whole of the parts of the premises to which the public have access. This shall include external areas of the premises including the area immediately outside any entrance to, or exit from, the premises.
11. Notices shall be displayed at the entrance, and in prominent positions throughout the premises, advising that CCTV is in operation.
12. CCTV monitors covering the premises shall be available in an appropriate area of the premises where they can be viewed by Police or authorised Council officers during an inspection of the premises. This condition does not preclude further monitors being located in other parts of the premises.
13. All CCTV cameras shall continually record whilst the premises is open for licensable activity. All recordings shall be stored for a minimum period of 28 days.
14. Staff will be fully trained in the operation of the CCTV system and there shall be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed. The premises will provide copies of any recordings upon request by the police or any authorised Council officer within 24 hours of the request.
15. Each area where relevant entertainment is conducted shall be supervised by management and/or SIA accredited door supervisors and/or contain a panic alarm for the safety of performers. Additionally, all dance booths or cubicles will be equipped with a panic alarm.

Layout & External Appearance of Premises

16. No display, advertisement, signage or other matter shall be exhibited so as to be visible from outside of the premises except:
 - 1.16.1 The name of the premises
 - 1.16.2 The opening hours of the premises
 - 1.16.3 Notice of any admission charge to the premises
 - 1.16.4 Any other notice required to be displayed by law or by these conditions
17. The external doors of the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

18. The windows and openings of the licensed premises shall be of material of covered with material which will render the interior of the premises invisible to passers by.
19. The layout of the premises shall be such that performers cannot be seen from outside the premises.
20. Performers or other member of staff shall not stand in lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.
21. There shall be no alterations to the layout plan of the premises without the prior written approval of the Council.

Record Keeping

22. A record of full names, dates of birth, and copies of photographic proof of age documents, nationality and contact details (address or telephone number) for all staff & performers shall be available on the premises for immediate inspection if requested by police or an authorised Council officer.
23. All staff and performers shall be eligible to work in the UK and proof of eligibility records shall be kept on the premises. The licence holder shall ensure that such records are regularly checked to ensure compliance.
24. An incident log shall be kept at the premises, and made available on request to an authorised Council officer or the Police, which will record the following:
 - 1.24.1 All crimes reported to the premises;
 - 1.24.2 All ejections of patrons;
 - 1.24.3 Any incidents of disorder;
 - 1.24.4 Any faults in the CCTV system;
 - 1.24.5 Any refusal of the sale of alcohol;
 - 1.24.6 Any breach of licence conditions reported by a performer
25. The incident log shall show the date and time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved/name of performer where appropriate and brief details of the incident along with action taken by staff.
26. Staff shall complete the incident log as soon as reasonably practicable after any incident has occurred.
27. The incident log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the location of the incident log and the need to complete it in the case of any of the circumstances described above.

Performances

28. Performers shall be aged not less than 18 years.
29. Sexual entertainment shall be given only by performers and the audience shall not be permitted to participate in the relevant entertainment.
30. Performers must only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.

31. Performers must redress fully immediately after each performance. Immediately after each performance, performers must fully redress in that they will have the same clothing on prior to the start of their performance.
32. Sexual entertainment shall take place only in the designated areas approved by the Council as shown on the licence plan.
33. The licence holder shall ensure that there will be no physical contact between performers and customers.
34. The licence holder will take all reasonable steps to ensure that performers will not provide any telephone number, address or any other personal contact information to any customer and that performers will not request any such personal contact from customers. The licence holder will take all reasonable steps to ensure that any such information given by a customer is surrendered to the premises manager as soon as is practicable.
35. The licence holder will take all reasonable steps to ensure that customers remain fully clothed at all times and that the performer will not remove any of the customer's clothing at any time.
36. The licence holder will ensure that there will be no photography or recording of any images or videos by customers on the premises.
37. Where sexual entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door, curtain or other similar closure, the area shall constantly be monitored by CCTV, and access to the booth or other area shall be adequately supervised.
38. A price list shall be displayed in a prominent position giving the price and the duration of any sexual entertainment that will take place in private booths

Premises Management & Staff Welfare

39. The licence holder shall nominate a manager who will be responsible for the day-to-day running of the premises and will ensure that the manager operates the premises in accordance with these conditions.
40. Performers shall be provided with unrestricted access to secure and private changing facilities. Such changing facilities shall be secured so as not to be accessible to members of the public.
41. All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.
42. Performers shall be provided with their own sanitary facilities separate from those used by customers.
43. Performers must be provided with an information pack which will include, as a minimum, the following information:
 - 1.43.1 A copy of the Sexual Entertainment Venue Licence, including these and any additional conditions applied by the Council.
 - 1.43.2 Details of any conditions or house rules applied by the licence holder or manager of the premises. This will include the level of any house fees and fines.
 - 1.43.3 Details of how to report crime to the relevant authority.

1.43.4 Details of unions, trade organisations or other bodies that represent the interests of performers

1.43.5 Price lists for any sexual entertainment provided on the premises.

44. The information provided in the pack will be provided in the performers dressing rooms and will be available on request to the police or an authorised Council officer.

45. The licence holder shall have a Performers Welfare Policy in place at the premises.

46. The Performers Welfare Policy shall, at a minimum, state that

1.46.1 Any performer concerned about the behaviour of a customer shall report the incident immediately to the Premises Manager (or any member of management on shift if the Premises Manager is not on the premises), who shall take immediate action to resolve the matter.

1.46.2 Staff members must supervise the behaviour of customers at the premises constantly and shall intervene where any customer is acting inappropriately or is otherwise causing alarm or distress to a performer.

1.46.3 Any customer behaving inappropriately will be ejected from the premises.

1.46.4 Performers shall be provided with free drinking water on request.

Touting for Business

The licence holder must take reasonable steps to ensure that there shall be no touting for business for the premises in a public place by way of flyer, persons holding advertising boards, branded vehicles or personal solicitation.

Appendix 4 - Proposed timeline



SEVs Evidence Hearings – Briefing Note

Session One – 21 January 2019

Members Present: Cllr Fullerton (Convener), Cllr Dixon (Vice-Convener), Cllr Doran, Cllr Mitchell, Cllr Rae, Cllr Howie.

The first evidential hearing on the proposed introduction of a licensing system for Sexual Entertainment Venues (SEVs) heard from Community/Interest Groups and members of the public. The Committee heard from the following participants who each had ten minutes to address the Committee, after which members had the opportunity to ask questions of the participants in order to focus any part of their submission. The Committee heard from the following participants:

- Councillor Gavin Barrie
- Sir Richard Rowley
- Colin Stone
- John Loudon
- Lesley Johnston & Caroline Burrell – Edinburgh Violence Against Women Partnership

Full coverage of the evidence session can be viewed on the Council's webcasting site [here](#). A summary of each contribution is below:

Participant One – Cllr Gavin Barrie

- Supports the introduction of a licensing scheme for SEVs
- A licensing scheme would support key aims of preservation of public safety & prevention of crime & disorder
- Council & other agencies would have greater access to and control over SEVs premises than they do at present
- Does not think the Council would experience same issues as it did when dealing with licensing of saunas & massage parlours. Cllr Barrie was Convener of the Regulatory & Licensing Sub-Committee during this period
- Conditions in police response to initial consultation were useful

Participant Two – Sir Richard Rowley – CEO, Mansley Group

- Represented the owners of serviced apartments on Bread St next to two SEVs
- Guests often comment on their disappointment regarding the advertising on outside of premises and this created a perception problem for the area
- Supports the licensing of SEVs and asked for consideration to be given to particular conditions relating to the appropriate advertisement of SEVs

Participant Three - Colin Stone – Princes Court Residents Association

- Princes Court Residents Association is a development of 66 residential flats in High Riggs
- Concerned that SEV premises can open in any location
- Residents must walk past SEV premises to get to shops etc which can be intimidating
- Would welcome a licensing system which prevents premises offering this type of entertainment at will
- Conditions that limit the impact on residents and regulate the appearance and advertisement of SEV premises would be welcome

Participant Four - John Loudon – Cramond & Barnton Community Council

- Previous licensing lawyer and had previously opposed regulation of such venues, however current proposals have a degree of common sense
- Having represented clients of similar venues, premises are well managed and generally keep a low profile. They do not generate a high number of complaints from residents
- The Police Scotland response to the initial consultation broadly made sense
- The Council should take a common-sense approach when dealing with any SEV licence application

Lesley Johnston & Caroline Burrell – Edinburgh Violence Against Women Partnership (VAWP) & Edinburgh Rape Crisis Centre (ERCC)

- VAWP support the introduction of a licensing system for SEVs and recommend that this should set a limit of zero premises in Edinburgh, which would send a powerful message
- The number of women and girls who require support, as a result of being affected by various forms of gender-based violence, is increasing
- From their experience, a number of women who are employed or self-employed in the sexual entertainment industry have been exposed to multiple forms of harm and abuse and are often forced or coerced into working in these types of premises
- SEVs contribute to culture of sexual objectification and exploitation of women. Operation of SEVs are inconsistent with CEC city strategic vision as well as the national Equally Safe Strategy. SEVs also create issues around consent and the expectation of access to sex
- Concerned that abuse, violence & objectification experienced by women working in SEVs breaches their human rights, particularly Articles 3, 8 & 14 of the Human Rights Act
- If SEVs licences were granted by the Council, VAWP would consider that Council would be in breach of its equality duty & gender equality duty to protect women & children
- If zero limit set, the activity would not be driven underground as there is no demand

Session Two – 31 January 2020

Members Present: Cllr Fullerton (Convener), Cllr Dixon (Vice-Convener), Cllr Doran, Cllr Rae, Cllr Howie, Cllr Rose.

The second evidential hearing on the proposed introduction of a licensing system for Sexual Entertainment Venues (SEVs) heard from the following organisations:

- Police Scotland
- NHS Scotland
- Licensing Standards Officers

Each participant had ten minutes to address the Committee, after which members had the opportunity to ask questions of the participants in order to focus any aspect of their submission.

Full coverage of the evidence session can be viewed on the Council's webcasting site by clicking [here](#).

A summary of each contribution is below:

Participant One – Police Scotland (Chief Inspector Murray Starkey & Sergeant John Young)

- Five SEVs premises currently exist in Edinburgh, although one currently not operating. All have a Premises Licence to sell alcohol under Licensing (Scotland) Act 2005 and effectively act as pubs
- Police & Licensing Board currently have limited powers regarding regulation of these premises unless directly attributed to the sale of alcohol
- Premises regularly inspected by officers as part of night-time economy. No significant concerns have been identified at any of the premises as a result of those inspections
- Crime statistics within 250m radius of premises show there is an issue with minor assault & anti-social behaviour. However, this must be balanced against the fact this forms part of a busy area with shops and licenced premises as well as being a major thoroughfare. Incidents & crimes directly connected to the premises are low
- Premises should be licenced in order that police and Council officers have further powers and that conditions be applied to ensure the safety of staff & customers
- Licence conditions to be considered include CCTV, Management of premises & advertising among others

Participant Two – NHS Scotland (Jim Sherval & Yvonne Kerr)

- Would like to see a zero-limit applied in respect of the number of SEV licences. NHS Scotland defines gender-based violence as including commercial sexual exploitation such as lap-dancing. Also included within the Scottish Government's Equally Safe Strategy
- Health Service has seen several mental health issues arise from the sexual objectification of women. Consequently, NHS Scotland are currently involved in education programmes, mainly with young men, on this subject along with a range of other issues

- The Wishes Service, set up to help vulnerable women, deals with a lot of women who are involved in the sex industry, including lap-dancing, in some form. Common characteristics of the women who have used the service include; having multiple complex vulnerabilities; lack of empowerment; traumatic backgrounds; history of mental health issues; substance misuse
- Several barriers exist which mean it can be difficult for women in SEVs to access the help they require

Participant Three – Licensing Standards (Tom Veitch, Team Leader)

- Licensing Standards deal primarily with the sale of alcohol in relation to SEVs and premises are inspected on this basis. Currently, officers do not have any general concerns with any premises
- Small number of complaints received over the last 3 years in relation to SEV premises
Committee may wish to consider conditions in relation to human trafficking, record management and staff training records although ultimately a decision for Committee

Session Three (Part One) – 17 February 2020

Members Present: Cllr Fullerton (Convener), Cllr Dixon (Vice-Convener), Cllr Doran, Cllr Rae, Cllr Rose.

