

Notice of meeting and agenda

Regulatory Committee

2.00 pm Thursday, 31st March, 2022

Virtual Meeting - via Microsoft Teams

This is a public meeting and members of the public are welcome to watch the webcast live on the Council's website.

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 Any items under "Private Business" will not be published, although the decisions will be recorded in the minute.

Contacts

Email: rachel.gentleman@edinburgh.gov.uk / matthew.brass@edinburgh.gov.uk

Tel: 0131 529 4107

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 28 February 2022 – submitted for approval as a correct record | 5 - 8 |
|-----|---|-------|

5. Rolling Actions Log

- 5.1 None.

6. Business Bulletin

- 6.1 None.

7. Executive Decisions

- | | | |
|-----|---|-----------|
| 7.1 | Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions – Update – Report by the Executive Director of Place | 9 - 136 |
| 7.2 | Short Term Lets: New Licensing Powers Consultation – Report by the Executive Director of Place | 137 - 144 |
| 7.3 | Animal Welfare Regulations – Report by the Executive Director of Place | 145 - 170 |

7.4	Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2022 - Referral from the Governance, Risk and Best Value Committee	171 - 188
------------	---	-----------

8. Routine Decisions

8.1 None.

9. Motions

9.1 None.

Nick Smith

Service Director, Legal and Assurance

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, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4107, email rachel.gentleman@edinburgh.gov.uk / matthew.brass@edinburgh.gov.uk.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to the Council's online [Committee Library](#).

Live and archived webcasts for this meeting and all main Council committees can be viewed online by going to the Council's [Webcast Portal](#).

Webcasting of Council meetings

Please note this meeting may be filmed for live and subsequent broadcast via the Council's internet site – at the start of the meeting the Convener will confirm if all or part of the meeting is being filmed.

The Council is a Data Controller under current Data Protection legislation. We broadcast Council meetings to fulfil our public task obligation to enable members of the public to observe the democratic process. Data collected during this webcast will be retained in accordance with the Council's published policy including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Any information presented by individuals to the Council at a meeting, in a deputation or otherwise, in addition to forming part of a webcast that will be held as a historical record, will also be held and used by the Council in connection with the relevant matter until that matter is decided or otherwise resolved (including any potential appeals and other connected processes). Thereafter, that information will continue to be held as part of the historical record in accordance with the paragraphs above.

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

Minutes

Regulatory Committee

9.30am, Monday 28 February 2022

Present

Councillors Fullerton (Convener), Dixon (Vice-Convener), Arthur, Mitchell, Rose, Neil Ross and Wilson.

1. Minutes

Decision

To approve the minute of the Regulatory Committee of 2 December 2021 as a correct record.

2. Rolling Actions Log

The Regulatory Committee Rolling Actions Log for February 2022 was submitted.

Decision

- 1) To agree to close the following actions:
 - Action 5 – Licensing Service – COVID-19 Recovery Plan
 - Action 6 – Raising HMO Standards – Response to Motion
- 2) To otherwise note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

3. Business Bulletin

The Regulatory Committee Business Bulletin for December 2021 was submitted.

Decision

- 1) To note the Business Bulletin.
- 2) To thank the Convener for writing to the Minister for Social Security and Local Government.
- 3) To note and welcome the response received from the Minister and look forward to proposals to address this issue.
- 4) To note a report would be brought back to a future meeting of the Culture and Communities Committee to address the above and the implementation of parts (h) and (i) of the motion concerning engagement with buskers and reporting by residents approved by Council on 28 October 2021.

(Reference – Business Bulletin, submitted.)

4. Houses in Multiple Occupation – Raising HMO Standards

Information was provided to the Committee in response to a motion by Councillor Neil Ross to Council on 28 October 2021 which sought landlord and letting agent standards in Houses in Multiple Occupation (HMO) licensing to be improved. The report presented the intentions of the Licensing Service to improve these standards as well as an update on the review of the existing HMO licence application fee structure.

Decision

- 1) To note the advice contained in the report and agree that officers should develop a best practice guide for licence holders and agents.
- 2) To agree to separately consult on whether conditions 011 and 012 of the House in Multiple Occupation standard conditions should be amended to require licence holders, and agents acting on their behalf, to provide adjoining properties with emergency contact details annually.
- 3) To note that a further report reviewing the existing HMO licence application fee structure and a future work programme for the Committee to consider its priorities would be developed and submitted to a future meeting following the local government elections.
- 4) To share the proposed consultation questions with Committee members prior to launching the public consultation.

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

5. Demand for Taxi Licences

Proposals on how new taxi licence applications would be considered and determined in advance of grant or refusal were presented to the Committee for approval.

Decision

- 1) To note the content of the report.
- 2) To note that, on 8 March 2021, the Committee agreed to maintain the limitation policy and to fix the number of available licences at 1,316.
- 3) To note that no change was proposed to the limit of 1,316 on the number of taxis to be licensed in the city.
- 4) To agree that for new taxi vehicle licences:
 1. Applicants would be required to provide details of a compliant vehicle on the application form and pay the required fee.
 2. Applications would be processed and determined in the chronological order received.
 3. Applications would be determined by officers, provided that there were no objections and that granting of the licence would not increase the number of licences beyond the limit of 1,316.

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

6. Internal Audit: Overdue Findings and Key Performance Indicators as at 5 November 2021

The Governance, Risk and Best Value Committee had referred a report on Internal Audit Overdue Findings and Key Performance Indicators as at 5 November 2021 for information.

Decision

To note the report.

(References – Governance, Risk and Best Value Committee, 14 December 2021 (item 5); report by the Executive Director of Corporate Services, submitted.)

This page is intentionally left blank

Regulatory Committee

2.00pm, Thursday, 31 March 2022

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

Executive/routine
Wards All
Council Commitments

1. Recommendations

1.1 Regulatory Committee is asked to:

- 1.1.1 Agree to resolve that Schedule 2 of the Civic Government (Scotland) Act 1982 ('the 1982 Act') shall be effective within the City of Edinburgh for the purpose of licensing Sexual Entertainment Venues and to make a resolution to license Sexual Entertainment Venues (as set out at Appendix 11) from 1 April 2023, and accordingly to adopt a scheme to license Sexual Entertainment Venues in terms of the 1982 Act from the said date thereafter;
- 1.1.2 Note that, if 1.1.1 above is agreed, Committee is required to determine a Sexual Entertainment Venues number appropriate for the City of Edinburgh Council area and to produce and publish a Sexual Entertainment Venue Licensing Policy for the said area all in terms of the 1982 Act;
- 1.1.3 Note the updated advice received from officers in respect of what should be considered if the Committee introduces a limit for the number of Sexual Entertainment Venues permitted to operate in Edinburgh and to determine the number from the two options set out in paragraphs 4.16 – 4.30;
- 1.1.4 Agree to the proposed Sexual Entertainment Venues licensing policy statement set out at Appendix 9;
- 1.1.5 Agree that the policy shall include a statement that any area in the city other than in the city centre ward will not be considered suitable for the operation of a Sexual Entertainment Venue;

- 1.1.6 Agree to the proposed standard licensing conditions for Sexual Entertainment Licences set out at Appendix 10; and
- 1.1.7 Note that, if recommendations 1.1.1 – 1.1.2 and 1.1.4 – 1.1.6 are approved, officers will advertise the resolution and publish the Licensing Policy Statement as required in terms of the 1982 Act.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 469 4208

Report

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

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 ('the 1982 Act'), enabling local authorities to introduce a discretionary licensing system for sexual entertainment venues ('SEVs'). In October 2019, the Regulatory Committee ('Committee') agreed in principle to introduce a licensing system for SEVs and instructed officers to prepare draft licensing conditions and a licensing policy statement for consultation.
- 2.2 Two public consultations on a proposed resolution, policy and licensing conditions framework have previously taken place. Additionally, Committee held three evidence sessions with public sector partners, stakeholders, owners and performers of venues.
- 2.3 In December 2021, Committee agreed to continue consideration of the introduction of a SEVs licensing scheme, resolution, SEV licensing policy and licence conditions.
- 2.4 This report recommends that Committee agrees to make a SEV licensing resolution, and thereafter determines the limit on the number of SEV premises permitted to operate in Edinburgh and adopts a SEV policy statement and standard licensing conditions. In particular, this report provides further advice to Committee in respect of issues which should be considered if Committee is minded to make a resolution and thereafter determines the limit on the number of SEV premises permitted to operate in Edinburgh.

3. Background

- 3.1 Section 76 of the 2015 Act adds new sections (45A to 45C) to 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 SEVs from the definition of 'places of public entertainment', meaning 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 to license SEVs under the new section 45B of the 1982 Act.

- 3.2 On 21 March 2019, a Commencement Order was laid before the Scottish Parliament which provided local authorities with the necessary powers to introduce a discretionary licensing regime for SEVs.
- 3.3 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 allows local authorities to promote these aims by considering local circumstances and being able to exercise appropriate control and regulation of SEVs, including setting the number of venues able to operate within their areas. In terms of the 1982 Act, a published SEVs policy statement will be required which sets out how the Council will promote the statutory licensing objectives detailed in the 1982 Act, along with how the licensing scheme will operate within the Council's area. It should include examples of licensing conditions, together with details of how the licensing scheme will be enforced. The policy should also demonstrate how the local authority intends to help protect the safety and wellbeing of performers, customers and the wider public.
- 3.4 Where a local authority opts to license SEVs, the provisions at section 45A of the 1982 Act require a SEV licence for premises 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.
- 3.5 The Scottish Government published guidance on 28 March 2019 called 'Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres ('the guidance') (Appendix 13). The guidance states that local authorities are best placed to reflect the views of the communities that they serve, to determine whether SEVs should be licensed within their areas, and if so, under what conditions and the limit on the numbers. The guidance requires licensing authorities to balance this consideration against other legal duties and guidance. The guidance refers to legislation including the EU Services Directive, the Regulatory Reform (Scotland) Act 2014 and the European Convention on Human Rights (ECHR). The guidance explains that local authorities have to consider the rights SEV operators may have under Article 1, Protocol 1 (peaceful enjoyment of possessions and Article 10 (freedom of expression) of the ECHR. Article 1, Protocol 1 is engaged where there are already premises operating as SEVs prior to the Council resolving to license SEVs and to introduce a licensing scheme. The guidance explains that the rights of SEVs under the ECHR should be balanced against the human rights of others.
- 3.6 A local authority licensing SEVs will have to publish a SEV policy statement, developed in consultation with such persons or bodies as the local authority considers appropriate (this is likely to include violence against women partnerships, trade organisations and other similar groups). The SEV policy statement is intended to provide local communities with a clear indication of the local authority's policy. As set out in the 1982 Act, in preparing a SEV policy statement, a local authority must consider the impact of licensing SEVs, and in particular to have regard to how it will affect the objectives of:
- 3.6.1 Preventing public nuisance, crime and disorder;

- 3.6.2 Securing public safety;
- 3.6.3 Protecting children and young people from harm; and
- 3.6.4 Reducing violence against women.
- 3.7 Appendix 9 sets out the proposed policy for the licensing of SEVS and Appendix 10 details the proposed set of standard conditions for the licensing and regulation of SEVs, following consideration of the consultation responses and the impact that licensing SEVs will have on the licensing objectives set out in the 1982 Act. Appendix 11 sets out the proposed resolution.
- 3.8 In considering whether to make a SEV licensing resolution and developing a policy and licensing conditions framework, Committee has held two rounds of public consultation on whether to license SEVs, and if so the terms of the policy statement and appropriate conditions in relation to the implementation of a licensing scheme. Furthermore, Committee held a series of evidence sessions with relevant stakeholders and interested parties. Details of all consultation undertaken are included at Appendix 14.