The third evidential hearing on the proposed introduction of a licensing system for Sexual Entertainment Venues (SEVs) heard from the following premises:

- Fantasy Palace
- Burke & Hare
- Babydolls - No.1 Showbar
- The Western Bar
- The Liquorice Club

Each participant had ten minutes to address the Committee, after which members had the opportunity to ask questions of the participants in order to focus any particular aspect of their submission. In order to encourage participation, the session was a closed meeting and was not broadcast or recorded for the Council's webcasting site.

A summary of each contribution is below:

Participant One – Fantasy Palace

- Appearing on behalf of Fantasy Palace were the operators, one performer and agent. The operators are very well known within the Edinburgh licensed trade and opened the premises in 2003. The premises entrance also has a separate bar & restaurant. Access to the premises is one door wide on Shandwick Place and is discreet. Identification and right to work checks are carried out for all staff before they begin working at the premises.
- Customers and performers feel safe on the premises. The operators want to create a safe environment and have appropriate security staff and CCTV in place. Several performers have worked there for a number of years which demonstrates it is a

good place to work. Security staff ensure that performers get to their car or taxi safely at the end of their shift.

- There are approximately 25-35 self-employed performers in total who dance at the premises. The performers are charged house fees.
- The operators have no issue with a licensing regime being introduced to help improve aspects such as health and safety. The level of application fees set by the Council will determine whether this charge is passed on to the performers.
- If the Committee agree to set a zero-limit in Edinburgh, this would have a huge impact on the business and would result in redundancies, including bar and cleaning staff. There would also be concerns that the activity would be driven underground into unregulated environments.
- The performer present confirmed that she had worked at the premises for 11 years and was grateful for what she had gained from working in the industry. If a zero limit was introduced, performers could fall into Universal Credit or move into types of online work which is unsafe. By performing in a SEV premises, it offers a degree of discretion. The performer informed the Committee that she felt safe when working as there is appropriate security and it is within the operator's interest to ensure safety. Otherwise performers would go elsewhere.

Participant Two – Burke & Hare

- Representing the Burke & Hare were the premises manager, two performers and an agent. The business is well established in Edinburgh and been in operation for several years. There are approximately 25 self-employed performers on the rota. Identification and right to work checks are carried out for all staff. The premises also provide changing facilities for the performers.
- The performers are charged house fees.
- The premises have door staff who deal with any issues. There is CCTV system in place which is monitored from the bar area or which can be accessed remotely if required. An incident report log is also kept behind the bar.
- The performers informed the Committee that they had worked at the premises for nine and ten years respectively and had always felt safe. There are cameras in each booth and if there are any issues with customers, there is always staff close at hand to assist. However, the majority of customers do not cause any problems and know how to behave.
- The performers communicated their concerns over a zero limit of SEVs being introduced. This could lead to financial difficulties for performers as some may be forced to move to perform at private, unregulated events which can be lucrative but also very unsafe. Performing in SEVs can supplement other incomes and a zero-limit would put that at risk and lead to financial difficulties. Furthermore, the performers enjoyed dancing and performing and would not want to see this taken away from them.

Participant Three – Babydolls – No.1 Showbar

- In attendance were the owner and legal agents. The Committee were provided with an information pack which contained a copy of a 'toolkit' which is given to all

performers when they join the premises. The premises have operated 7 nights per week since 2002, with no issues. The operator has been running premises for over 20 years in Edinburgh and Glasgow. There are approximately 25 self-employed performers on the rota. Performers are charged on a percentage basis and no house fees are applied.

- The operators have no issue with the introduction of a licensing scheme. Identification and right to work checks are carried out for all staff and performers and the operators are mindful of protection against human trafficking. Full documentation is kept on site should authorities require access.
- The premises have signage within the premises to remind customers of house rules and customers are informed of the rules by staff as they enter the premises. There is also CCTV in place with footage retained for 28 days and door staff employed. The premises also have changing and break facilities for performers to use.
- The operators employ a 'buddy system' whereby new performers are paired with an experienced performer to help them at the start. New performers are also given a 7-day trial period, at the end of which the performer and premises can confirm if they are happy with the arrangements. Performers are also included in the staff grievance procedures. Nightly briefings take place with all staff followed by a debriefing at end of each shift. The premises also operate a 'safe home' policy to ensure that all performers are able to get to their car/taxi etc safely at the end of each shift.
- Feedback from performers has been very positive. They enjoy working at the premises and some dance as means of expression and empowerment. They also enjoy the flexible working arrangements and the financial benefits that can help pay living costs or assist students fund their education, for example. All felt safe when on the premises. Performers also objected to being labelled as sex-workers as this can imply things like prostitution. Performers view exotic dance is a form of entertainment.
- A zero-limit of SEVs would have a significant impact on the industry and the business would close. Activities would be driven underground into an unsafe and unregulated environment

Participant Four - Western Bar

- Appearing on behalf of the Western Bar were the premises owner, premises manager and agent. The premises have been under the current ownership for 35 years. The premises manager has been employed for 20 years and a number of other staff and performers have worked at the premises for several years. The premises have appropriate CCTV in place and safety is paramount to the owner.
- Performers are self-employed and are charged house fees.
- A zero-limit would lead to unemployment for performers in addition to cleaning, bar and door staff. Would also be concerned that activities would be driven away from the current safe environment that they provide.
- The owner was not aware of the concerns of residents who had stated that they felt intimidated when passing by the premises. The business employs experienced and helpful door staff who have been with the business for 15 years. The area outside

the premises is narrow and can be extremely busy. The owner would work to help better manage the area, now that they had been made aware.

- The owners are well known within the trade and would comply with the conditions that would be brought in by any licensing scheme. The premises do not cause any issues and provide the performers with a safe space in which to operate.

Participant Five – Liquorice Club

- Representing the Liquorice Club were the owner (same as the Western Bar), premises manager and agent. The premises were first opened in 1999 have been closed since 2015 for renovation work to be completed.
- There is no date set for the premises to re-open as it the owner is looking to complete work on other properties in the city before committing further resources to the property. Some staff who previously worked at premises are currently working at the Western Bar.
- The premises previously had a bad reputation and accordingly the owners are hopeful of upgrading and re-opening the premises soon.

Session Three (Part Two) - 31 January 2020

Members Present: Cllr Fullerton (Convener), Cllr Dixon (Vice-Convener), Cllr Doran, Cllr Rae, Cllr Rose.

The third evidential hearing on the proposed introduction of a licensing system for Sexual Entertainment Venues (SEVs) heard from performers and performer union representatives from the SEVs trade. In order to encourage participation, the session was a closed meeting and was not broadcast or recorded for the Council's webcasting site.

The performers, some of whom also acted as union reps, addressed the Committee as one group. After which members had the opportunity to ask questions of the participants in order to focus any aspect of their submission and the wider proposal of a licensing scheme being introduced. The unions represented included United Voices of the World and the East London Strippers Collective. All those contributing to the meeting currently worked, or had previous experience of working, in one of the SEVs premises in Edinburgh and around the UK.

A summary of the performers contributions is below:

- Performers come from a range of backgrounds with some using it to supplement income from other employment. There are more students involved in the trade than before with, undergraduate, postgraduate and PHD students working to help finance their education. Performers benefit from the flexibility that comes with working in the trade which allow them to combine things like studies, childcare or second jobs with performing. Performing is also seen a method of creative expression.
- The group were grateful to be included in the consultation and were happy to further engage. Some SEVs policies which had been agreed in England had not included performers in any consultation, leaving performers feeling let down by the lack of

engagement. Any policy agreed by the Council should take performers views into account.

- If the Committee agree to set a zero-limit for SEVs in Edinburgh, it will likely result in legal challenges from operators. Experience from similar cases in England has shown that this will create a period of uncertainty for performers and could also result in the operator's legal costs being passed on to them. There would also be concerns that if the numbers of SEVs premises were reduced, it would create a monopoly for the SEV premises which were left and restrict the opportunities available to performers. A reduction of the number of SEV premises or a zero-limit would drive activities underground which would put performers at risk. Taking away regulated spaces to provide this entertainment will restrict the performers ability to fight for their rights within the industry.
- If a licensing regime is introduced in Edinburgh it should support performers and should include the following characteristics:
 - Recognise performers employment rights
 - Make clear that performers are entitled to join a union
 - Ban arbitrary fines for performers
 - Set House Fees (Committee were informed that fees could be subject to change at short notice. E.g. rugby International weekends)
 - Should not disempower performers
 - Help performers to have a greater say in how premises are managed
- The performers disagreed with the submission by the Violence Against Women Partnership in a previous evidence session with the Committee. With regards to the objectification of women, the group felt that this could and has happened in many other professions. In a SEVs setting, the performers are able to consent to and set the boundaries of any objectification and be paid for it. The group felt that there is a lack of engagement between performers and women's groups and that it can be patronising for them to speak on their behalf.

Regulatory Committee

9.00am, Monday, 18 January 2021

Licensing Policy Development – Street Trading Update

Executive/routine	
Wards	All
Council Commitments	

1. Recommendations

- 1.1 It is recommended that the Regulatory Committee:
- 1.1.1 notes the contents of this report;
 - 1.1.2 agrees that no further licences will be granted for the area outside 329 and 249 High Street as recommended in paragraphs 4.7 and 4.8;
 - 1.1.3 agrees to continue the existing policy for street trading in Hunter Square and the High Street during 2021;
 - 1.1.4 determines whether or not it is appropriate to allow street trading in Hunter Square from Stances 11 and 12, as detailed in paragraph 4.12 during 2021; and
 - 1.1.5 notes that the completion of the work at the National Galleries of Scotland has been delayed until 2022 and that further work will be undertaken by Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps, following the completion of the construction work.

Paul Lawrence
Executive Director of Place

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Licensing Policy Development – Street Trading update

2. Executive Summary

- 2.1 At its meeting on [21 October 2019](#) the Regulatory Committee reaffirmed the street trading and market operators' policy considered at its meeting in February 2016, and called for a further report on the proposed use of the High Street and Hunter Square.
- 2.2 This report provides an update on proposed use of the High Street and Hunter Square following discussions with Visit Scotland and the City of Edinburgh Council Property and Facilities Management.

3. Background

- 3.1 Street Trading and Market Operator are optional licensing activities under the Civic Government (Scotland) Act 1982 (Appendix 1). In 1983 the City of Edinburgh Council, by way of resolution, exercised its powers to adopt these activities and developed a Street Trading policy.
- 3.2 The Street Trading policy creates the ability to control and manage activity. It ensures that traders operate within the same general constraints that apply to any other business, including that they comply with relevant legislation and meet the same minimum standards that any responsible business should observe.
- 3.3 A number of city centre locations have been redeveloped to improve the quality of the public space. This has led to competing demands for the use of public space, and there has been an increase in the volume of licence applications for street trading. Areas particularly affected by this increased demand and lack of available space include Castle Street, High Street, Hunter Square and Grassmarket.
- 3.4 Public realm space continues to attract significant demand from street traders, market operators, parades and processions and event organisers. At the Culture and Communities Committee on [28 January 2020](#) it was agreed to develop a single Public Space Management Plan (PSMP) to be supported by a single set of processes, criteria and procedures when applications are received in the future. It is essential that all the strategic aims of the Council are considered and that the Street Trading policy is consistent with these.

- 3.5 At its meeting on 21 October 2019 the Regulatory Committee considered a report from the Executive Director of Place and agreed:
- 3.5.1 To support, in principle, the proposals and changes to policy detailed in paragraphs 4.6, 4.7, 4.8, 4.9, 4.11 and 4.17 of the report and to include a review of options for the management of Hunter Square during the August festivals, the report to be brought back to Committee in three cycles; and
 - 3.5.2 Instructed the Executive Director of Place to engage with Visit Scotland in relation to any objections they might have to four stalls being sited at 249 High Street.
- 3.6 As a result of the Covid-19 pandemic it has not been possible to reinstate street trading in Hunter Square at this time.