4. Main report

- 4.1 As directed by Committee following its consideration of a report on 2 December 2021, officers have liaised with colleagues in Legal Services in order to provide further advice on the issues to consider when deciding whether to license SEVs, and if so, thereafter determining the appropriate limit on the number of SEVs in Edinburgh. Set out below are the issues which Committee should take into account, when considering the proposed resolution and, if minded to agree this, the determination of an appropriate numbers limitation, terms of the licensing policy statement to be published, and standard conditions to be applied to licences.

Adopting a Licensing System

- 4.2 As previously reported to Committee in December 2021 (see section 8), it is clear from consultation responses that there is significant support for the introduction of a licensing system for SEVs. The initial public consultation on the issue of SEV licensing showed that 65% of respondents either agreed or strongly agreed that the Council should license SEVs. The Committee will also be aware that Police Scotland, operators and performers have been supportive of this, arguing that it would make venues better regulated and safer. These themes link directly to the key aims of the 1982 Act and are consistent with the specific licensing objectives regarding SEVs set out in the 1982 Act and at paragraph 3.6 above.
- 4.3 It is clear from the consultation process that parties who are generally against the operation of SEVs also agree that the Council should license SEVs. However, whilst they support the Council adopting a licensing scheme, they would like the Council to fix the number of SEVs in the city at zero.

- 4.4 Separately, the operators of venues and performers appearing in the venues are also generally supportive of the introduction of a licensing scheme. They have, however, raised concerns about their right to continue operations without unnecessary interference in what is currently a legal activity. They are therefore strongly opposed to the Council setting a limit of zero for the number of SEVs in the city.
- 4.5 In deciding whether to pass a resolution, a local authority should consider whether it will wish to control SEVs either now or in the future. Each of the four premises currently operating in the city which would be defined as a SEV, hold Premises Licences under the Licensing (Scotland) Act 2005 for the sale of alcohol and are overseen by the Edinburgh Licensing Board in that regard. 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, SEVs will continue to operate without any direct regulation from the Council in relation to sexual entertainment.
- 4.6 Resolving to license SEVs will result in such premises being subject to further regulation and will give the Council additional powers to regulate SEV premises in areas such as performer and customer safety, along with the further powers to address concerns from residents or neighbours. The introduction of regulation will also assist the Council to contribute further to limiting the risk of criminality and human trafficking within the city. Clear support from a wider range of respondents for the introduction of a licensing scheme has been consistent throughout the consultation process, although there are different views as to how it should be applied in terms of the number of premises able to operate.
- 4.7 For the reasons set out above, it is recommended that Committee agree to adopt a resolution and to introduce a SEV licensing system. Committee is asked to note that these reasons include: (1) the clear support for a SEV licensing system from the majority of respondents to the consultation; (2) that a decision to license would be consistent with the licensing objectives in the 1982 Act, in particular (but not limited to) for the purposes of preventing crime and disorder and improving public safety as set out in paragraph 3.6 above; and (3) the introduction of a SEV licensing system is a proportionate way of achieving the licensing objectives.

Requirement to set an appropriate number of licensed SEVs

- 4.8 Should Committee make a resolution to introduce a licensing scheme for SEVs, the Council will have to set a limit on the number of SEV premises permitted in the city. Any decision made by Committee in respect of determining a limit on the number of licensed SEVs in Edinburgh must be based on an assessment of the evidence gathered. This would include information from the consultation exercises which took place in 2019 and 2021, and evidence sessions with stakeholders, in addition to any other relevant material contained within previous Committee reports on this issue.
- 4.9 Members must also consider the legislative requirements, the guidance, and the Scottish Government's strategy 'Equally Safe; Scotland's strategy for preventing and eradicating violence against women and girls'.

- 4.10 Consultation has shown that there is a broad range of views with respect to the setting of limits on SEV premises in the city generally, and in certain localities in particular. The consultation responses demonstrated that views on what any limit should be are polarised. Some responses have advocated that a zero limit should be introduced, which would create a rebuttable presumption against granting any SEV licence. Other respondents clearly favour no limit being introduced on the number of premises. As noted in the December 2021 report:
- 44.5% agreed or strongly agreed that there should be a limit on the number of SEVs;
 - 37% agreed or strongly agreed that there should be no limit on the number of SEVs;
 - When asked what number any limit should be set at, 20% said zero but 40% said that there should be no limit;
 - When asked what the limit should be, no option other than 'zero' and 'no limit' received more than 8% support.
- 4.11 Members will recall that the previous consultation in 2019 found that 61% of respondents either agreed or strongly agreed that the Council should set a maximum number for SEVs in certain localities. 31% disagreed or strongly disagreed. The 2019 consultation had a response rate of 806, much higher than the 2021 consultation which had a response rate of 89.
- 4.12 Committee will be aware of evidence about the operation of the SEVs currently operating in the city, and has heard from Police Scotland and Licensing Standards Officers that these premises are generally operating without issues.
- 4.13 Committee members will also recall some of the evidence that they have heard, including responses to the most recent consultation, which argued strongly that the limit should be set at zero as sexual entertainment contributes directly to gender inequality and is contrary to the policy objectives set out in the Equally Safe Strategy.
- 4.14 The tension between potentially licensing SEVs, including permitting a number to operate, and these concerns, are specifically addressed in the guidance which states:
- 20 *Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published in 2014 and updated in 2016 and again in 2018. 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'.*
- 21 *Whilst recognising the conflict between this definition and the licensing of SEV, this guidance will help to ensure that such activities take place in safe and regulated environments. When deciding whether to licence, and whether to limit, SEV in their area, local authorities will need to consider the interaction with their own local policies and strategies, as well as the legal*

implications around limiting a legitimate business activity to minimise the risk of legal challenge’.

- 4.15 Therefore, Committee will have to balance competing views and to determine whether any limit which is imposed will be, on balance, appropriate and proportionate in order to support the Council’s objectives in adopting a licensing system. The Committee must base its decision on the evidence available in the consultation responses, taking account of the relevant legislation and guidance. The Committee should exclude moral opinion in its decision-making process and make a decision based on the evidence before it. Committee will be required to weigh up the evidence provided and to set out why they have preferred one body of evidence over another. By introducing legislation, the Scottish Government has agreed that the operation of SEVs is a lawful activity which is best controlled at a local level by councils which have knowledge and understanding of local circumstances. Accordingly, should factors other than those considered relevant, as set out in the legislation and guidance, be seen to influence the determination of a numbers limit by the Council, then this would increase the risk of a successful legal challenge to any decision.

Option of Setting a Limit of Four SEVs

- 4.16 In making a decision on the limit to set for SEVs, Committee must be able to demonstrate that it has weighed up the evidence before it and has reached a decision that is both rational and proportionate. Committee must also refer to the promotion of the licensing objectives set out in the 1982 Act and which are set out at paragraph 3.6 above. Specifically, Committee should consider whether there a sufficiency of evidence available to it that would enable it to decide that a proportionate limit on the number of SEVs should be four.
- 4.17 Setting a limit of four SEVs being permitted to operate in Edinburgh would allow the Council to regulate the operation of existing premises, if applications for SEV licences by existing premises were to be granted by the Licensing Sub-Committee. Specifically, a limit of four would allow existing operators to apply for a SEV licence without creating a rebuttable presumption against the grant of a licence. It should be stressed that any such application will also be required to be considered on its own merits and take into account all the other discretionary grounds for refusal set out under the 1982 Act. If a SEV licence was granted, this would result in further regulation of such premises, as the Council would have powers to raise standards within the sector and seek to address any local concerns.
- 4.18 As with any licensing policy, any application by new operators would be required to be considered on its individual merits and operators would be entitled to make a case for exemption from any numbers limitation, i.e. the Licensing Sub-Committee could determine if a case had been made by an applicant to be considered an exception to the numbers limitation. Any increase in the number of SEVs seeking to operate within the city would therefore be controlled by the Committee.
- 4.19 The limit of four reflects the number of premises currently operating in Edinburgh. A fifth SEV premises has previously been known to operate and to hold a licence under

the Licensing (Scotland) Act 2005. However, it has not operated for some considerable time.

- 4.20 The Council should periodically review the policy and any numbers limitation, in line with the guidance and the 1982 Act.
- 4.21 During consultation, Committee has heard from those who oppose a limit being set which could prevent SEV premises from operating. In summary, those respondents have raised the following issues:
- 4.21.1 Crime rates showing that SEVs are amongst the safest venues for female workers within the night-time economy due to CCTV, security and regulation and that further regulation, in the form of a licensing scheme will help to raise standards within the sector;
 - 4.21.2 A zero-limit policy would force women into unemployment and/or poverty by limiting the employment opportunities of women, and will expose them to a heightened risk of poverty;
 - 4.21.3 A zero-limit policy risks creating more dangerous unregulated venues and/or private parties which would expose to a greater risk of violence against woman and girls ('VAWG');
 - 4.21.4 Performers are not coerced into working in SEVs. Performers chose to enter this industry for reasons such as a degree of flexibility in working life and combining it with studies or childcare; it can provide a supplementary income; and it is a method of creative expression;
 - 4.21.5 The imposition of a zero-limit breaches equalities legislation because it is (amongst other things) indirect sex discrimination. This would result in period of uncertainty for performers in and employees of SEV premises, as a zero-limit would likely result in a legal challenge by the performers and venues;
 - 4.21.6 Zero-limit supporters do not support the closure of nightclubs where VAWG overwhelmingly occurs; and
 - 4.21.7 Reference to academic studies which show no link between SEVs and an increase in reported rapes in areas of London.
- 4.22 Committee is asked to take the considerations set out at 4.16 - 4.21 above into account when reaching a determination on the appropriate number of SEVs within Edinburgh, namely: 1) weighing up the representations received in response to the consultation; 2) consistency with the licensing objectives; and 3) proportionality in terms of achieving the licensing objectives and balancing the rights of SEVs operators and performers against the rights of those opposed to SEVs.

Setting a Zero Limit for SEVs

- 4.23 As with determining a numbers limit of four, in making a decision on the limit to set for SEVs at zero, Committee must be able to demonstrate that it has weighed up the evidence before it and reached a decision that is both rational and proportionate. The Committee must also refer to the promotion of the licensing objectives set out in the

1982 Act and which are detailed at section 3.6 of this report. Specifically, Committee should consider: is there a sufficiency of evidence available to it that would enable it to decide that a proportionate limit on the number of SEVs is zero? There is some evidence suggesting that there may be wider policy concerns about the appropriateness of SEV-style venues and their place in modern society, Paragraph 45 of the guidance states that the Council should:

“...reflect on whether reducing the number of venues, or setting the number at zero, in their area will have a disproportionate effect on business. The local authority should also consider whether reducing the number of SEV in their area or setting the number at zero would create a risk of legal challenge (for example under ECHR or on grounds of reasonableness)”.

4.24 The Scottish Government guidance further states at paragraph 46:

“...in setting the number at zero, a local authority will require to demonstrate proportionality by evidencing that the competing interests of SEV operators alongside those of the community had been fairly considered and appropriately balanced.”

4.25 In adopting a licensing scheme, the Council is required to take into account the socio-economic and public sector equality duties in the Equality Act 2010 (‘the 2010 Act’) as well as human rights legislation. The Council is also prohibited from indirectly discriminating against a group which shares a protected characteristic, unless that discrimination can be objectively justified. Section 19 of the 2010 Act provides that indirect discrimination arises where a provision, criterion or practice (‘PCP’) that applies in the same way for everyone has the effect of putting a group of people who share a protected characteristic (e.g. sex) at a particular disadvantage. By setting a zero limit in respect of SEVs, a PCP would be created for the purposes of the 2010 Act.

4.26 If it can be clearly demonstrated that a zero-limit policy is justifiable in that it is a proportionate means of achieving a legitimate aim, it will not amount to unlawful discrimination. In doing so, Committee must have considered the evidence which has been gathered throughout the consultation process and consider whether there is an evidential basis to demonstrate that a zero-limit policy would be a proportionate means of achieving a legitimate aim. Further, Committee should also have considered whether a less discriminatory means (e.g. setting a limit of two SEVs) could achieve the same objective.

4.27 A limit of zero creates a rebuttable presumption against the grant of SEV licences in the Council’s area, which could ultimately result in the closure of existing premises and a loss of income for operators, performers and employees of those premises. The Committee will also recall hearing evidence which suggested that a zero limit could lead to SEV activities taking place in unregulated and unsafe environments. Members should also refer to the Integrated Impact Assessment (Appendix 12) for a detailed assessment of what impact the licensing policy could have in this regard.

- 4.28 Both human rights legislation (and in particular Protocol 1, Article 1 of the ECHR – the right to peaceful possession) and the guidance make clear that, in limit-setting, Committee must consider any impact on existing operators. In the event of a zero limit being set, this would not have an immediate impact, since operators could continue until the new regime had commenced and applications for licences were finally determined. However, ultimately it could lead to the closure of the SEVs in the event that they were refused a licence by the Licensing Sub-Committee because of the zero cap on SEVs within the Council's area.
- 4.29 During consultation, Committee heard from those who are in favour of the a zero-limit being introduced for SEVs. In summary, those respondents raised the following issues:
- Sexual Entertainment is a key contributing factor to wider gender inequality in society;
 - The Scottish Government's Equally Safe Strategy which defines sexual entertainment as a form of VAWG;
 - Experiences in other countries which have taken similar steps, such as Sweden and Iceland, which have criminalised the purchase of sex and outlawed similar premises respectively;
 - Women being pushed towards the sex industry as a result of the health pandemic;
 - Anecdotal experiences reported in the media;
 - The Lileth Project in London which saw an increase of reported rapes in the vicinity of SEVs; and
 - Reference to academic texts that argue that SEVs normalise behaviours and interactions between men and women that would normally be considered as sexual harassment, violence and gender discrimination in any other setting.
- 4.30 Members will be aware that some other local authorities have set the limit at zero but that so far these have only been those authorities which did not have any SEVs operating. At the time of drafting this report, Glasgow and Aberdeen have decided the numbers issued in their area, and in effect have allowed existing premises to continue to operate within any cap.
- 4.31 Committee is asked to take the considerations set out at 4.23 - 4.30 above into account when reaching a determination on the appropriate number of SEVs within Edinburgh namely: 1) weighing up the representations received in response to the consultation; 2) consistency with the licensing objectives; and 3) proportionality in terms of achieving the licensing objectives and balancing the rights of SEVs operators and performers against the rights of those opposed to SEVs.

Draft Policy: Suitability of areas of the city in which to locate a SEV

- 4.32 In addition to setting a numbers limitation for the city, Committee will be able to set out a specific limit of SEVs in any identified locality within the city. Responses have generally shown that the only area of the city in which there is any level of support for SEVs to be located is the city centre, which is consistent with responses to the previous consultation. The results of the second consultation indicated that 40% of respondents thought that there should be no limit for SEVs in the city centre, while 20% thought that a zero limit should be introduced for this locality. Furthermore, 38% of respondents thought that there should be no limit for SEVs operating in a busy, late night economy area such as the Grassmarket or George Street, while 21% of respondents thought that a zero limit should be introduced in such a locality. Whilst having residents living within it, the city centre - ward 11 (as identified in Appendix 1 of the draft policy) - also has considerable commercial and hospitality activity, including a significant number of the city's late night economy venues. Additionally, it is the location in which the current SEV premises have operated for decades.
- 4.33 It should be noted that the proposed policy includes specific sections which would allow a future Licensing Sub-Committee to determine whether the location of a SEV would be suitable, notwithstanding the numbers limitation in place. The policy explicitly states that factors such as whether the area is residential, closeness to any school or place of worship or any other building of significance nearby, are among the factors that will be weighed up when deciding whether a location is suitable. This provides applicants with clear notice of the types of issue that the committee will have in mind when considering any application for a SEV licence.
- 4.34 The consultation responses indicated that there would be some support for SEV premises to operate in a commercial or industrial area. However, given that there are currently no SEVs in industrial areas and that the classification of these areas can alter through regeneration and development, it is considered that this type of area is not suitable for this type of activity. It is also recommended that these areas are not suitable as they can sometimes be isolated or quiet after normal business hours, and thus would not be appropriate locations having regard to the safety of performers.
- 4.35 In summary, it is recommended that the policy should clearly state that the only locality within the city that would be considered a suitable location for a SEV would be the city centre (ward 11) (per Appendix 1 of the draft policy) and that no other locality is considered suitable. It should be noted that any application for a licence would be considered on its own merits and the suitability of a SEV premises location, whether in the city centre or not, would still form part of any application process and ultimate determination.

Draft Policy: Suitability of Applicants

- 4.36 As part of the consultation process, Committee has been provided with oral and written evidence from performers, to the effect that SEV premises operators sometimes impose arbitrary fines on performers which could result in them losing significant income. Furthermore, it was explained that 'house fees' in SEV premises

could sometimes increase at short notice for performers through various circumstances, such as sporting events taking place in the city, which negatively affects the performers' income. Accordingly, the SEV policy has been drafted to make it clear that the Council does not expect the practice of fining performers to take place, and that any fees charged to performers should be transparent and agreed in advance and not subject to change at short notice.

- 4.37 Where examples of fining or issues with house fees are brought to the attention of the Council, Committee could take this into account when considering whether an applicant is or remains fit and proper to hold a SEV licence.

Appeals Process for SEVs

- 4.38 If Committee agrees to pass the resolution and adopt a licensing system, then the new scheme will come into effect on 1 April 2023 and the Licensing Sub-Committee will be required to consider applications made for SEV licences after that date. If an application were to be refused, then an applicant would have the opportunity to challenge that decision. In many cases, this will be by raising an appeal in the Sheriff Court.
- 4.39 Additionally, it is likely that the two most contentious issues that Committee will consider in relation to applications made for SEVs will relate to the determinations made by Committee following on from a decision to license SEVs: setting a numbers limitation for SEVs in the city; and identifying the locality in which it can operate.

5. Next Steps

- 5.1 It is recommended that Committee agrees to make the proposed resolution, determines an appropriate number of SEVs for the City of Edinburgh, and thereafter to adopt the proposed licensing policy statement and standard conditions framework.
- 5.2 Where a local authority passes a resolution, it must specify a date from when it is to take effect in their area. This must be at least one year from the date the resolution is passed. The local authority must also publish notice that it has passed a resolution not less than 28 days prior to the date the resolution is to take effect. The notice must state the general effect of the licensing procedure and provisions at Schedule 2 of the 1982 Act, as modified for SEVs, and be published either electronically or in a local newspaper.
- 5.3 At the same time as the local authority publishes notice of its resolution it must also publish its SEVs licensing policy statement.
- 5.4 If Committee approves the recommendations in this report, the proposed date on which this resolution would come into effect would be 1 April 2023. Officers will take the necessary steps to carry out both advertisement of the resolution and publication of the licensing policy statement.

6. Financial impact

- 6.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2022. Any costs incurred by implementing policy are, at present, not included within the service budget.
- 6.2 If Committee agrees to adopt a licensing scheme for SEVs, officers will carry out work to devise a new fee structure for SEVs to ensure that all costs are fully recovered and will bring this back to the Committee for approval.

7. Stakeholder/Community Impact

- 7.1 It is recognised that concerns have been raised previously that SEV activity may be commercial sexual exploitation, encourages unhealthy attitudes towards women, and therefore damages society.
- 7.2 The Scottish Government stated during the passage of the 2015 Act that it acknowledges, through the introduction of this legislation, the freedom of adults to engage in legal activities and employment. Nevertheless, it continues to promote gender equality and actions that tackle outdated attitudes that denigrate or objectify groups or individuals, through all relevant means.
- 7.3 A methodical and robust approach to obtaining evidence and information on the subject was carried out in order to minimise the risk of legal challenge to any policy or Committee decision. Evidence sessions were webcast in order to aid transparency and to provide a record of the evidence received.
- 7.4 All premises which could be affected by a SEV policy were written to and advised of the consultation. The Committee consulted with the trade and other interested parties throughout this process to ensure that all views are taken into account when forming a draft policy statement and licensing conditions framework.
- 7.5 Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published in 2014 and was last updated in 2018. 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.
- 7.6 Following a period of consultation, at the Regulatory Committee meeting on 3 February 2013 the Committee agreed to amend the Public Entertainment Resolution to remove premises used as 'saunas or massage parlours' from the requirement to obtain a public entertainment licence. Any new regulatory regime which is introduced will not apply to such premises.
- 7.7 A full equalities impact assessment has been completed as part of the statutory consultation process and is attached at Appendix 12.

8. Background reading/external references

- 8.1 [Air Weapons and Licensing Scotland Act 2015 - Sexual Entertainment Venues Proposed Resolution 2021](#) report to Regulatory Committee on 2 December 2021
- 8.2 [Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls](#)
- 8.3 [Human Trafficking and Exploitation Strategy](#)
- 8.4 [Air Weapons and Licensing \(Scotland\) Act 2015 – Commencement of Sexual Entertainment Venues licensing provisions](#) report to Regulatory Committee on 11 March 2019

9. Appendices

- 9.1 Appendix 1 - Sexual Entertainment Venues (SEVs) Consultation
- 9.2 Appendix 2 - Brief Summary and Full Results of SEVs Consultation Results
- 9.3 Appendix 3 - Police Scotland Consultation Response
- 9.4 Appendix 4 - Scot PEP Consultation Response
- 9.5 Appendix 5 - Equally Safe Edinburgh Committee Consultation Response
- 9.6 Appendix 6 - Comments on Proposed SEVs - Written Responses
- 9.7 Appendix 7 - Comments on SEVs Conditions - Written Responses
- 9.8 Appendix 8 - Any Other Comments – Written Responses
- 9.9 Appendix 9 - Proposed SEV Policy
- 9.10 Appendix 10 - Proposed SEV Licence Conditions
- 9.11 Appendix 11 - Proposes SEV Resolution
- 9.12 Appendix 12 - Integrated Impact Assessment
- 9.13 Appendix 13 - Scottish Government Guidance on the Provisions for Licensing Of Sexual Entertainment Venues
- 9.14 Appendix 14 – SEV Consultation Key Dates

Licensing of Sexual Entertainment Venues 2021

Overview

In October 2019, the Regulatory Committee agreed in principle to introduce a licensing scheme for Sexual Entertainment Venues (SEVs) in Edinburgh following the introduction of new legislation which allows local authorities to license such venues and an initial public consultation exercise. The definition of a SEV is provided by legislation and is aimed at premises providing sexual entertainment often referred to as 'lap dancing'.

The effects of the COVID-19 pandemic have resulted in a delay to the Committee further considering the implementation of a licensing scheme for SEVs. Accordingly, the Committee have instructed that a further consultation take place on this issue to allow stakeholders another opportunity to engage. This approach recognises that businesses most directly affected by a new licensing regime have been closed since March 2020 and may require further support to effectively engage with the consultation.

This consultation asks for views on a proposed licensing policy and proposed set of licensing conditions for Sexual Entertainment Venues, should the Committee agree to implement a licensing scheme. It is important to note at the outset that if the Council chooses not to adopt these powers, premises which offer this type of entertainment can continue to operate as they do currently.

Adoption of the powers to license SEVs does not imply approval of these premises by the Council.

Premises used as massage parlours or saunas are not included in this legislation or in the definition of sexual entertainment and will not be affected by these proposals.

Why are we consulting?

The aim of the consultation is:

- To seek community and business views on the proposed licensing policy and conditions framework in respect of Sexual Entertainment Venues in Edinburgh.