4. Main report

High Street trading

- 4.1 Street trading has existed in the High Street for many years now, and the changing landscape and development of the area has created a number of challenges for traders and the council. The availability of suitable locations to trade from has become more and more problematic and the council now has a limited number of options available to support this type of activity in the city centre.
- 4.2 The Edinburgh High Street and Playfair Steps Traders Association ('EHSPSTA') put forward a number of proposals, which are set out in Appendix 3.
- 4.3 The Committee was supportive of the EHSPSTA proposals, however recognised that further consultation with VisitScotland and the City of Edinburgh Council Property and Facilities Management team should take place prior to the Committee reaching a final decision.
- 4.4 Property and Facilities Management advised that anything that would impact on lines of sight to the Visit Scotland entrance, impact on access or generally reduce visitor numbers would potentially lead to a renegotiation of the commercial terms of the transaction (and a reduction of the income payable to the Council). In addition, essential fabric repair work is required to the City Chambers complex. Given the nature of the work, scaffolding will be required to the front of the building at 249 High Street which will also include an exclusion zone (Appendix 6). This is a three year project that was delayed as a result of the Covid-19 pandemic. A new schedule has now been agreed and the work is due to commence on 18 January 2021
- 4.5 Following discussion with VisitScotland, they advised that they relocated their iCentre in Spring 2019 from Princes Street, where the operation was compromised by street traders, to a more visible location on the Royal Mile. Having invested significantly in the iCentre to provide a 'welcoming and attractive' experience, they would want to ensure the visibility is unobstructed. They are concerned that they could find themselves in a similar position where traders obstruct their operations (Appendix 7).

- 4.6 The Customer Hub at 249 High Street is currently closed, but on reopening the area directly outside the building will be required to enable customers to queue prior to entering the building while enabling social distancing. It is therefore recommended that trading in front of 249 High Street is not reinstated at this time.
- 4.7 The Council no longer occupies the office space at 329 High Street, and the redevelopment of the property has now commenced. Scaffolding has been erected directly outside the building, where again there is a need for an exclusion zone. It is therefore recommended that trading in front of 329 High Street is not reinstated at this time.
- 4.8 The High Street is a long-standing event space, and is still one of the main Fringe locations during August. Traditionally normal street trading is suspended during this period and the High Street from George IV Bridge to North/South Bridge becomes an event area managed by the Festival Fringe. In addition, policy which normally prevents the sale of hot food in the High Street has previously been relaxed during the period of the August festival. In view of the significant impact of the public health emergency and the risk that restrictions may affect festivals next year, at least in some respect, officers recommend that this work remains on hold.

Hunter Square

- 4.9 The EHSPSTA asked that consideration should be given to a number of proposals for street trading in Hunter Square. At the Regulatory Committee meeting in October 2019 it was agreed in principle that these proposals were not without merit and there were no obvious barriers to implement changes, specifically:
- 4.9.1 implementation of a code of conduct and a set of core principles for traders;
 - 4.9.2 creation of a standard for street trading stalls with regard to look, size and structure, reducing the size of the existing stall from 10 x 10 feet to 8 x 8 feet;
 - 4.9.3 installation of anchor points; and
 - 4.9.4 increasing the number of stalls in Hunter Square to six.
- 4.10 Council officers were asked to carry out further consultation and bring forward an updated report.
- 4.11 As a result of the Covid-19 pandemic and the need to ensure adequate space for safe pedestrian traffic, it is not possible to adopt the EHSPSTA proposals regarding Hunter Square at this time due to the need to maintain appropriate social distancing and ensure a free flow of pedestrians on the footways at this location.
- 4.12 Following discussion with the Spaces for People project and Roads Transportation team, it has been recommended that it may be possible to allow two stalls to trade from the existing stances 11 and 12 (Appendix 8). These stances are on the east side of Hunter Square and back onto the Tron Church. A stance here would potentially allow for a free flow of pedestrian traffic and it is not anticipated that this would impede any of the existing businesses. It should be noted that this would mean a significant reduction in the number of available stances, the total dropping from five to two. Given that the demand for stances in Hunter Square and the High Street far outweighs the actual availability, the ability to allocate stances to satisfy

that demand will be challenging. The committee may want to consider these factors when deciding whether or not to reinstate any stances at this time.

- 4.13 The Committee is asked to note that further work will be undertaken in relation to the wider plans for the use of this area in the early part of 2021 once a clearer picture has developed on the future implications of the Covid-19 pandemic and ability to safely carry out street trading activity in the city centre.

Mound Precinct and Playfair Steps

- 4.14 The area at the bottom of Playfair Steps to its junction with the south side of Mound Precinct has accommodated street trading for a number of years. As previously reported, National Galleries Scotland, Police Scotland and Council officers have reservations about the continued use of the Mound Precinct and Playfair Steps for Street Trading, in part due to possible security issues at the location. In addition, there are concerns about pedestrian access and congestion caused by the stances at Playfair Steps, especially during the Festival and festive periods.
- 4.15 The Council has been advised that the Scottish National Gallery Project has encountered a number of challenges in the building work, combined with the added complications that Covid-19 has brought to the project. As a result, the project which was due to complete by the end of 2021 has been pushed back to the end of 2022. The Committee is asked to note that further work will be undertaken by Council officers in relation to the wider plans for the use of this area following the completion of the works, but that at this time street trading remains suspended in that location.

5. Next Steps

- 5.1 Council officers will monitor the implementation of the proposed changes and provide a further update to Committee in 12 months.
- 5.2 Further engagement with traders and relevant parties will be carried out in respect of Playfair Steps, Mound Precinct and Hunter Square.

6. Financial impact

- 6.1 Overall the change to policy will not create any additional costs to the Council budget. The Council's scale of fees for licensing applications was approved with effect from 1 April 2019. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.

7. Stakeholder/Community Impact

- 7.1 The development of policy in respect of licensing of street traders is part of a wider place-making role for the Council. It is essential that all strategic aims of the

Council are considered and that the Street Trading policy is consistent with these aims.

- 7.2 The policy framework and conditions continue to support:
- 7.2.1 a safe, clean and well-maintained environment;
 - 7.2.2 a more attractive environment for those living in, working in and visiting the city;
 - 7.2.3 an improved, more diverse, retail offer; and
 - 7.2.4 an environment that promotes and protects the economic wellbeing of the city.
- 7.3 Destination markets and street trading can be a draw for tourists and can bring a wide variety of stalls, commodities and cultures. Licensed street trading activities can also assist in the prevention of illegal street trading, by displacing undesirable criminal activity and hawking.
- 7.4 Conversely, if poorly managed, street trading and markets can have a negative effect on an area leading to obstruction to pedestrians, a visually unappealing and untidy street scene, sale of poor-quality goods which do not meet local needs and an increase in complaints to the Licensing Authority.
- 7.5 There is a need for a common set of rules that would apply to all street traders and market operators. As with any business, these should not cause nuisance or inconvenience to their neighbours, or to the community, within which they are located.

8. Background reading/external references

- 8.1 [Review of Street Trading Policy report](#) to Central Local Development Committee on 7 January 2004
- 8.2 [Licensing Policy Development Street Trading report](#) to Regulatory Committee on 4 April 2014
- 8.3 [City Centre Public Spaces Manifesto update report](#) to Transport and Environment Committee on 2 June 2015
- 8.4 [Licensing Policy Development – Street Trader Licensing update report](#) to Regulatory Committee on 25 September 2015
- 8.5 [Licensing Policy Development – Street Trader Consultation update report](#) to Regulatory Committee on 1 February 2016
- 8.6 [Public Spaces Protocol report](#) to Transport and Environment Committee on 9 March 2018
- 8.7 [Licensing Policy Development Street Trader Licensing Update Report](#) to Regulatory Committee on 21 October 2019

9. Appendices

- 9.1 Appendix 1 - Statutory background
- 9.2 Appendix 2 - Street Trading Policy
- 9.3 Appendix 3 - Street Trading and Market Operators conditions
- 9.4 Appendix 4 - Proposals by the Edinburgh High Street and Playfair Steps Traders Association High Street and Hunter Square
- 9.5 Appendix 5 – Response from City Centre Roads Team
- 9.6 Appendix 6 - Response from Property and Facilities Management
- 9.7 Appendix 7 - Response from Head of Facilities Visit Scotland
- 9.8 Appendix 8 - Hunter Square Existing Street Trading Stances

Statutory Background

The Civic Government (Scotland) Act 1982 differentiates between activities which **must** be licensed (mandatory), and those which a local authority may elect to license (optional) if it sees fit. The purpose for regulating both mandatory and optional activities is not to restrict trade or competition, but to help prevent crime and disorder, ensure public safety and protect the environment. If an authority wishes to license an optional activity it must do so by way of resolution. Both street trading and market operator licensing are optional licensing activities and the City of Edinburgh Council exercised its powers to adopt these licensing activities in 1983.

Street Trading

A licence is required for street trading by a person whether on their own account or as an employee. Street trading means doing any of the following things in a public place:

- (a) hawking, selling or offering or exposing for sale any article;
 - (b) offering to carry out or carrying out for money, or money's worth, any service;
- and includes doing any of these things in or from a kiosk or moveable stall not entered in the valuation roll, except where it is done in conjunction with or as part of a retail business being carried out in premises abutting the public place.

The Civic Government (Scotland) Act 1982 provides exceptions from the requirement to hold a Street Trader's Licence. These include:

- (a) the sale of newspapers;
- (b) sale of milk on or on behalf of a person registered under section 1(3) of the Food Safety Act 1990;
- (c) sale of coal, coke or solid fuel;
- (d) activities in respect of which a certificate is required under the Pedlars Act 1871;
- (e) other activities in respect of which a licence is required under the Civic Government (Scotland) Act 1982; and
- (f) organising or participating in a public charitable collection;

Market Operator

A licence, to be known as a 'market operator's licence', shall be required for carrying on a private market.

The Act provides exceptions from the requirement to hold a market operator's licence. These include:

- (a) functions held by charitable, religious, youth, recreational, community, political or similar organisations;
- (b) markets held only for the sale of livestock, fodder or grain.

"Private market" means a market, whether covered or not, carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.

Street Trading Policy

1. Street Trading Policy

The aim of the Street Trading policy is to grant a licence to traders:

- 1.1 Where the location is acceptable in respect of planning, transportation and safety;
- 1.2 In low amenity areas such as industrial estates; and
- 1.3 Within the curtilage of business premises where their presence is visually acceptable and will not result in an adverse effect on traffic movement or safety.

However, it is recognised that this may be difficult to achieve in areas within the city centre due to high pedestrian flow and lack of identifiable sites.

2. City Centre and Areas of Special Interest

Unless the Council makes a specific exemption to the policy it is highly unlikely that street trading or market operator licences will be granted in the following circumstances:

- 2.1 In streets that have a significant formal layout and plan form, which would be undermined by the presence of additional items in the street. These include the New Town, and in particular George Street.
- 2.2 Within the World Heritage Site, conservation areas and areas of important landscape value, the use of portacabins or other large units of similar scale e.g. metal containers used for freight, are not considered suitable in these locations.
- 2.3 Within the setting of certain historic buildings or places which are internationally significant, including in particular HM General Register House, the Royal Scottish Academy and National Gallery, Parliament Square, St Giles Cathedral and the Signet Library. These areas should be retained as open space.
- 2.4 Where key views are likely to be adversely affected by the presence of street trading stances.
- 2.5 At important gateways to the city. This will include the approach to, and roundabout at, Edinburgh Airport and principal traffic routes in the centre of the city
- 2.6 Within certain areas not regarded by the Council as suitable for street trading or market operations except in exceptional circumstances. Longstanding factors that would make a location unsuitable include areas of high pedestrian footfall, narrow footways and busy arterial routes. It is proposed that streets affected by this should include:
 - 2.6.1 Princes Street;
 - 2.6.2 The Lawnmarket/Parliament Square

- 2.6.3. George IV Bridge;
- 2.6.4. Lothian Road
- 2.6.5. North Bridge
- 2.6.6. South Bridge
- 2.6.7. Lothian Road
- 2.6.8. St Giles Street
- 2.6.9. Waverley Bridge

2.7 Within certain high profile areas where all suitable locations are current being heavily utilised:

- 2.7.1. Castle Street;
- 2.7.2. Rose Street;
- 2.7.3. Grassmarket;
- 2.7.4. Mound Precinct;
- 2.7.5. Playfair Steps; and
- 2.7.6. The Meadows.

It is proposed that no further licences are granted in these areas, however if in the future a suitable location becomes available this can be reviewed.

2.8 Any additional licences in the vicinity of the main sporting stadiums at Tynecastle, Easter Road, Meadowbank and Murrayfield. These locations are already well served by existing Street Trader's Licences and additional licences would only be granted when an existing location becomes available.

3. Mobile Zones

- 3.1 Street trading mobile zones were first introduced in the city in 1984 following a number of complaints about the number of mobile traders operating in one area. The zones were based largely on the residential population and popular street trading locations at the time. The zones were revisited as part of the policy review in 2004 and re-adopted.
- 3.2 While the zones were introduced to control the sale of ice cream from vehicles, they are now utilised for all mobile street trading activity. The purpose of mobile trading zones is to control and manage areas in which traders can operate. The current system restricts city wide trading and limits numbers to ensure balance for local communities and existing commercial activity.
- 3.3 The specified zones in which street traders are permitted to trade are included in Appendix 3. Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile were excluded from the trading zones as being unsuitable for this type of activity. A street trader will not be licensed for more than two zones at any one time

4. High Street/Hunter Square Trading

- 4.1 Street trading in the High Street and Hunter Square is intended to be temporary in nature, and given demand for space traders should not expect to be consistently trading on the High Street.
- 4.2 Given the historic nature and prominence of the High Street and Hunter Square, neither location is considered suitable for the sale of hot and cold food, although this may be relaxed in Hunter Square during the month of August.
- 4.3 The High Street is one of the main Fringe locations. During August both the High Street and Hunter Square are considered event spaces and normal trading is suspended during this period.
- 4.4 Trading at these locations may be required to be suspended for events in the area i.e. Royal visits, Armistice day services, parades and processions etc.
- 4.5 Stances in the High Street and Hunter Square will be subject to the following criteria:
 - 4.5.1 Stances will be allocated on a weekly basis (Monday – Sunday);
 - 4.5.2 Trading hours will not exceed 10:00 – 20:00hrs daily;
 - 4.5.3 Multiple applications by individuals linked to one business will not be accepted and will be returned;
 - 4.5.4 Traders will be required to indicate whether or not they are the sole trader and if they intend to apply for employee licences;
 - 4.5.5 Traders will display, in a prominent position, so that it may easily be read by customers or suppliers, a notice containing the name of the trader and/or business and details if their trading address;
 - 4.5.6 A separate licence application will be required for each date applied for. The practice of adding multiple dates to one application will not be accepted;
 - 4.5.7 A separate licence application will be required for each location applied for i.e. Hunter Square/High Street. The practice of naming specific stances will no longer be accepted;
 - 4.5.8 The relevant application fee is submitted at time of application;
 - 4.5.9 Applicant will provide the following information/documentation:
 - name of business and/or trader;
 - details of the stall to be used, including dimensions (not to exceed 8ft in length);
 - wind management plan (it is no longer appropriate to produce a generic wind management plan the plan must reflect the actual stall);
 - type of goods sold;
 - public liability insurance;
 - tax reference of the business/trader;
 - photograph of proposed stall;
 - type of goods sold (which will then be detailed on the licence);
 - a copy of public liability insurance including cover for employees where appropriate.

5. Mound Precinct and Playfair steps

- 5.1 The area at the bottom of Playfair Steps to its junction with the south side of Mound Precinct has accommodated street trading for a number of years. Initially street trading at this location was intended to have utilised just the railings, but in more recent years this has expanded to include market type stalls.
- 5.2 Annual trading stances are restricted to:
 - 5.2.1. Two within the Mound Precinct: stance 1 on the East side of the Mound Precinct, 25 feet from Princes Street, and stance 2 on the west side of the Mound Precinct, 25 feet from Princes Street
 - 5.2.2. 13 Stances on Playfair Steps

6. Licensing Criteria

All licence applications will be subject to the following criteria:

- 6.1 In general, the issuing of licences will be limited to areas of retail, business and entertainment activity e.g. retail parks and industrial estates. Street traders/market operators shall not be permitted in streets that are predominantly residential:
- 6.2 Street traders must not obstruct or restrict pedestrian or vehicular traffic or cause a danger to road users.
- 6.3 Street traders/market operators must obtain all necessary and appropriate consents prior to making an application, and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance. The grant of a licence does not imply that the owner has consented or that there is a right to occupy the space
- 6.4 The precise location of the proposed stance must be marked on an Ordnance Survey Map with a box and a distance in metres given to the nearest junction. The location of the stance should be clearly described:
 - 6.4.1. The precise location of the proposed stance must be marked on an Ordnance Survey Map with a box and a distance in metres given to the nearest junction. The location of the stance should be clearly described, giving:
 - the name of the street;
 - the side of the street (e.g. north, south etc);
 - the name of the nearest side street; and
 - the distance in metres from the nearest side street.
- 6.5 all street trading stances and markets will be mapped to clearly identify locations
- 6.6 Stances will be clearly delineated. This may be achieved by placing brass studs or wind management anchors in the pavement where the Council directs

- 6.7 Street trading/market operations and the stalls, kiosks, vehicles or mobile units associated with these shall only occupy a stance during trading hours
- 6.8 At the end of trading hours the licence holder shall promptly remove and take away any stall, kiosk, mobile unit or vehicle and all other ancillary equipment placed on or in the vicinity of the trading stance
- 6.9 Street trading is considered to be of a temporary nature and traders shall not be allowed to permanently occupy any stance. Licences will be granted on either a temporary or annual basis dependant on location
- 6.10 Stances sited on the footway should normally be located outwith pedestrian desire lines, for example at suitable recesses
- 6.11 Where a high density of annual Street Trader's Licences already exists, further licences will only be considered where there is significant additional space identified to accommodate them
- 6.12 Consideration will be given to how any stall or trading unit will be set up at the specified location. Driving over a public pavement will not be allowed and another means of placing a unit will be required. This will include any deliveries to or servicing of any unit, stance or stall
- 6.13 When locating street trading stances, consideration should be given to access to street furniture by utilities and other owners of cabinets, manholes and access covers etc. A trader shall move when asked to do so by an owner or their representative wishing to access their apparatus
- 6.14 Maintaining the integrity of the paved surfaces, roads and pavements is important for the future maintenance of the streets being utilised. It is therefore vital that every effort is made by a licence holder to protect the road and pavement surfaces from damage caused by either placing or removing a unit or stall. Protection should also be given from any footings or stabilisers while the unit/stall is in place
- 6.15 Amenity areas may have to be shared by street trading activities and tables and chairs being used by adjoining properties as part of the café culture within the city. In these circumstances agreements need to be reached with the relevant service departments prior to the grant of a licence
- 6.16 Planning permission is required for open air markets if the land is used for this purpose for more than 28 days in a year. This is not 28 days per market operator, as any permissions go with the land not the applicant. It is the responsibility of the person using the land for open air market operations to obtain planning permission for this purpose
- 6.17 A Street Trader's Licence is required for street trading by a person whether, on their own account or as an employee
- 6.18 Employee licences will be issued to provide assistance to the actual licensed traders, but not for the purposes of operating the business on behalf of someone else.

7. Duration of Licence

- 7.1 A licence granted under the Civic Government (Scotland) Act 1982 can be issued for a period of no more than three years, or shorter period if the Council decides. Both Street Trader's and Market Operator's licences will be limited to a period of one year. Once an annual licence has been granted this will prevent another licence being issued for the same location and trading hours.
- 7.2 Temporary licences can be issued for a period of no more than six weeks, or a shorter period if the Council so decides, and are mainly used in connection with public entertainment or an event. Temporary licences will be limited to a period of 28 days. The main exception to this is street trading in the High Street and/or Hunter Square, where licences are allocated on a weekly basis due to the high volume of demand for stances.
- 7.3 Temporary licences for street trading, not linked to public entertainment or an event, will be for a maximum period of seven days
- 7.4 In circumstances where the demand is far greater than the actual number of temporary stances available, allocation will be by way of a ballot system. This would apply to areas such as the High Street and Hunter Square
- 7.5 The issue of an annual Market Operator's licence or Street Trader's Licence could prevent other licences from being granted for the same location and hours of operation. To prevent an annual licence from restricting other trading opportunities in public realm space, it is proposed that an annual Market Operator's licence should only be considered in cases where the operator's trade is at a frequency of at least once per calendar month, and those dates should be clearly identified on the licence

8. Hours of Operation

- 8.1 Street trader and/or market operator trading hours will normally be considered to operate between the hours of 10:00 – 20:00hrs daily.
- 8.2 Between April and October street traders will be expected to trade between 10am – 4.30pm (or other agreed hours). This should be considered as a minimum trading period
- 8.3 There will be a presumption against street traders selling food between 23:00hrs and 5:00hrs except in exceptional circumstances at the discretion of the Licensing Sub Committee.
- 8.4 Licence holders wishing to trade between 23:00hrs and 5:00hrs will also require a Late Hours Catering Licence. A Late Hours Catering Exemption certificate can also be granted for a period of up to two months to allow trading on a temporary basis

Street Trading and Market Operators conditions

Standard Conditions – All Street Traders

1. The holder of a Street Trader's Licence shall not be less than 18 years of age.
2. The licence holder shall not carry on business on any street so as to unreasonably obstruct road users or affect their safety.
3. The licence holder shall carry on business subject to any direction which the Police or authorised officers of the City of Edinburgh Council may reasonably be required to give.
4. The licence holder shall not, without the consent of the Licensing Authority, sell or offer or expose for sale any goods or carry out or offer to carry out for money or money's worth any service at any place other than as specified in their licence. In particular, no goods or articles of an objectionable or indecent character shall be sold or offered or exposed for sale.
5. The licence holder shall on all occasions, when carrying on business, behave in a proper and civil manner, and shall not carry on business in such a way as to cause a nuisance or annoyance to any person.
6. The licence holder shall at all times conduct business and position any vehicle used in connection with the business in such a manner that no danger is likely to arise to any other person.
7. Where vehicles are to be used to site or locate street trading units they must follow the Highway Code at all times. This includes NOT driving over public pavements to access an area or to place the unit on a stance. Vehicles may only drive over a pavement at specific designated locations where the kerb has been lowered for this specific purpose for vehicles. Pedestrian dropped crossings should not be used. This will include any deliveries to or servicing of any unit, stance or stall.
8. The licence holder shall only trade from the location or stance detailed on the licence. Any temporary relocation of stance can only be made with the consent of the appropriate Executive Director.
9. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance, and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance.
10. The licence holder shall at all times when trading wear the identity card which is issued with the licence. The licence must be displayed on any vehicle or stance.
11. The licence holder shall not lend to or allow any other person to use any licence or identity card issued by the Council.
12. The licence holder shall not sub-let the use of the site to a third party.

13. Licence holders shall have a Public Liability insurance policy to the value of £1 million
14. The licence holder shall trade only during the hours of operation stated in the licence.
15. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design and erection shall be to the satisfaction of the Council's appropriate Executive Director.
16. Traded goods must be kept on and traded from the vehicle, trailer or stall. At no time shall such goods be permitted to lie or stand on the surrounding area or be left against adjacent walls or railings.
17. Where the licence allows the holder to sell from a vehicle, kiosk or moveable stall at an approved stance, the vehicle, kiosk or moveable stall shall be capable of being speedily and easily removed.
18. At the end of trading hours on each working day, the licence holder shall immediately remove the vehicle, kiosk or moveable stall from the approved stance and all other ancillary equipment placed on or in the vicinity.
19. The licence holder shall, during business hours and at the end of each day, ensure the collection and removal of any paper, garbage or other refuse which may be produced, or may accumulate in the course of trading on any pavement around the stance within a distance of 25 metres either side. If adjacent stances, to which the street trading licence conditions apply, are within 25 metres, any distance to be cleaned shall be the mid-point between the two stances.
20. Any stall or trading unit should not be connected to any utility service i.e. water, gas or electricity supplies either on a permanent or temporary basis and should not therefore be arranged by a Licence holder.
21. All generators must be used and stored in accordance with manufacturer's guidance.
22. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the consent of the appropriate Executive Director.
23. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
24. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable or Council shall be permitted to enter and inspect any vehicle, trailer or stall at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with.
25. A Licence holder who changes his address shall within 14 days thereafter give notice thereof to the Licensing Authority and shall produce his licence to the Licensing Authority who shall update the particulars of such change of address.
26. If, during the currency of the licence, the licence holder is convicted of any offence, they shall, within 28 days, provide full details of such convictions, in writing, to the Licensing Authority.