Controlling the Number of SEVs

If the Council chooses to adopt this licensing scheme, it can choose a limit to the number of SEVs in any locality. The Council will still be required to consider individual licence applications even if it adopts a number limit.

Currently, the city centre has four premises which offer services which would fit within the definition of sexual entertainment venues. There are currently no SEVs operating in localities outside of the city centre.

Question 1

Do you agree that the Council should limit the maximum number of SEVs for any localities in Edinburgh?

Strongly agree – Agree – Neither agree nor disagree – Disagree – Strongly disagree

Question 2

If a licensing scheme is approved for SEVs, the Council could set limit for the number of SEV premises in a locality. What number do you think the Council should set for the following localities?

	0	1	2	3	4	5	6	7	8	8+	No limit
The city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A rural area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A busy late night economy area e.g. George Street, Grassmarket <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A town centre/high street e.g. South Queensferry, Portobello, Kirkliston <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A residential area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An industrial or commercial area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 3

Please consider the type of areas where a SEV might operate, and tell us whether you agree that the following areas would normally be suitable for SEVs to operate:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
The city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A rural area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A busy late night economy area e.g. George Street, Grassmarket <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A town centre/high street within the city e.g. South Queensferry, Portobello, Kirkliston <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A residential area outwith the city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An industrial or commercial area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 4

Do you have any comments on the proposed Sexual Entertainment Policy? The proposed policy is attached below.

Question 5

Do you have any comments on the proposed set of conditions for Sexual Entertainment Venues? The proposed set of conditions for SEVs is attached below.

Question 6

Would you like to make any further comments on these proposals?

Results of SEVs Consultation

Brief Summary

- There were 87 responses in total. 74% of respondents were from residents and 9% classified themselves as 'other', giving descriptions including 'dancer', 'performer', 'tourist', and 'trade representative', among others.
- 35% of respondents either agreed or strongly agreed that the Council should set a maximum number of SEV licences in Edinburgh. 31% disagreed or strongly disagreed.
- 40% of respondents thought there should be no limit on the number of SEV premises based within a city centre locality. 20% thought that a zero limit should be introduced for this locality.

Licensing of Sexual Entertainment Venues 2021: Summary report

This report was created on Monday 05 July 2021 at 11:18 and includes 84 responses.

The consultation ran from 09/04/2021 to 02/07/2021.

Contents

Question 1: What is your name?	2
Name	2
Question 2: What is your email address?	2
Email	2
Question 3: What is your organisation (if relevant)?	2
organisation	2
Question 4: Please choose which of the following applies to you.	2
Respondent organisation	2
Further details	2
Question 5: Do you agree that the Council should set a maximum number of SEVs for any localities in Edinburgh?	3
Agree set max no. SEVs?	3
Question 6: If a licensing scheme is approved for SEVs, the Council could set a limit for the number of SEV premises in a locality.	3
What number do you think the Council should set for the following localities?	
how many where? - The city centre	3
how many where? - A rural area	4
how many where? - A busy late night economy area e.g. George Street, Grassmarket	5
how many where? - A town centre/high street e.g. South Queensferry, Portobello, Kirkcaldy	6
how many where? - A residential area outwith the city centre	7
how many where? - An industrial or commercial area	8
Question 7: Do you have any comments on the proposed Sexual Entertainment Policy? The proposed policy is attached below.	9
Please give us your comments.	9
Question 8: Do you have any comments on the proposed set of conditions for Sexual Entertainment Venues? The proposed set of conditions is attached below.	9
comments on conditions?	9
Question 9: Would you like to make any further comments on these proposals?	9
further comments?	9
Question 10: What is your ethnic group? (Choose ONE section from A to E, then tick ONE box which best describes your ethnic group or background)	9
Ethnicity (A - White)	9
Other white ethnic group, please write in	10
Ethnicity (Mixed or multiple ethnic group)	10
Any mixed or multiple ethnic groups, please write in	10
Ethnicity (Asian, Asian Scottish, Asian British)	10
Other, please write in	10
Ethnicity (D - African, Caribbean or Black)	11
Other, please write in	11
Ethnicity (E - Other)	11
Other, please write in	11
Question 11: What is your sexual orientation?	11
Sexuality	11
Question 12: What is your age?	12
How old are you?	12
Question 13: How would you describe your national identity? (Please tick all that apply)	13
National identity	13
Other, please write in	13
Question 14: What is your gender?	13
Gender	13
Question 15: What religion, religious denomination or body do you belong to?	14
Religion	14
Another religion (please specify)	14

Question 1: What is your name?

Name

There were 74 responses to this part of the question.

Question 2: What is your email address?

Email

There were 88 responses to this part of the question.

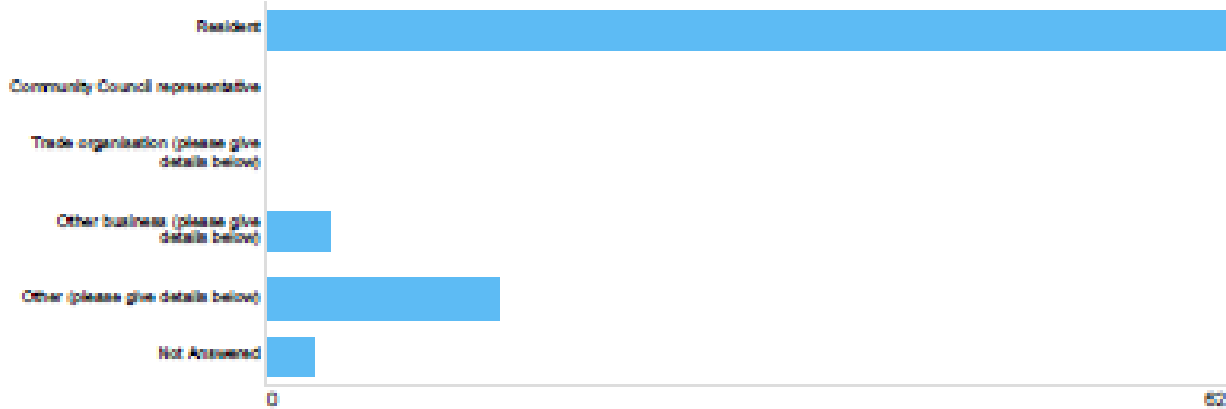
Question 3: What is your organisation (if relevant)?

organisation

There were 19 responses to this part of the question.

Question 4: Please choose which of the following applies to you.

Respondent organisation



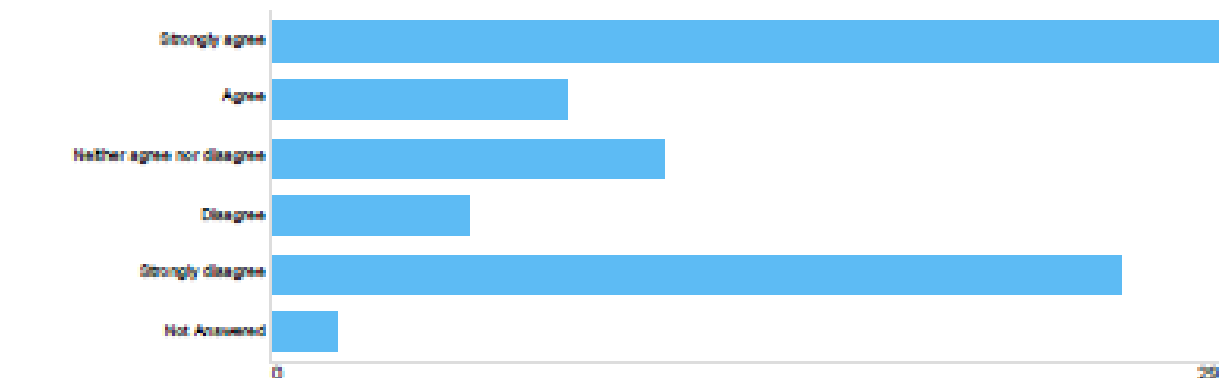
Option	Total	Percent
Resident	62	73.81%
Community Council representative	0	0.00%
Trade organisation (please give details below)	0	0.00%
Other business (please give details below)	4	4.76%
Other (please give details below)	15	17.86%
Not Answered	3	3.57%

Further details

There were 21 responses to this part of the question.

Question 6: Do you agree that the Council should set a maximum number of SEVs for any localities in Edinburgh?

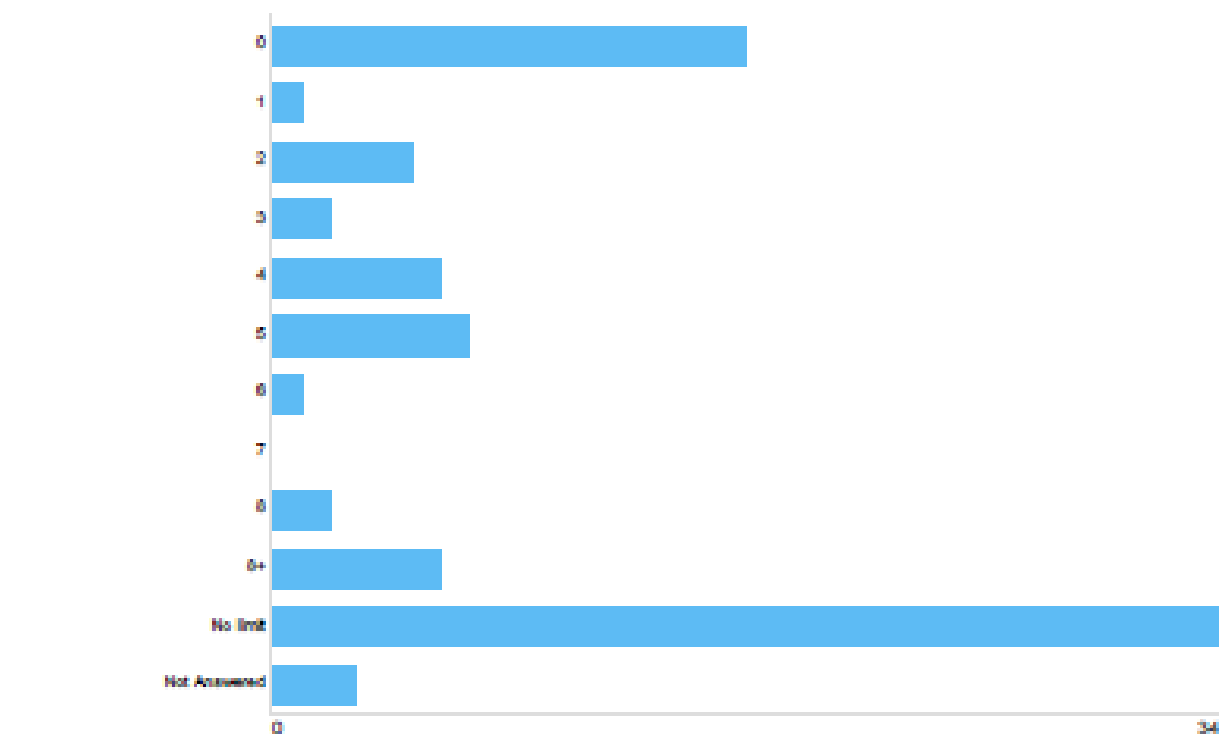
Agree set max no. SEVs?