1. When any vehicle, trailer or stall is trading in food, all requirements of Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
2. A valid food hygiene certificate must be provided to the Licensing Authority at time of application for a licence

The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:

- Food Hygiene Training certificates for all that will be working on the stall.
 - PAT certificates (electrical safety certificates) for electrically operated equipment;
 - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
 - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
3. On the renewal of licence a food hygiene certificate, the licence holders will provide the Licensing Authority with a copy of the new certificate.

Additional Street Trading Conditions – Vehicles and Mobile Units

1. The licence holder shall only trade from the vehicle or trailer detailed in the licence.
2. The vehicle or trailer shall be roadworthy, and if it is to be used for trading during the hours of darkness it shall have appropriate lighting and reflectors to ensure that it is visible to other road users.
3. The vehicle or trailer shall be maintained in a sound condition so as not to leak oil or other substances onto the pavements or roads. Such an occurrence may damage the integrity of the surfacing used on the pavement and road. Failure to comply may incur costs being recovered to repair any damage caused.
4. The licence holder shall not use whistles or other sound producing devices apart from chimes and loudspeakers to attract business.
5. The licence holder shall comply with all statutory provisions relating to noise and in particular with the provisions of section 62 of the Control of Pollution Act 1974 relating to the use of loudspeakers in streets.
6. Where the licence allows the holder to trade from a vehicle, kiosk or moveable stall other than at a fixed stance, the licence holder shall remain in the same place only for the time it takes to serve the queuing customers and shall then move on.

Specified Trading Zones for Mobile Street Traders

The specified zones in the City of Edinburgh local authority in which street traders are permitted to trade shall be the streets within the including and following boundaries (with the exception of Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile.

1. Queensferry Road, Hillhouse Road, Telford Road, Groathill Road North, Ferry Road, Pennywell Road, Marine Drive.
2. Marine Drive, Pennywell Road, Ferry Road, Groathill Road North, Telford Road, Queensferry Road, Dean Park Crescent, Comely Bank Avenue, East Fettes Avenue, Ferry Road, Granton Road, Wardie Steps to Lower Granton Road.
3. Granton Road from Wardie Steps to Ferry Road, East Fettes Avenue, Comely Bank Avenue, Dean Park Crescent, Queensferry Road, Queensferry Street to Princes Street, Waterloo Place, Regent Road, Easter Road, Leith Links to Seafield Road.
4. Seafield Road, Leith Links, Easter Road, Regent Road, Waterloo Place, North Bridge, South Bridge southward to Lady Road, Peffermill Road, Duddingston Road West, Duddingston Road, Southfield Place, Brighton Place, Bath Street to Promenade.
5. Bath Street, Brighton Place, Southfield Place, Duddingston Road, Duddingston Road West, Niddrie Mains Road, Newcraighall Road.
6. Newcraighall Road, Niddrie Mains Road, Peffermill Road, Lady Road, Gilmerton Road.
7. Gilmerton Road from City Boundary, Craigmillar Park northwards to North Bridge, Princes Street, Lothian Road, Earl Grey Street, Home Street, Leven Street, Bruntsfield Place, Morningside Road, Comiston Road, Biggar Road.
8. Biggar Road, Comiston Road, Morningside Road, Bruntsfield Place, Leven Street, Home Street, Earl Grey Street, Lothian Road, Shandwick Place, West Maitland Street, Dalry Road, Ardmillan Terrace, Slateford Road, Lanark Road.
9. Lanark Road, Slateford Road, Ardmillan Terrace, Gorgie Road, Calder Road.
10. Calder Road, Gorgie Road, Dalry Road, Haymarket Terrace, West Coates, Roseburn Terrace, Corstorphine Road, St John's Road, Glasgow Road.
11. Glasgow Road, St John's Road, Corstorphine Road, Roseburn Terrace, West Coates, Haymarket Terrace, West Maitland Street, Shandwick Place, Queensferry Street, Queensferry Road.
12. In the north by the shore at South Queensferry, in the east by the Edinburgh City Boundary, in the south by the River Almond and in the west by the Edinburgh City Boundary.
13. In the north by the River Almond, in the east by the Edinburgh City Boundary, in the south by the Calder Road (A71) and in the west by the Edinburgh City Boundary.

14. In the north by the Calder Road (A71) in the east by the Edinburgh City Boundary and in the south east, south and west by the Edinburgh City Boundary.

Standard Conditions – Market Operators

1. Market operators will supply an Events Management Plan and Risk Assessment when they make an application. This will be available for inspection at any time when the market is in operation by any Authorised Officer of the City of Edinburgh, Fire Officer or Police Constable.
2. Licence holders shall have Market Operator Public Liability insurance with a minimum value of £5 million for any one claim.
3. Market operators will not sub-let the use of the site to a third party.
4. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable shall be permitted free access to the whole of the market premises/area at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance and in particular the consent of the owners of any land on which such a stance is to be situated or which is adjacent to any such stance.
5. It is the licence holder's responsibility to inform the Council and other road users that a market will be in place between specific dates. The Licence holder must give the Council a minimum of seven days' notice, prior to the market being erected, to allow notification to other road users.
6. The licence holder shall ensure that the layout of the market and its stalls conforms to the configurations shown in the plan lodged with the application and approved for licence. The licence holder shall not, without the consent of the Licensing Authority, alter or amend the site or the premises or the layout of the site or of the premises. Nor shall the licence holder increase the number of stalls within the site from that specified on the licence.
7. Exit routes must be kept free of obstruction at all times whilst the market is open.
8. Wires, ropes or cables crossing any of the public areas must be out with the reach of the public, or installed to avoid any hazard to the public.
9. No motorised vehicles shall be permitted in the area used for the market during the hours of operation.
10. The licence holder shall not permit trading outwith the trading hours specified in the licence.
11. The licence holder must maintain an accurate register with individually numbered pages and entries showing:
 - (i) The date of each occasion upon which the market is open for business to the public

- (ii) The name, permanent address, telephone number and place of business address of each trader, the nature of the goods sold and the registration marks of all vehicles used in connection with each trader.
 - (iii) The register must also identify, on each occasion the market is open for business, the location within the market where each trader has a trading position.
12. The licence holder shall take all reasonable steps to ensure that all details of trading unit operators which are required to be registered are completed no later than four hours from the time of the market opening.
 13. The licence holder shall ensure that the register and such other documents as are maintained shall be available for inspection on the licensed premises by any Police Constable, Fire Officer or Authorised Officer of the Council at any time when the market is open for business, and at any other reasonable time.
 14. The licence holder shall ensure that registers and such other documents as are maintained must be retained by the licence holder for a minimum of two years.
 15. The operator will provide details of all individual stallholders, including equipment, scope of business and type of product to the **Licensing Manager**, at least one week before the event.
 16. The licence holder shall nominate in writing to the Council a suitable person who shall be responsible for the day-to-day running of the market and shall be in charge of and present at the market at all times when the market is open for business, with the exception of reasonable absences. The licence holder shall not, without the consent of the Licensing Authority, change the nominated person responsible for the day-to-day running of the market.
 17. The licence holder shall comply with all reasonable requirements of the Scottish Fire and Rescue Service relating to fire precautions and safety.
 18. The licence holder shall have a fire risk assessment and written evacuation policy for the site.
 19. Adequate means of escape and firefighting facilities must be maintained during all hours of operation.
 20. The number of persons admitted to the premises shall be controlled to ensure there is no overcrowding or numbers in excess of the evacuation capacity of the escape routes.
 21. The premises shall be adequately illuminated to the satisfaction of the Council. Any emergency or escape route lighting shall be by a maintained system throughout the premises, kept in proper working order and in operation when the premises are open to the public.
 22. A person, who is suitably qualified and equipped shall be nominated as a First Aider, and they will be in attendance in the market during trading hours and also while stalls are being erected and dismantled.

23. The licence holder or his/her agents shall take all reasonable precautions and exercise due diligence to ensure that no trader known or reasonably believed to be displaying for sale solely or mainly counterfeit merchandise (including contraband products) is permitted to trade upon the market. The licence holder or his/her agent shall also exercise due diligence in ensuring to the best of their ability that no such merchandise is displayed for sale as part of any trader's overall stock of goods.
24. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
25. When any stall is trading in food, all requirements of the Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
26. The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:
 - Food Hygiene Training certificates for all that will be working on the stall.
 - PAT certificates (electrical safety certificates) for electrically operated equipment;
 - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
 - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
27. Adequate litter bins shall be provided by the licence holder for use by the public and shall be distributed throughout the market site. All dropped or windblown litter must be collected after close of trading and removed with the other commercial waste.
28. The licence holder shall ensure that adequate and suitable provision is made for the storage and removal of refuse and other waste from the premises; that a suitable litter bin of adequate capacity is provided outside the premises during all hours of opening.
29. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the appropriate Executive Director.
30. The licence holder shall provide suitable and sufficient public sanitary accommodation on the site or in the premises for traders, their employees and the public, all to the satisfaction of the Licensing Authority.
31. All generators must be used and stored in accordance with manufacturer's guidance.
32. Wherever possible, all electrical and fuel controls must be made inaccessible to members of the public; failing which there must be suitable protection in place: all electrical installations must be certified as complying with current I.E.E. Regulations.

33. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design should meet with the approval of the appropriate Executive Directors.
34. The licence shall not be effective until the licence holder has received final clearances from the appropriate Executive Directors confirming that the premises may be operated.
35. The licence holder shall ensure that publicity material advertising events occurring on the premises is not distributed in such a manner as to produce litter.
36. The licence holder is responsible for the clearing of the area of all stalls and associated goods, debris, tools and any traffic management placed by them including all refuse as a result of the market, prior to vacating the site.

NOTE: Additional conditions may be attached at the discretion of the licensing authority.

Proposals by the Edinburgh High Street and Playfair Steps Traders Association High Street and Hunters Square (EHSPSTA)

From: GR [mailto:grgapinski@hotmail.co.uk]
Sent: 23 April 2019 16:22
To: Gordon Hunter <Gordon.Hunter@edinburgh.gov.uk>
Subject: Revised street plans to follow.....

Hi Gordon,

Please find following the proposal dialogue as discussed. The revised street plans showing 6 stalls on hunter square to follow.

This document is a proposal to address problems which have historically been associated with Street Trading on the High Street and Hunter Square. It aims to improve upon and raise the standards of the current offering which is in operation, and re-invent Street Trading on Edinburgh High Street and Hunter Square.

Last year in October, The Edinburgh High Street and Playfair Steps Traders Association (EHSPSTA) voted in a new board and internally implemented a policy to address certain issues, to create a cohesive voice and promote equity amongst its members. As there had been a number of issues in the past between street traders and the council, a key element in moving forward was to create an open dialogue with the council licensing board in order to create a stronger working relationship and drive up standards and improve upon the current offering in these trading areas. In order to achieve this, EHSPSTA has initiated a number of changes within its own organisation, and have pursued a strategy to actively communicate and consult with organisations such as Edinburgh World Heritage Trust, local shops and restaurants as well as the Licensing Department at Edinburgh City Council.

Our association has implemented a Code of Conduct for its trader members with a set of core principles to create a cohesive look which befits the World Heritage of Edinburgh's Royal Mile. As such, EHSPSTA has began to standardised street trading stalls with regard to look, size and structure.

Each of the EHSPSTA members are small, local and independant business's, and each offer something different to what is currently available at the many retail outlets which line the High Street from top to bottom. Many are local artisans and Scottish crafters, offering something a bit more unique and more boutique than the overwhelming mass produced tartan and fridge magnets - It offers a variety from the 'usual.' This is something as an organisation the EHSPSTA are very keen to promote. Particularly given the World Heritage location. It is our view, and also the view of some of the organisations that we have spoken to, and is something that can only benefit the local economy and also the City itself.

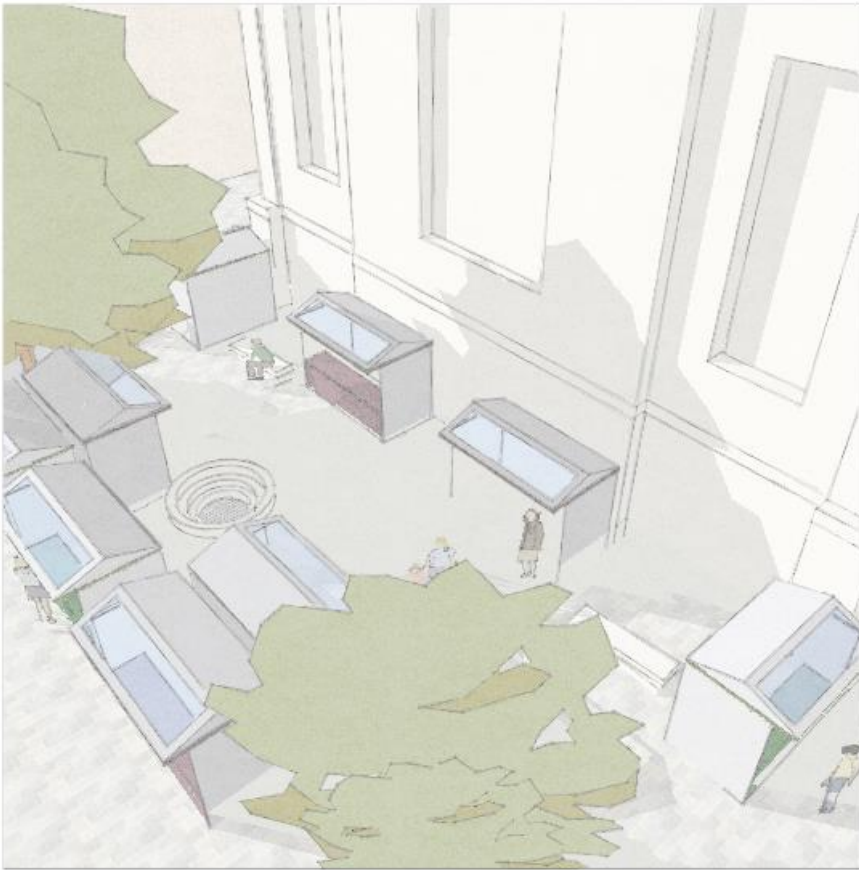
We have begun conversations with Edinburgh World Heritage Trust to create a suitable design for the stalls to make them fit better in their environment - Hunter Square and the Royal Mile. These talks have been extremely invigorating and encouraging.

Each member of the association has shown a willingness to invest in new stalls and coverings to improve the whole look of what is on offer, and create something that is of value to the area rather than an embarrassment and 'eyesore.' It is an expensive process, but there is a commitment and willingness to improve and to create something wonderful for locals and visitors alike. The High Street has a fantastic history of street trading, such as the Lucken Booths, and this is something which we would like to draw upon. We understand that the high street is an active place and we acknowledge and are more than happy to comply with council regulations and periods that close off roads due to other events.

With support from council policy and regulation, and input from organisations such as Edinburgh World Heritage Trust, we believe EHSPSTAcn work in close unison, to create a re-imagined Street Trading experience for locals and visitors alike, updated and revitalised, and an asset to Scotlands capital city. We would hope this to be an ongoing project, whereby channels of dialogue between all parties concerned can act together, to create something of benefit to all.

Best regards,

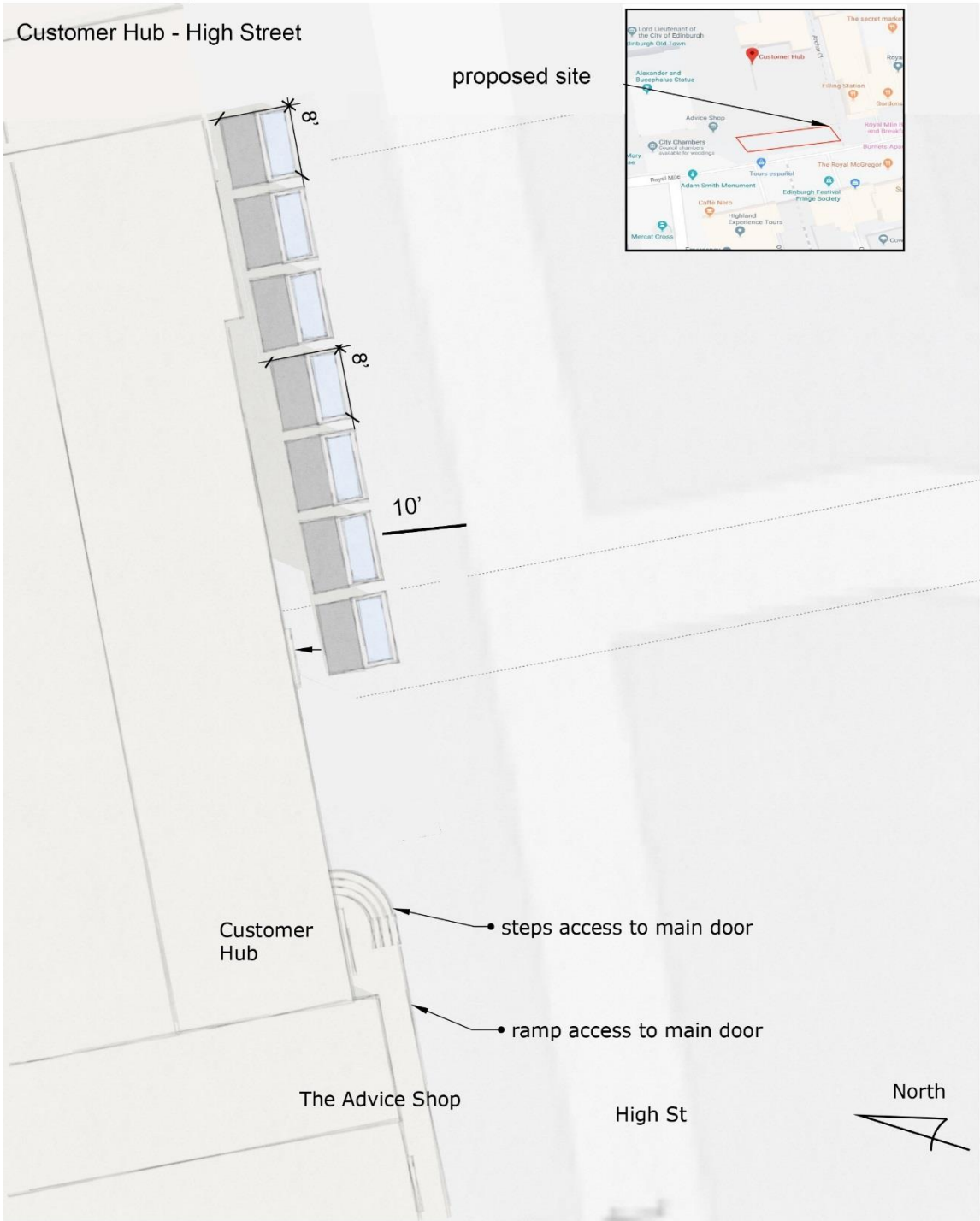
Gerry



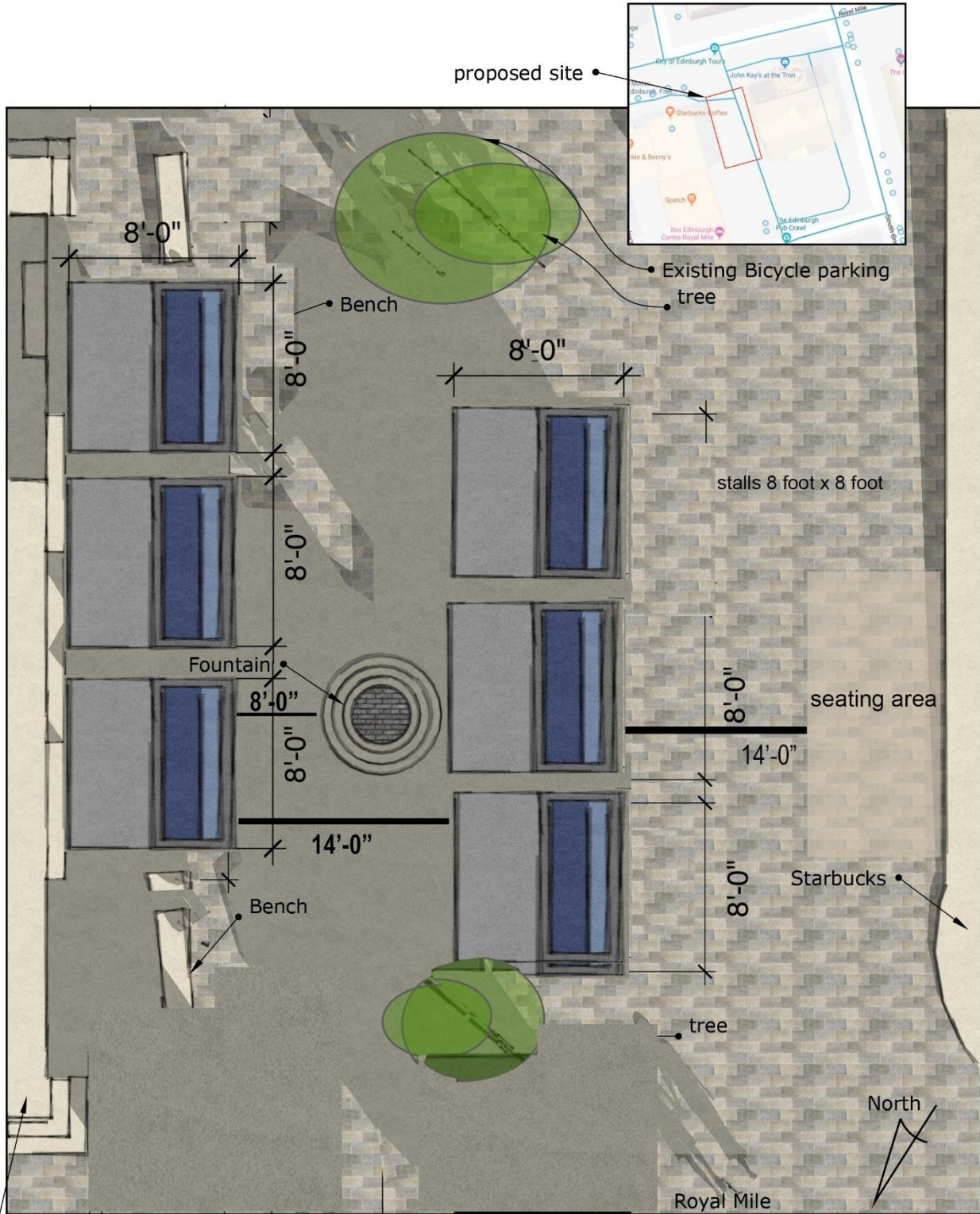
EHSPSTA Hunter's Square

Street Trading Proposal
February 22nd 2019

Version: 2



It is proposed that suspended stalls are re-instated outside the customer hub on the High Street. As stalls are now smaller (8 foot x 8 foot), seven stalls in total can be accommodated. This leaves plenty of space ensuring there is no obstruction to council office as was previously, when stalls were there before suspension. Public walkway over 10 feet.



Walkway for public at its narrowest (in front of circular statue) 8 foot (over two metres)
At all other points exceeding 14 foot.

Tron Kirk



This document is a proposal to improve standards and re-invent Street Trading on Edinburgh High Street and Hunter Square.

Through consultation with all traders currently operating within this area, local shops and restaurants, and with the Licensing Department at Edinburgh City Council, EHSPSTA has initiated a proposal to utilise street trading spaces currently used and areas previously occupied by street trading.



The aims of this proposal are to standardise street trading stalls with regard to look, size and structure. This will be more befitting of a World Heritage site than that which is currently offered.