Option	Total	Percent
Strongly agree	29	34.52%
Agree	9	10.71%
Neither agree nor disagree	12	14.29%
Disagree	6	7.14%
Strongly disagree	26	30.95%
Not Answered	2	2.38%

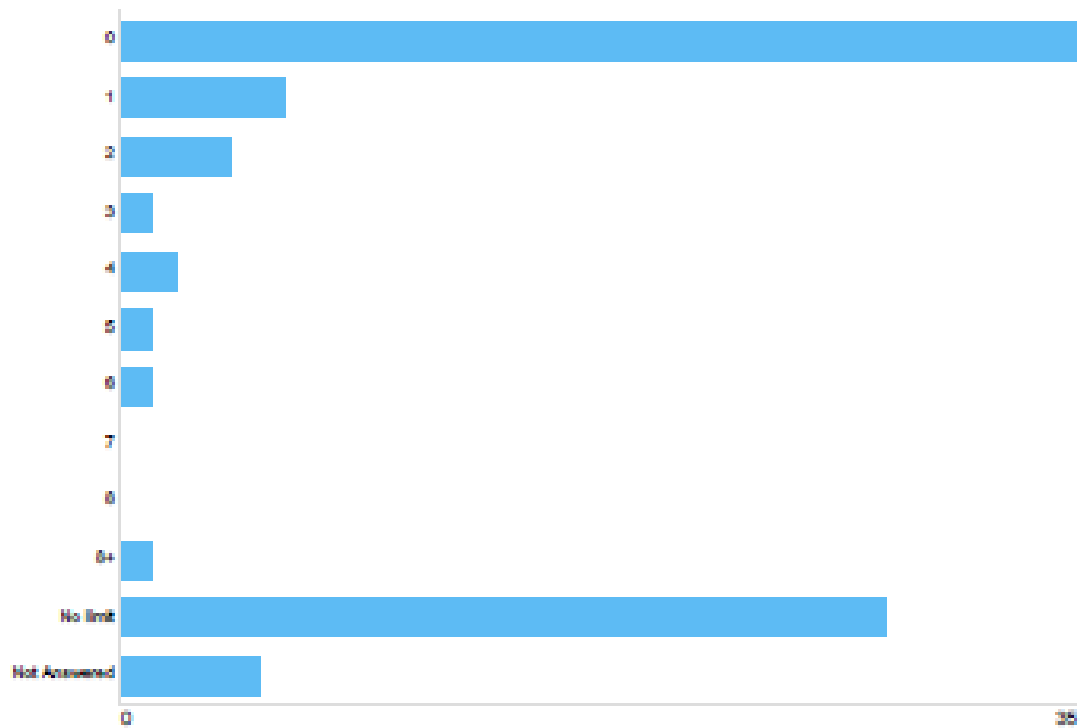
Question 8: If a licensing scheme is approved for SEVs, the Council could set a limit for the number of SEV premises in a locality. What number do you think the Council should set for the following localities?

how many whers? - The city centre



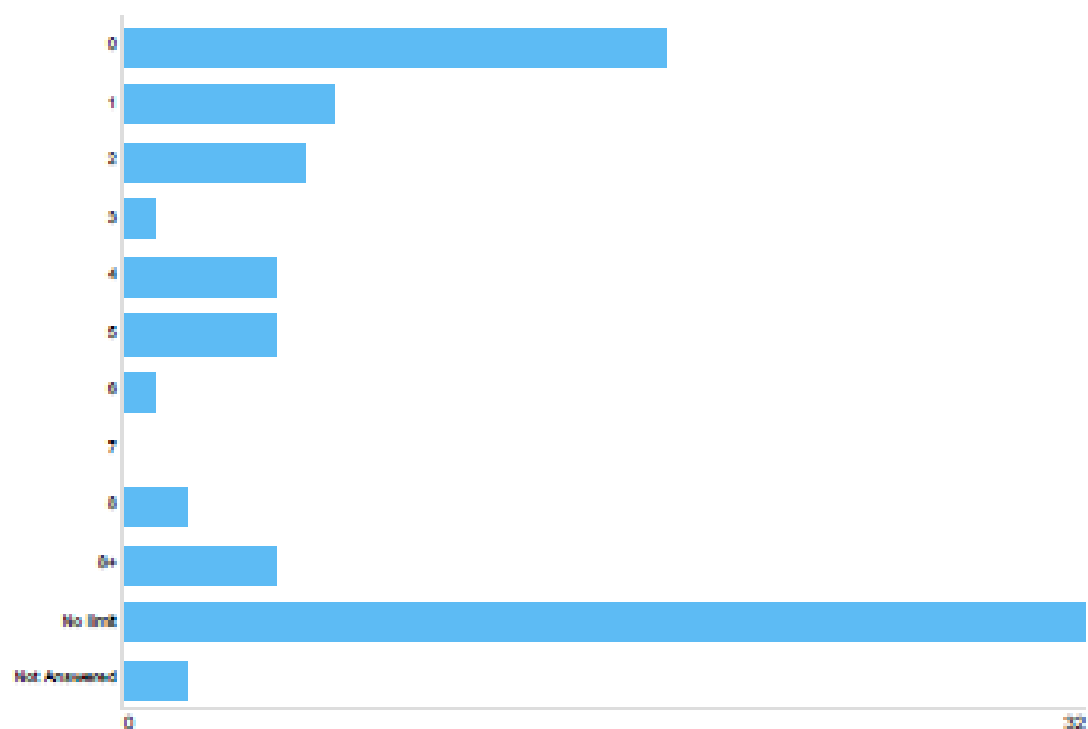
Option	Total	Percent
0	17	20.24%
1	1	1.19%
2	5	5.95%
3	2	2.38%
4	6	7.14%
5	7	8.33%
6	1	1.19%
7	0	0.00%
8	2	2.38%
8+	6	7.14%
No limit	34	40.48%
Not Answered	3	3.57%

how many where? - A rural area



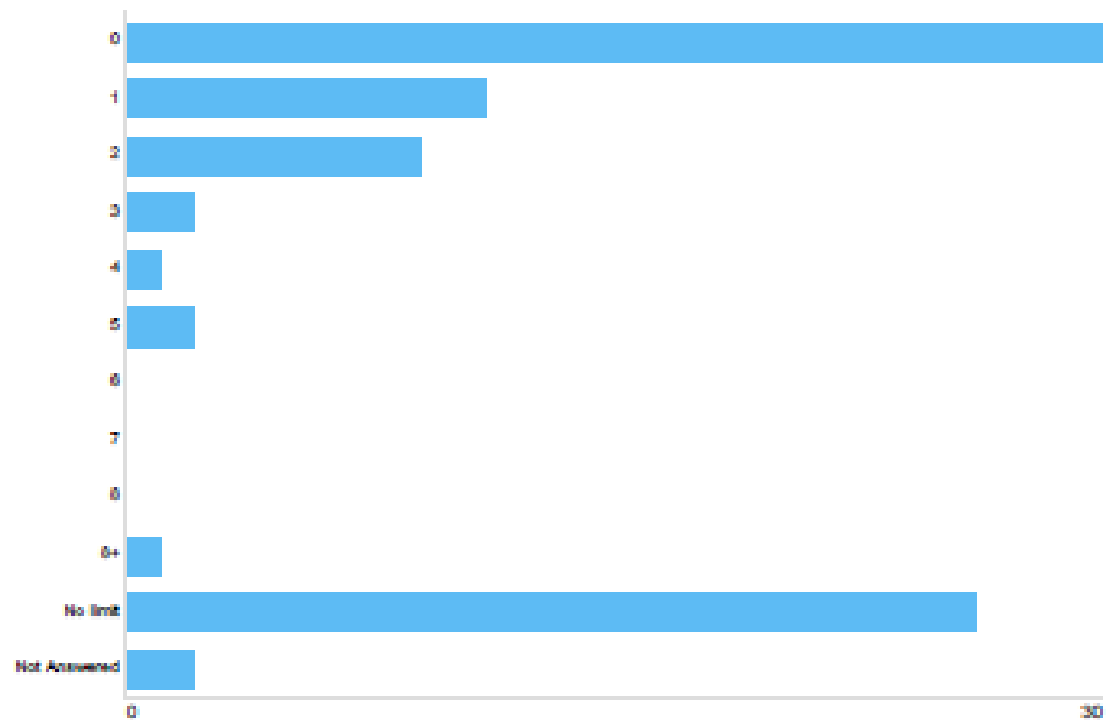
Option	Total	Percent
0	35	41.57%
1	6	7.14%
2	4	4.76%
3	1	1.19%
4	2	2.38%
5	1	1.19%
6	1	1.19%
7	0	0.00%
8	0	0.00%
8+	1	1.19%
No limit	28	33.33%
Not Answered	5	5.95%

how many where? - A busy late night economy area e.g. George Street, Grassmarket



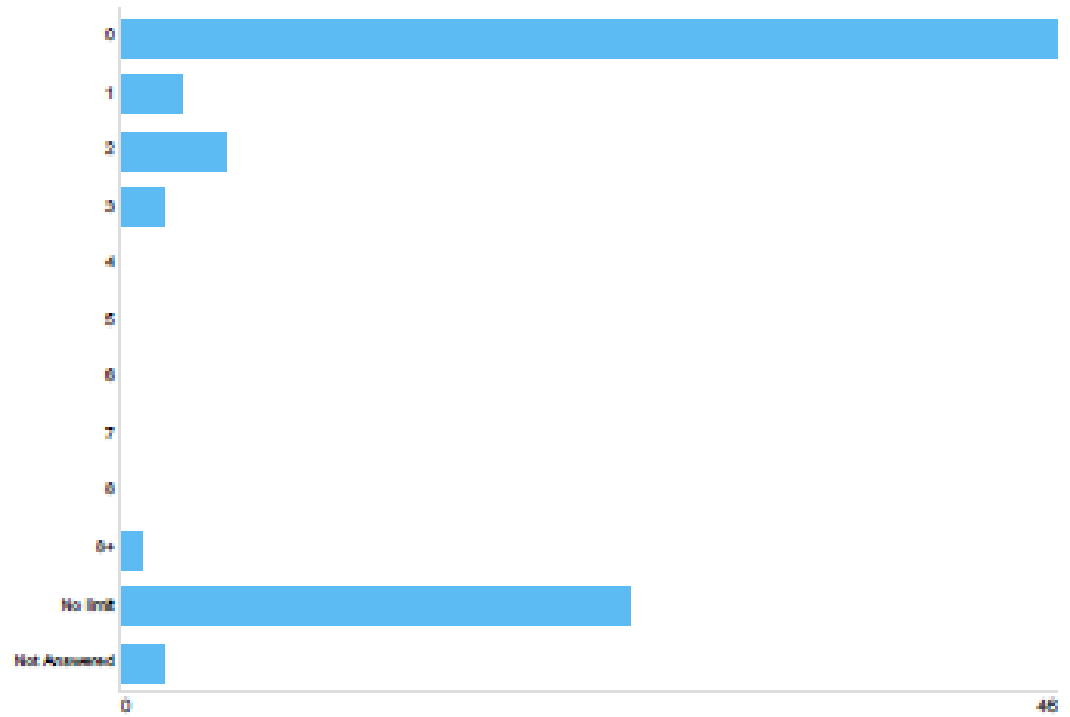
Option	Total	Percent
0	18	21.43%
1	7	8.33%
2	6	7.14%
3	1	1.19%
4	5	5.95%
5	5	5.95%
6	1	1.19%
7	0	0.00%
8	2	2.38%
8+	5	5.95%
No limit	32	38.10%
Not Answered	2	2.38%

how many where? - A town centre/high street e.g. South Queensferry, Portobello, Kirkcaldy