With support from council policy and regulation, and input from organisations such as Edinburgh World Heritage Trust, we believe EHSPSTA can work in close unison, to create a re-imagined Street Trading experience for locals and visitors alike, updated and revitalised, and an asset to Scotlands capital city.

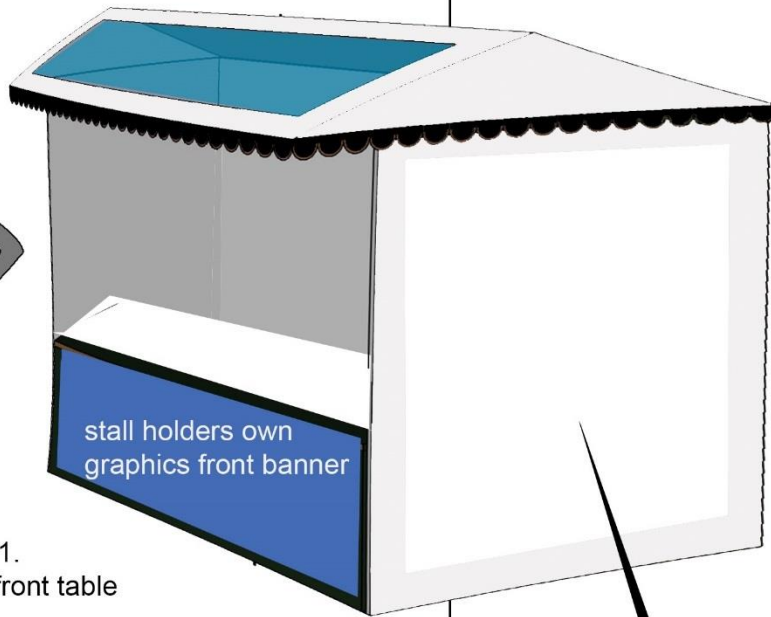


We would hope this to be an ongoing project, whereby channels of dialogue between all parties concerned can act together, to create something of benefit to all.



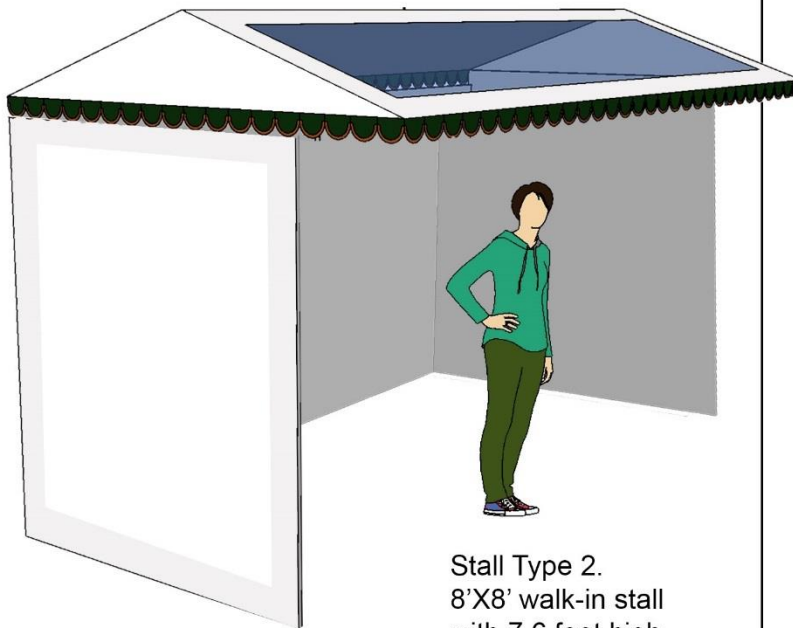
Proposed stall construction

8 foot x 8 foot
Metal Frame stall
Fixed tarpaulin
roof with skylight
and black edge
drip effect.
at least 7.6 foot
high over hang



Stall Type 1.
8'X8' with front table

Printed tarpaulin side
panels. Images to be
decided upon after
consultation with
Edinburgh World
Heritage Trust.

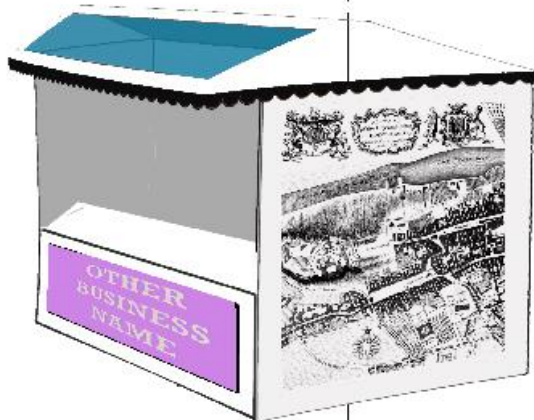


Stall Type 2.
8'X8' walk-in stall
with 7.6 foot high
overhang

Graphics to be decided upon after consultation with Edinburgh world heritage Trust.



Example printed side banner tarpaulin and stall holders own front banner.



Appendix 5 – Response from City Centre Roads Team

From: Chris Mcgarvey
Sent: 05 April 2019 13:43
To: Gordon Hunter
Subject: RE: High Street Hunters Square Street Trading proposals

Hello,

See attached comments on these proposals as well:

- What footway width remains after the trading units are set up? This must comply with the Edinburgh Council Street Design Guidance. A minimum of 2m clear footway should be available from the trading unit. These dimensions should be shown on the plans.
- The canopy/overhang needs to be a certain height 2.25m (or thereabout I can't remember the exact height but will clarify) so that they do not cause an obstruction. No goods should be hung from the canopy
- Goods should not be displayed on the footway and should be contained within the trading unit.
- I do think the proposals shown do seem to be quite excessive and I would prefer to see Hunter Square remain at 6 traders units.
- The proposals for the High Street look as if they block fire doors/emergency exits.
- I also have concerns about the number of traders on the High Street and how the loading / unloading will be carried out. This could potentially cause more congestion in the area in the mornings whilst the pedestrian area is open to vehicles.

Happy to discuss further

Chris

Chris McGarvey

Senior Transport Team Leader

City Centre Roads Team | South East Locality | Place

Appendix 6 - Response from Property and Facilities Management

From: Mark Bulloch

Sent: 05 February 2020 15:22

To: Gordon Hunter

Subject: RE: High Street /Hunter Square Street Traders

Hi Gordon

In my negotiations with Visit Scotland (VS) they requested that a prohibition was written into the lease on CEC granting street traders licenses at their frontage. This was rejected as we cannot cover what happens on public footpath in the lease documentation, however, it gives you an idea of the concerns that were raised.

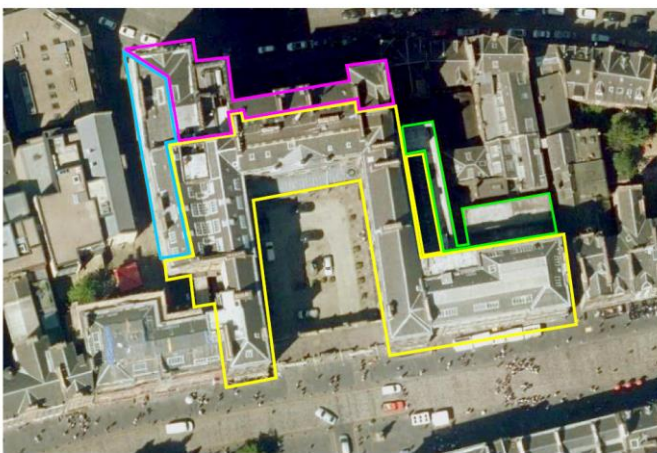
Anything that would impact on lines of sight to the Visit Scotland entrance, impact on access or generally reduce visitor numbers would potentially lead to a renegotiation of the commercial terms of the transaction (and a reduction of the income payable to CEC)

I'm sure I don't have to tell you this but the traditional retailers paying high rents and Non Domestic Rates on their physical shop units feel let down and at a commercial disadvantage to street traders with very little overheads (especially those who lease from CEC).

Notwithstanding all the above, the major issue is now the essential fabric repair works required to the City Chambers complex. I attach a plan provided by John Jack who will be project managing these works. The plan will give you an idea of the scale of works. It is a three year project that will commence financial year 2020/2021 (i.e. between April 2020 and March 2021).

Given the nature of the building the scaffolding will need to be secured which will result in an exclusion zone. I have copied to John in case he has anything to add.

City Chambers H2391
PROPOSED PHASING, subject to contractors access requirements and planned programme of work (to be developed).



Yellow - phase 1 - general areas, roof and higher elevation levels. Blue - phase 2 - all. Magenta - phase 3 - all. Green - phase 4 - lower elevations and lower roof levels

Regards

Mark Bulloch BSc MRICS | Portfolio Manager - Investments | Property and Facilities Management



Appendix 7 – Response from Head of Facilities Visit Scotland

From: Gordon Hunter
Sent: 09 January 2020 14:59
To: Steven Speedie >
Subject: RE: VisitScotland iCentre Royal Mile

Hi Gordon,

AS discussed VisitScotland relocated our iCentre in Spring 2019 from Princess Street, where the operation was compromised by street traders, to a more visible location on the Royal Mile. We have invested significantly in the iCentre to provide a ‘welcoming and attractive’ experience, offering information through a wide variety of tools to ensure visitors experience the best of the city and Scotland as a whole. As you can understand we would want to ensure our visibility is unobstructed to protect our investment and worth mentioning at the time of taking on the lease we were given some comfort from the council that there wouldn’t be street traders outside the premises.

To give you some more of the background I have supplied and extract from our Regional Manager evidencing the decline in footfall largely down to the seasonal pop up pubs opening directly outside the Princess Street iCentre:

- *Festive 18 was really bad for us, this was when they really ramped up the pubs*
- *In July 17 & 18 we had poor footfall, again this was pubs that did it because visitors couldn’t find us – we actually got several poor trip advisor reviews about that*
- *August 18 was another poor year*
- *There was also a feeling that the city was experiencing huge visitors numbers in the past few years but we never felt part of that party because people couldn’t find us*

Edinburgh Princes Street	Year	Footfall	up/down
<i>December - festive period</i>	<i>2018 versus 17</i>	<i>9,377</i>	<i>-20%</i>
<i>July - fringe/festival</i>	<i>2018 versus 17</i>	<i>38,340</i>	<i>-17%</i>
<i>July - fringe/festival</i>	<i>2017 versus 16</i>	<i>46,184</i>	<i>-22%</i>
<i>August</i>	<i>2018 versus 17</i>	<i>50,795</i>	<i>-10%</i>

Added with the poor condition of the property the decision was made to relocate to the Royal Mile to increase the visibility and prominence in the most densely populated tourist

area in Scotland. We would not wish to find ourselves in a similar position where we have pop up markets or trader's obstruction out operations.

Please let me know if you need any further information.

Kind regards

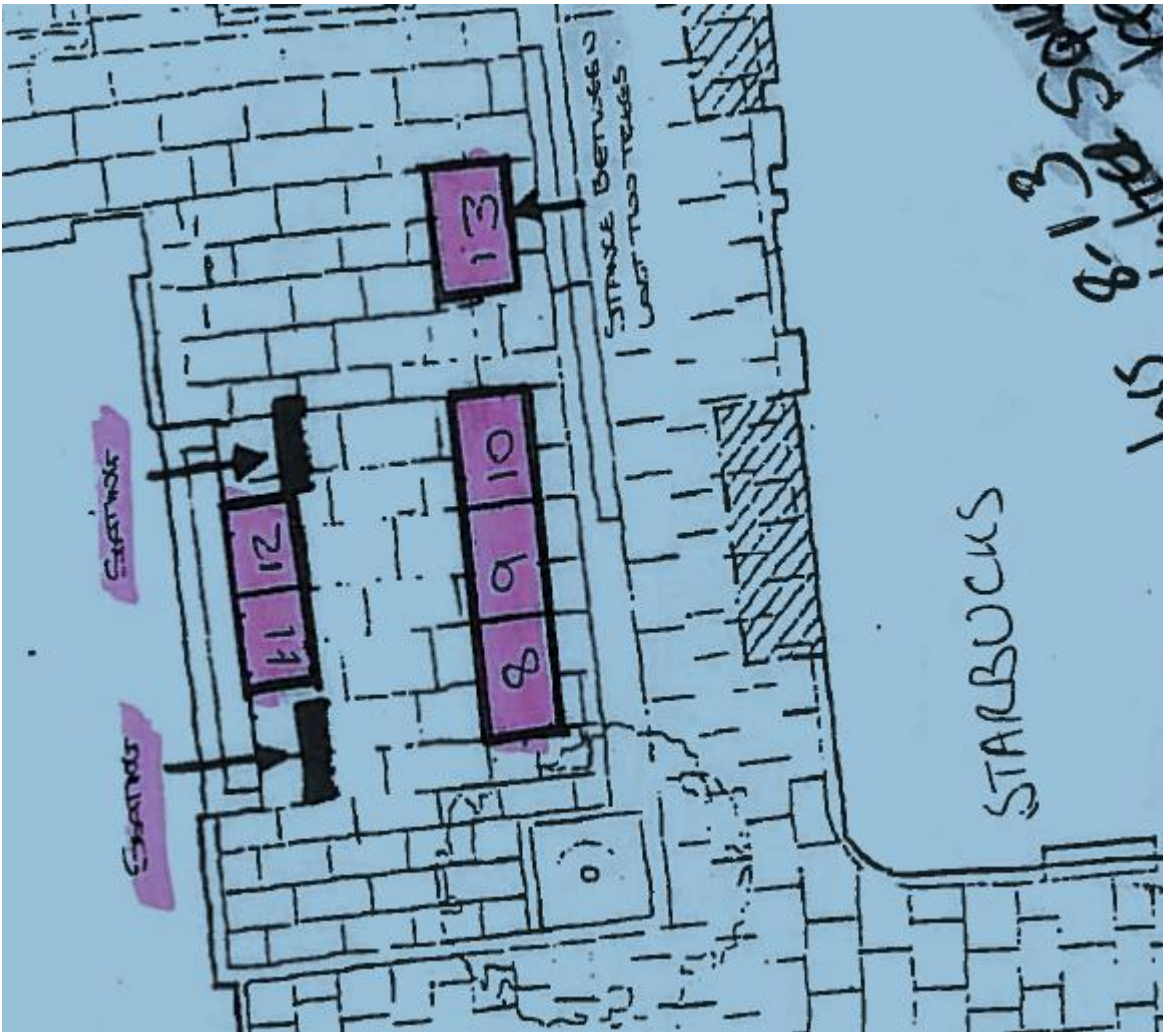
Steven Speedie

Head Of Facilities Visit Scotland



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Appendix 8 – Hunter Square Existing Street Trading Stances



Stances 11 and 12 backing on to the Tron Church



Regulatory Committee

9.00am, Monday, 18 January 2021

Response to Consultation: Travelling Funfairs (Licensing) (Scotland) Bill

Executive/routine	N/A
Wards	All
Council Commitments	

1. Recommendations

- 1.1 Regulatory Committee is asked to note the attached report and the consultation response submitted to the Scottish Parliament Local Government Committee's call for views about a Bill to change the licensing system for operators of travelling funfairs in Scotland.

Paul Lawrence

Executive Director of Place

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Response to Consultation: Travelling Funfairs (Licensing) (Scotland) Bill

2. Executive Summary

- 2.1 This report informs the Committee of a response made to the Scottish Parliament's Local Government Committee's call for views about a Bill to change the licensing system for operators of travelling funfairs in Scotland. The Bill aims to make the system quicker, simpler, cheaper and more uniform across council areas. The Council's response was submitted after consultation with the Convener and Vice Convener, as the response date arose between Committee meetings. Members of the Committee were also given an opportunity to provide comments prior to the draft response being agreed.

3. Background

- 3.1 The call for views came from a Private Members Bill, lodged with the Scottish Parliament, which seeks to change the legislation for travelling funfairs after these issues were considered by the Local Government and Communities Committee of the Scottish Parliament.

4. Main report

- 4.1 The Travelling Funfairs (Licensing) (Scotland) Bill seeks to remove travelling funfairs from the scope of licensing under the Civic Government (Scotland) Act 1982 ('the 1982 Act') and to create a new licensing system for these businesses.
- 4.2 The Bill would require decisions on licence applications to be made within 21 days, reduces the reasons for which the Council could refuse a licence and sets a level of fee which is significantly lower than what most licensing authorities currently charge under the 1982 Act.
- 4.3 On 20 October 2020 the Council received a call for views on the Bill. As the deadline for submission of responses fell between Committee meetings the Council's response was submitted after consultation with the Convener and Vice Convener.

- 4.4 Prior to submission, a draft was circulated to all members of the Committee and comments received were incorporated.

5. Next Steps

- 5.1 The response has been submitted and the Local Government Committee will decide whether to progress the Bill beyond stage 1.

6. Financial impact

- 6.1 None at present. If passed in its current form there would be some loss of licensing income to the Council.

7. Stakeholder/Community Impact

- 7.1 Stakeholders and community groups were able to respond to the consultation directly.

8. Background reading/external references

- 8.1 None

9. Appendices

- 9.1 Appendix 1 - Response to Scottish Government call for views on the Travelling Funfairs (Licensing) (Scotland) Bill

Appendix 1 – City of Edinburgh Council Response to Scottish Government call for views on the Travelling Funfairs (Licensing) (Scotland) Bill

Please note that the sections marked in red below are the points on which specific responses were asked for.

1. The main aim of the Bill is to make the licensing system for travelling funfairs less restrictive and less expensive for applicants. Do you agree with this aim? Do you agree that the Bill will achieve this aim?

A key way in which the Bill seeks to achieve this overall aim is to create a uniform approach, meaning that councils must all follow the same rules. (The current law allows councils to take different approaches to licensing travelling funfairs.) In answering question 1, you may wish to express a view on whether you agree that this is the best approach or that it is necessary to achieve the aims of the Bill.

The Civic Government (Scotland) Act 1982 was designed to allow Local Authorities to licence and regulate certain activities taking cognisance of:

- the preservation of public order and safety; and
- the prevention crime.

The 1982 Act allows for local discretion and accountability and provides a number of safeguards for local communities.

Whilst it might be desirable to introduce a system that is less restrictive and less expensive for applicants, the cost to the council will be dependent on the size and location of a travelling funfair and this will dictate the level of planning and local engagement with communities.

A uniform approach will potentially remove the current safeguards and prevent the Local Authority from addressing local issues and accountability that are built into the 1982 Act.

The current system allows the local authority to look at individual applications on a case by case basis and on the merits of the application.

The desire to lift certain items out of the 1982 Act and then create ad hoc licenses undermines the basic fundamentals and principles of the 1982 Act and is not helped if categories are lifted out of the “parent” act and licensed in a new way.

The Council has previously expressed a view to your predecessor committee that whilst the 1982 should be reviewed the piecemeal amendment of licensing laws is unhelpful in absence of a review. It is accepted that there is a complexity to the 1982 Act, and it could well benefit from a wider review to streamline processes and simply the language but that has to be off set against the need to ensure public safety and community engagement.

2. Section 1 of the Bill sets out a definition of “travelling fairground”. Amongst other things, this provides that it cannot go on in one location for more than 6 weeks. (If the plan is for it to go on for longer than this, the current licensing law will apply.) Do you think the definition used in section 1 is a good one?

The definition provided for in Section 1 makes reference “to a funfair being a number of structures and other equipment designed and operated to provide public entertainment, amusement or leisure activity.” What constitutes “a number of”, would this apply in the case of two or more structures etc. which is not uncommon in relation to events being run in the City of Edinburgh. In addition, what is proposed in relation to individual funfair rides or structures, does this mean that Local Authorities would be required to operate both the 1982 Act and the proposed Bill if so, this is likely to create confusion rather than providing greater clarity.

The City of Edinburgh Council currently require travelling Funfairs to apply for temporary Public Entertainment Licence and have restricted the grant of such a licence to 28 days. Whilst it is possible to apply for a successive licence this enables the Local Authority to control the period of time over which an event can take place and reduce the impact on local communities. The City of Edinburgh Council are currently consulting on our Public Space Management Plan and the impact Hospitality and Tourism has on local communities and businesses.

3. The Bill imposes a flat fee of £50 for a license application. This may be increased but only in line with “changes in the value of money” (section 5(2)(d) and (6)) In the vast majority of cases, this will be less than applicants are paying under the current law. Do you agree with this?

A flat fee of £50 would not cover the current administrative cost of producing a licence nor would it cover any of the associated planning and inspections costs associated with events of this nature.

Any fee should be linked to the costs associated with the production of a licence and a full costing exercise should be carried out to ensure that this is achieved.

Key provisions concerning a council’s decision-making role are that—

The council must decide on an application within 21 days, otherwise it will be granted by default,

It must allow a validly made application unless (a) the applicant is not a “fit and proper person” or (b) there are safety or health concerns about the funfair that would not be reasonably mitigated by attaching conditions to the licence,

It may grant a licence subject to conditions (section 11 lists the type of conditions that may be imposed),

It can only revoke a licence if (a) it becomes aware of a fact not previously shared that would have led it to decide the application differently or (b) if a condition or other provision of the licence is not met.

4. Are you satisfied that these provisions give councils the right level of control and choice over the licensing process?

The ground to refuse an application are limited and would prevent a Local Authority from refusing an application based on detriment or disruption to the local community or on the suitability of the location.

The proposed time frame of 21 days is an unrealistic period of time to allow the council to carry out any form of due diligence, conduct any enquiries or carryout any form of consultation it thinks appropriate prior to the grant of a licence.

Also, of concern is the “grant by default” proposal whilst linked to the requirement to have submit a valid application, it is not clear what if any steps can be taken if a valid application is not received. Nor does it provide an option to extend an application period if as is often the case additional information is required in support of an application.

In relation to the information required for a valid application it is the City of Edinburgh Council’s experience that not all of the criteria listed will be available or submitted at time of an application, but it should be.

5. We welcome views on any other aspect of the licensing system set out in the Bill that you consider important, for example, provisions on—

What persons a council must consult before deciding any application (the Bill mentions two: the police, and the fire and rescue service),

The matters that an applicant has to address in their application; for instance, whether you think anything important is missing,

The right of an applicant to appeal a council’s decision to the Sheriff Principal,

The criminal penalties set out in the Bill, for instance, where a person operates a travelling funfair without a licence or makes false statements in support of an application;

powers to enter and inspect a travelling fairground: who may do so and for what reasons.

Whilst the bill proposes that the council must consult with the Chief Constable and the Fire and Rescue Service it does not impose a duty on either to provide a response or timeframe within which they must respond to an application.

In addition to the council the applicant should be required to consult the local community that may be affected by the Travelling funfair, given the proposed time framed this could be by way of a public notice in a newspaper or site notice at the proposed location.

In addition, the Traveling Funfair should provide evidence of right to occupy land.

It is unclear why “Powers of Entry and Inspection” would be limited to a constable in uniform.

6. The MSP who introduced the Bill thinks it will help protect the way of life of Scotland's showpeople, a distinct community associated with putting on travelling fairgrounds. Do you agree the Bill will make a difference in this way?

Any other comments on the Bill's impact (positive or negative) on equalities, human rights and quality of life issues for local communities are also welcome as part of any response to question 6.

The City of Edinburgh Council do not support the proposals as it is believed that they would have a detrimental effect on public safety. There is no local evidence to support the implementation of these proposals and the proposal would make it difficult to ensure community involvement in the licensing consultation process.

Whilst the Bill may well be intended to help protect the way of life of Scotland's showpeople the proposals are effectively creating an individually tailored piece of legislation for one particular group of people at the risk of excluding communities from the process. That is potentially divisive and unfair, decisions like this should be made as close as possible to all the communities they have an impact on and those communities should have an equal say and right to object.

7. What financial impact do you think the Bill will have – on operators of travelling fairgrounds, on councils, on local economies, or on others.

The introduction of this bill in association with the proposed fee of £50 will have a financial impact on both the City of Edinburgh Council and other Licence holders. The flat fee of £50 would not cover the current administrative cost of producing a licence nor would it cover any of the necessary planning or inspections costs associated with an event of this nature. Accordingly, any short fall in funding would have to be significantly subsidised by the council or at the cost of other licence holders.

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