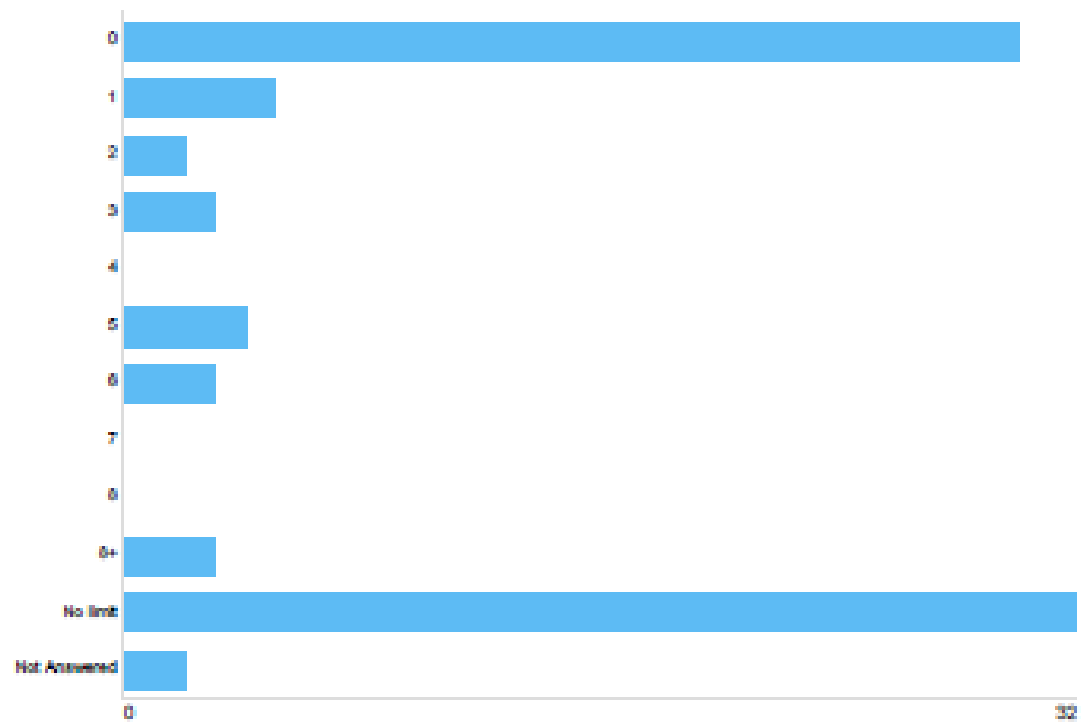
Option	Total	Percent
0	30	35.71%
1	11	13.10%
2	9	10.71%
3	2	2.38%
4	1	1.19%
5	2	2.38%
6	0	0.00%
7	0	0.00%
8	0	0.00%
9+	1	1.19%
No limit	26	30.95%
Not Answered	2	2.38%

how many where? - A residential area outwith the city centre



Option	Total	Percent
0	46	54.76%
1	3	3.57%
2	5	5.95%
3	2	2.38%
4	0	0.00%
5	0	0.00%
6	0	0.00%
7	0	0.00%
8	0	0.00%
8+	1	1.19%
No limit	29	29.76%
Not Answered	2	2.38%

how many where? - An industrial or commercial area



Option	Total	Percent
0	30	35.71%
1	5	5.95%
2	2	2.38%
3	3	3.57%
4	0	0.00%
5	4	4.76%
6	3	3.57%
7	0	0.00%
8	0	0.00%
9+	3	3.57%
No limit	32	38.10%
Not Answered	2	2.38%

Question 7: Do you have any comments on the proposed Sexual Entertainment Polloy? The proposed polloy is attached below.

Please give us your comments.

There were 48 responses to this part of the question.

Question 8: Do you have any comments on the proposed set of conditions for Sexual Entertainment Venues? The proposed set of conditions is attached below.

comments on conditions?

There were 48 responses to this part of the question.

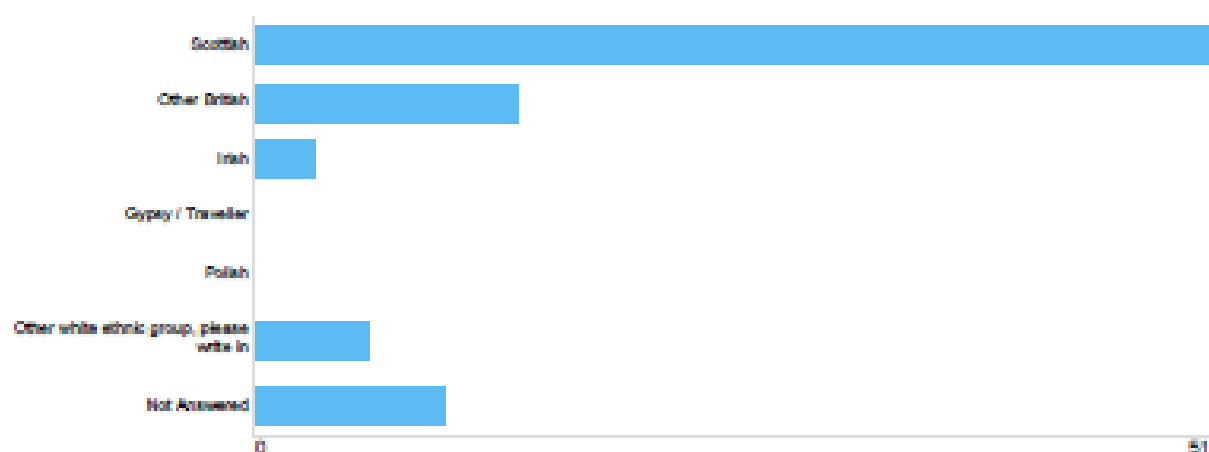
Question 8: Would you like to make any further comments on these proposals?

further comments?

There were 34 responses to this part of the question.

Question 10: What is your ethnic group? (Choose ONE section from A to E, then tick ONE box which best describes your ethnic group or background)

Ethnicity (A - White)



Option	Total	Percent
Scottish	51	60.71%
Other British	14	16.87%
Irish	3	3.57%
Gypsy / Traveller	0	0.00%
Polish	0	0.00%
Other white ethnic group, please write in	6	7.14%
Not Answered	10	11.90%

Other white ethnic group, please write in

There were 7 responses to this part of the question.

Ethnicity (Mixed or multiple ethnic group)

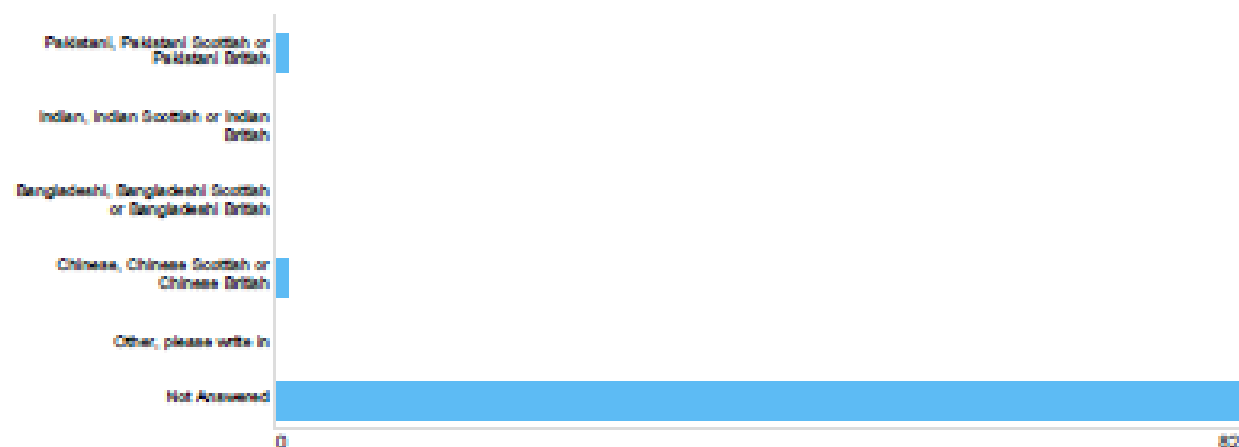


Option	Total	Percent
Any mixed or multiple ethnic groups, please write in	0	0.00%
Not Answered	54	100.00%

Any mixed or multiple ethnic groups, please write in

There was 1 response to this part of the question.

Ethnicity (Asian, Asian Scottish, Asian British)

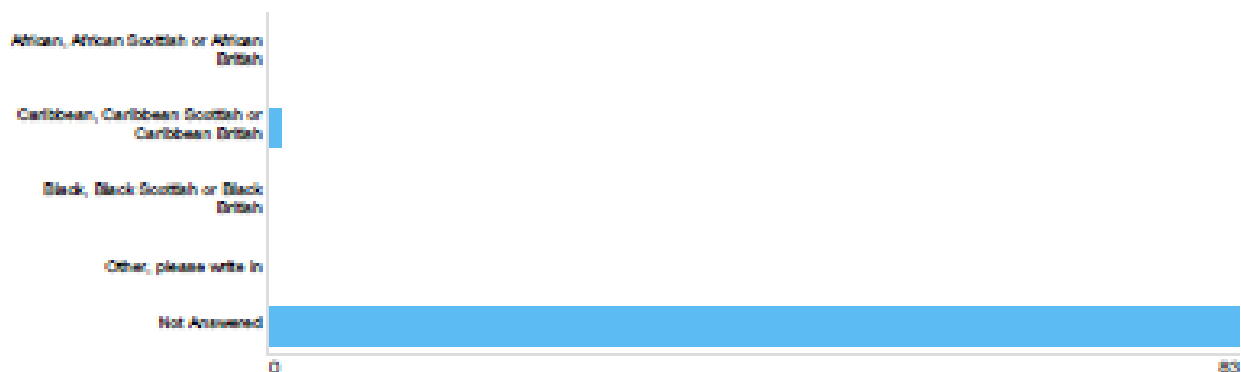


Option	Total	Percent
Pakistani, Pakistani Scottish or Pakistani British	1	1.12%
Indian, Indian Scottish or Indian British	0	0.00%
Bangladeshi, Bangladeshi Scottish or Bangladeshi British	0	0.00%
Chinese, Chinese Scottish or Chinese British	1	1.12%
Other, please write in	0	0.00%
Not Answered	82	97.82%

Other, please write in

There were 9 responses to this part of the question.

Ethnicity (D - African, Caribbean or Black)



Option	Total	Percent
African, African Scottish or African British	0	0.00%
Caribbean, Caribbean Scottish or Caribbean British	1	1.19%
Black, Black Scottish or Black British	0	0.00%
Other, please write in	0	0.00%
Not Answered	83	98.81%

Other, please write in

There were 8 responses to this part of the question.

Ethnicity (E - Other)



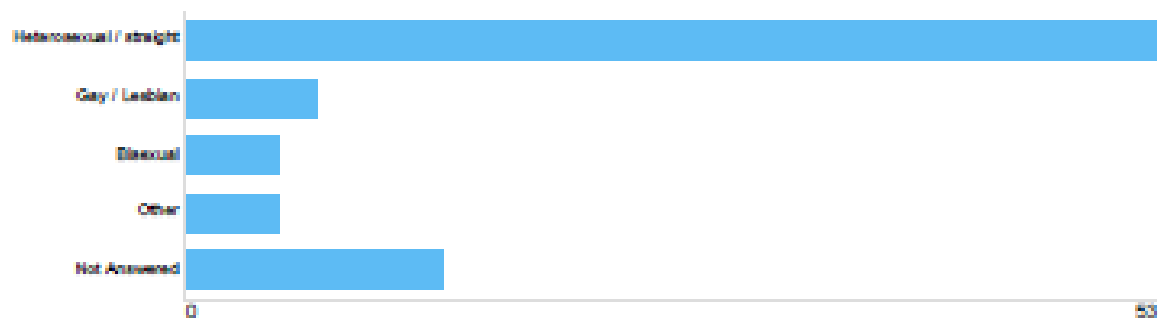
Option	Total	Percent
Arab	0	0.00%
Other, please write in	1	1.19%
Not Answered	83	98.81%

Other, please write in

There were 2 responses to this part of the question.

Question 11: What is your sexual orientation?

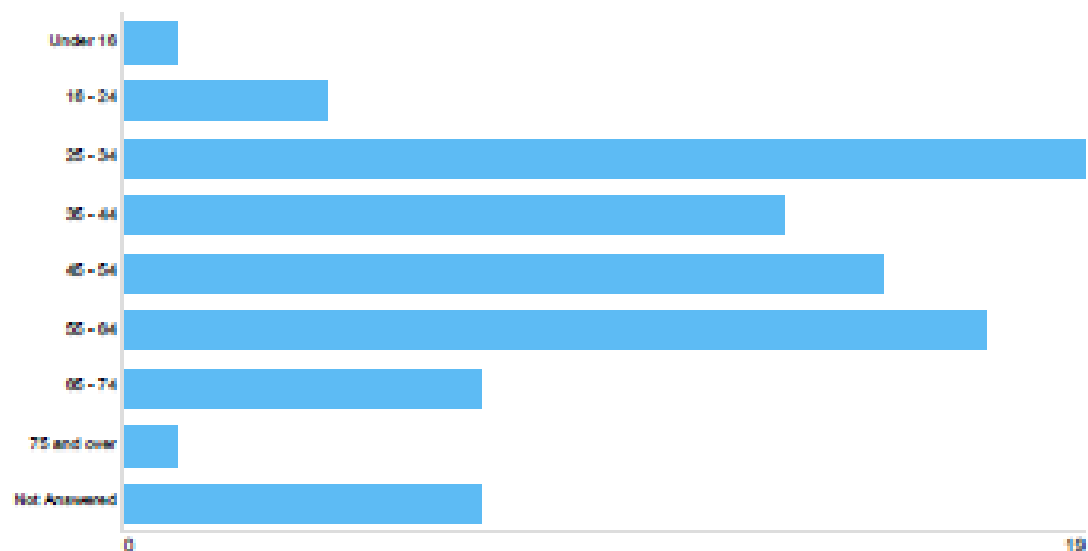
Sexuality



Option	Total	Percent
Heterosexual / straight	53	63.10%
Gay / Lesbian	7	8.33%
Bisexual	5	5.95%
Other	5	5.95%
Not Answered	14	16.67%

Question 12: What is your age?

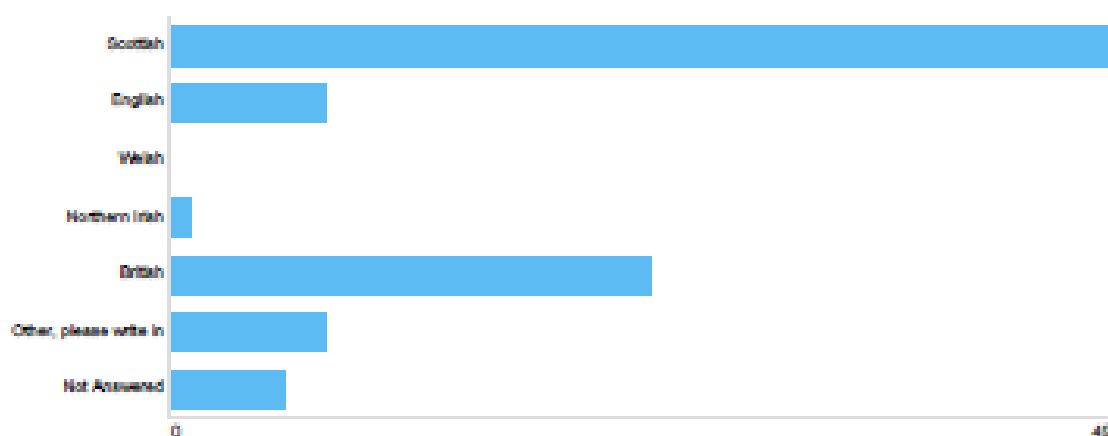
How old are you?



Option	Total	Percent
Under 18	1	1.12%
18 - 24	4	4.75%
25 - 34	19	22.62%
35 - 44	13	15.48%
45 - 54	15	17.86%
55 - 64	17	20.24%
65 - 74	7	8.33%
75 and over	1	1.12%
Not Answered	7	8.33%

Question 13: How would you describe your national identity? (Please tick all that apply)

National Identity



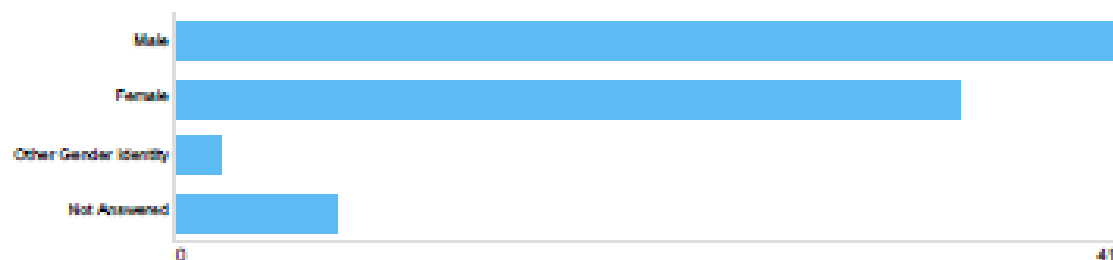
Option	Total	Percent
Scottish	49	58.33%
English	8	9.52%
Welsh	0	0.00%
Northern Irish	1	1.12%
British	25	29.76%
Other, please write in	8	9.52%
Not Answered	6	7.14%

Other, please write in

There were 8 responses to this part of the question.

Question 14: What is your gender?

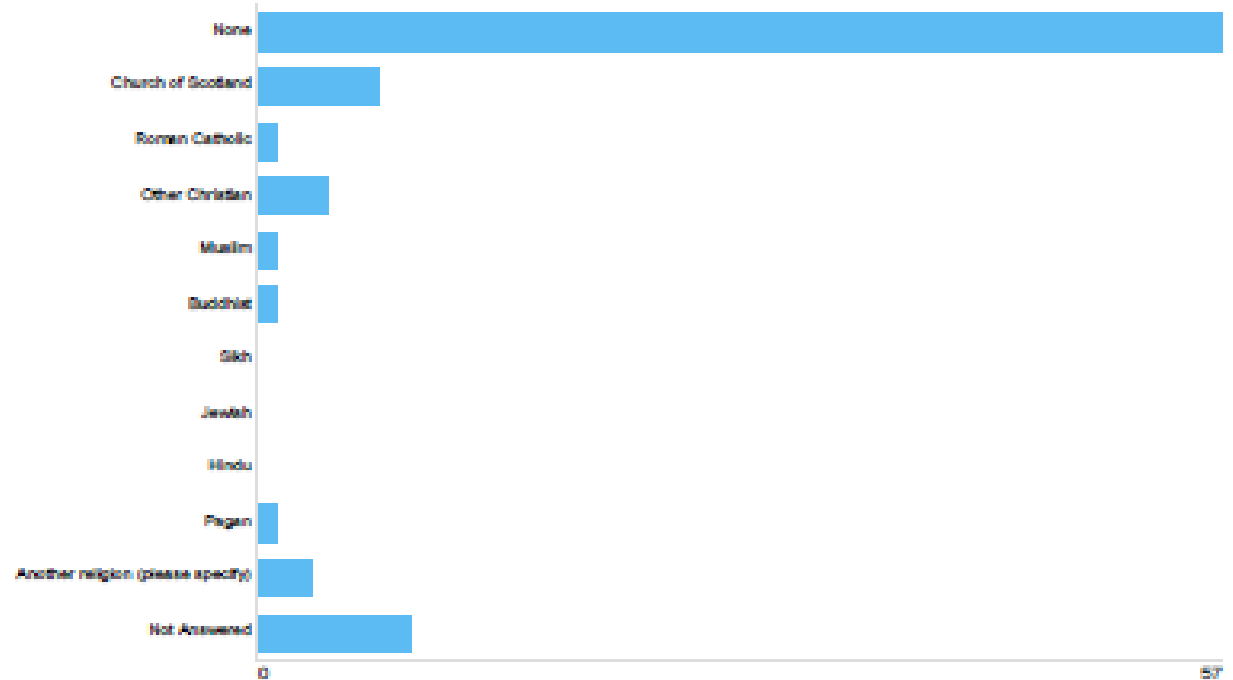
Gender



Option	Total	Percent
Male	41	48.81%
Female	34	40.48%
Other Gender Identity	2	2.38%
Not Answered	7	8.33%

Question 16: What religion, religious denomination or body do you belong to?

Religion



Option	Total	Percent
None	57	57.88%
Church of Scotland	7	8.33%
Roman Catholic	1	1.13%
Other Christian	4	4.76%
Muslim	1	1.13%
Buddhist	1	1.13%
Sikh	0	0.00%
Jewish	0	0.00%
Hindu	0	0.00%
Pagan	1	1.13%
Another religion (please specify)	3	3.57%
Not Answered	9	10.71%

Another religion (please specify)

There were 3 responses to this part of the question.

Police Scotland Response to SEVs Consultation

30/06/21



City of Edinburgh Council
249 High Street
EDINBURGH
EH1 1YJ

David Happs
Licensing Chief Inspector

St Leonard's Police Station
14 St Leonard's Street
Edinburgh
EH8 9QW

Dear Sir/Ma'am,

**PUBLIC CONSULTATION ON LICENSING OF SEXUAL ENTERTAINMENT VENUES –
DRAFT CONDITIONS AND POLICY**

In response to the public consultation on the licensing of Sexual Entertainment Venues (SEV's), I am encouraged to see that the recommendations submitted by Police Scotland in response to the initial consultation have been included in the draft Policy and Conditions.

The Policy and Conditions proposed are imperative to ensure the safety of staff and customers attending SEV's, and allow City of Edinburgh Council and Police Scotland to ensure compliance with the licensing regime.

I would respectfully request that in relation to proposed condition 10, the word 'Police' is replaced with the words 'Chief Constable'. Whilst this is a minor amendment, it brings this type of condition in line with a similar condition for licenses issued under Licensing (Scotland) Act 2005.

Police Scotland have a policy where a definition is provided of 'The satisfaction of the Chief Constable' in relation to CCTV within licensed premises, which provides clarity to Police Officers, City of Edinburgh Council and SEV operators and staff as to exactly what is expected of CCTV systems, and ensures compliance with the condition can be ensured.

I have no further requests or recommendations in relation to the draft Policy or Conditions.

Yours faithfully
David Happs
Chief Inspector

For enquiries please contact the Licensing Department on 0131 662 5775.

Scot Pep response to SEV licensing consultation

Scot-Pep is a national sex worker-led charity, established in 1989. We advocate for the safety, rights and health of everyone who sells sex in Scotland, and we take a human rights-based approach to sex work. We welcome the opportunity to respond to the consultation on the Licensing of Sexual Entertainment Venues 2021.

Scot-Pep's priority is that workers within SEVs are protected, their rights upheld, and that no workers are made more precarious by changes to SEV licensing.

Considerations within the Draft Sexual Entertainment Policy

Our concern about SEV licences being denied or revoked is borne of our concern for the workers' rights, safety, wellbeing and financial security of the people who work in these venues. The last 18 months have caused significant upheaval and increased precarity for workers across Scotland (in all sectors), and the priority for the next 12 months should be supporting people's income/employment to remain as stable as possible.

Scot-Pep does not believe setting a formal upper limit for the maximum number of SEVs is a useful approach. Instead we believe that every application should be taken on its individual merit and quality. Reviewing licenses should prioritise the views and needs of the workers at the venue and those who live and work nearby, rather than based on moralising arguments and outrage.

Scot-Pep does not have a strong viewpoint on the suggestion that the city centre is the only area suitable for SEVs to be located, and we note that trade union groups such as United Voices of the World (UVW) have previously noted that venues in industrial areas are less safe for the workers than those in city centre areas with higher footfall. Internal conversations within Scot-Pep's network confirm this, with workers who have previously worked in premises and venues based in industrial areas reporting feeling less safe both at work, and travelling to and from work.

We are concerned at the potential for licensing decisions being made every 12 months, as this creates a sense of instability and precarity for workers at these venues. The more stable their employment can be, the more likely they are to be able to access workplace protections and feel able to access trade union resources as well as remaining financially secure without heightened financial anxiety. As a result, we would argue that the ability to make maximum license lengths up to 5 years would be more appropriate; with an in-built ability for early termination on certain grounds, which could include factors such as degrees of security for workers, and other factors which would help to empower and secure workers' rights in these venues. Scot-Pep notes that the sex industry has a specific ability to transition to working 'underground' in unlicensed venues, which are unlikely to have workplace protections. In light of this we urge the council to ensure licensing is an option to avoid underground venues opening.

Paragraph 3.3 of the Draft Sexual Entertainment Policy sets out an overly broad set of criteria for the ‘character and function’ of the locality around proposed SEVs that can be used to deny a licence. These criteria can be used to deny a licence almost anywhere at the sole discretion of the committee. In practice, this will create ‘zoning laws’, which have been proven to exacerbate gentrification and push SEVs into industrial areas, resulting in a lack of safety for performers and a decrease in clientele¹. A decrease in clientele means a decrease in resources for the workers. Making strippers poorer will reduce their bargaining power with both management and clientele.

The draft policy says it will take into account whether there “have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area” when considering an SEV licence. This is overly broad, but more concerning is the linking of sexual entertainment venues to sexual assault happening in the vicinity. It is often the case that SEVs are located in hotspots of local nightlife, and that the areas surrounding them have higher levels of sexual assault crimes reported when compared to areas that are more residential. It is more important to prioritise reports from workers about what happens inside the club than to hypothesise on the reasons for crimes committed in the local area when evidence has shown that there is no link between SEVs and violence in England. For example, following the closure of the Platinum Lounge in Chester in 2015, violent crime and sexual offence rates showed an upward trend since².

To our knowledge there have not been any instances of trafficking in the UK taking place in a licenced SEV. To link licences to general figures on trafficking ‘in the area’ is overly broad, and conflates trafficking with SEVs where there is no proven link. This contributes to the commonly-held misconception³ that the sex industry has a stronger connection with trafficking than any other industry, which in turn contributes to greater stigma against workers.

This consultation presents an opportunity for City of Edinburgh Council to protect the rights of workers in SEVs and take steps to uphold safety and protection under the law. We note several points in the Draft Sexual Entertainment Conditions that seek to uphold the rights of workers within SEVs, including ensuring they are able to access information on trade unions, which is very welcome.

Link with Equally Safe strategy

We strongly disagree with the Scottish Government’s categorisation of sex work as a form of violence against women as laid out in Equally Safe. This definition obfuscates the various and diverse forms of sexual labour that exist and make it extremely difficult for workers to engage with SG on the topic of violence *within* the sex industry, as their entire experience is defined as violence (and sometimes towards themselves/each other under brothel-keeping

¹ See for example: Phil Hubbard and Rachela Colosi. "Sex, crime and the city: Municipal law and the regulation of sexual entertainment." *Social & Legal Studies* 22.1: 67-86. 2013.

² <https://www.ukcrimestats.com/Neighbourhood/9887>

³ <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2020/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2020>

laws which criminalise two sex workers working together). We are pleased to see this consultation focus on keeping the environment safe [for workers] and regulated under this complicated framework. It is our position that this definition should be scrapped from the next violence against women strategy, and advocate for SG/local authorities to work with peer-led organisations to combat violence and exploitation within the sex industry.

Contact: voice@scot-pep.org.uk

Appendix 5

Equally Safe Edinburgh Committee Consultation Response

SEV Consultation

Overview

In October 2019, the Regulatory Committee agreed in principle to introduce a licensing scheme for Sexual Entertainment Venues (SEVs) in Edinburgh following the introduction of new legislation which allows local authorities to license such venues and an initial public consultation exercise. The definition of a SEV is provided by legislation and is aimed at premises providing sexual entertainment often referred to as 'lap dancing'.

The effects of the COVID-19 pandemic have resulted in a delay to the Committee further considering the implementation of a licensing scheme for SEVs. Accordingly, the Committee have instructed that a further consultation take place on this issue to allow stakeholders another opportunity to engage. This approach recognises that businesses most directly affected by a new licensing regime have been closed since March 2020 and may require further support to effectively engage with the consultation.

This consultation asks for views on a proposed licensing policy and proposed set of licensing conditions for Sexual Entertainment Venues, should the Committee agree to implement a licensing scheme. It is important to note at the outset that if the Council chooses not to adopt these powers, premises which offer this type of entertainment can continue to operate as they do currently.

Adoption of the powers to license SEVs does not imply approval of these premises by the Council.

Premises used as massage parlours or saunas are not included in this legislation or in the definition of sexual entertainment and will not be affected by these proposals.

Why are we consulting?

The aim of the consultation is:

- To seek community and business views on the proposed licensing policy and conditions framework in respect of Sexual Entertainment Venues in Edinburgh.

Controlling the Number of SEVs

If the Council chooses to adopt this licensing scheme, it can choose a limit to the number of SEVs in any locality. The Council will still be required to consider individual licence applications even if it adopts a number limit.

Currently, the city centre has four premises which offer services which would fit within the definition of sexual entertainment venues. There are currently no SEVs operating in localities outside of the city centre.

Question 1

Do you agree that the Council should limit the maximum number of SEVs for any localities in Edinburgh?

Strongly agree

Question 2

If a licensing scheme is approved for SEVs, the Council could set limit for the number of SEV premises in a locality. What number do you think the Council should set for the following localities?

	0	1	2	3	4	5	6	7	8	8+	No limit
The city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A rural area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A busy late night economy area e.g. George Street, Grassmarket <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A town centre/high street e.g. South Queensferry, Portobello, Kirkliston <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A residential area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An industrial or commercial area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The Equally Safe Edinburgh Committee supports that the number of licenses approved for SEVs should be 0 in all settings.

Question 3

Please consider the type of areas where a SEV might operate, and tell us whether you agree that the following areas would normally be suitable for SEVs to operate:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
The city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A rural area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A busy late night economy area e.g. George Street, Grassmarket <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A town centre/high street within the city e.g. South Queensferry, Portobello, Kirkliston <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A residential area outwith the city centre <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An industrial or commercial area <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The Equally Safe Edinburgh Committee strongly disagrees that any of the above areas are suitable for SEVs to operate.

Question 4

Do you have any comments on the proposed Sexual Entertainment Policy? The proposed policy is attached below.

The Equally Safe Edinburgh Committee (ESEC – ‘The Committee’) agrees with provision 1.4 that SEVs in Edinburgh should be licensed and that the number of licenses should be set to nil. It is the Committee’s view that, in any discussion around eradicating Violence Against Women and Girls (VAWG), sexual entertainment must be viewed as a cause and consequence of male power and privilege and subsequently of pervasive gender inequality in society. The Committee will refer to particular areas within the proposed policy to raise specific considerations that are problematic in regard to the licensing of SEVs.

Initially, the very definition of a SEV (section 2.1) clearly states that in a SEV, the purpose of sexual entertainment is the financial gain of the organiser. Given that the organiser is the proprietor of the venue, this raises the question of the conditions of employment of the performers, who are overwhelmingly women. The majority of performers in SEVs are self-employed, and in order to perform, they are required to pay a fee to the venue. This fee is arbitrary and, given the precarious nature of the sex industry, can often leave women with a financial loss at the end of a shift. This is a clear indication that women’s employment rights are not protected in SEVs, which contributes to further inequality.

The Committee would further highlight concerns under point 2.5 regarding the provision of occasional sexual entertainment at a particular venue. It is stated that SEV licenses will not be required for venues that do not provide sexual entertainment more than 3 times per 12 months. However, this raises the question of how this is going to be regulated, especially if this entertainment takes place in a private space within a business such as a hotel, a short-term let flat or a Festival venue. There needs to be more clarity as to where the onus of monitoring sexual entertainment in such venues and the subsequent requirement of a license application lies.

This, together with item 4.1 relating to the length of license terms and the option of a short-term license are of concern to the Committee as we would opt for consistency in the proposed licensing scheme. We propose that the Council should have licensing powers over SEVs and that the number of licenses should be nil in order to convey a strong message that our local authority does not condone the objectification of women for male pleasure. If licenses are able to be obtained for shorter time periods, then this message becomes diluted.

The Committee would further like to highlight that, when considering an application for a SEV license, expert opinion should be sought from a relevant women's organisation and a trade union. This would provide an expert view of the experiences of women performing/working in SEVs from a gendered perspective. Further, it would ensure that the employment rights of staff are taken into consideration when an application is made, including pay and safety.

Another concern highlighted by the Committee is the incongruence between the proposed policy and the Public Sector Equality Duty (PSED). The PSED specifies that public local authorities are required to have due regard to the following objectives in relation to the Equality Act (2010):

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant paper for Scotland, [‘The Fairer Scotland Duty: Interim Guidance for Public Bodies’](#) further explicitly names two key requirements for public bodies:

- *‘To actively consider how they could reduce inequalities of outcome in any major strategic decision they make; and*
- *To publish a written assessment, showing how they have done this.’ (p.5)*

The Committee notes that this will likely require the City of Edinburgh Council to carry out an Equality Impact Assessment prior to any decision to license SEVs; however, no mention is made of any such assessment having taken place or being planned for the future.

Further, the [Review of the Operation of the Public Sector Equality Duty in Scotland](#) specifically reports that *‘we know that despite significant efforts to comply with the PSED*

and an increasing commitment across the public sector to equality and human rights, outcomes for people who share protected characteristics are still not where they should be. Inequality persists. We are not seeing progress go as far and fast as is needed to realise the ambition in the National Performance Framework (NPF) that we protect, respect and fulfil human rights and live free from discrimination. Now that this ambition is translated into a specific NPF outcome, it is right that we take stock and reflect on what needs to change to ensure our ambitions are better realised’ (p.1). Sex is defined as a protected characteristic under the Equality Act 2010, and the decision to continue the operation of SEVs is at odds with Edinburgh’s compliance with the Fairer Scotland Duty, the PSED, and on a larger scale, Scotland’s effort to improve outcomes related to the [National Performance Framework](#).

Lastly, the Committee would like to highlight the final section of the Policy titled ‘Relationship with Other Strategies’. Although the Policy document identifies a conflict between the licensing of SEVs and the Equally Safe strategy, it should be made clearer that SEVs directly contravene the Equally Safe Strategy. Specifically, the statement that the Scottish Government ‘intends that [licensing] will help to ensure that such activities take place in safe and regulated environments’ does not represent the aspirations of Equally Safe. Equally Safe aims to ‘prevent and eradicate’ violence against women and girls; not to regulate it. If we are to accept the definition that lap dancing, stripping and other forms of sexual entertainment are a form of violence against women, then this is something we must seek to end-not to legitimise or regulate.

Question 5

Do you have any comments on the proposed set of conditions for Sexual Entertainment Venues? The proposed set of conditions for SEVs is attached below.

The Committee would like to offer views on the proposed conditions for SEVs from a gendered and practical perspective. The Committee’s main concern around the proposed conditions is around enforcement of safety for performers, the possibility for abuse/malicious use of conditions and the publicity and advertising of SEVs.

Firstly, the Committee would like to highlight that simple measures such as CCTV and panic alarms are not in themselves adequate in preventing violence against women, or indeed any performer or staff member in any establishment. There needs to be clarity as to what the response to a panic alarm would be, as well as to any security staff member in charge of monitoring CCTV footage.

With particular regard to record-keeping, the Committee would raise concerns about the potential abuse of performers’ information, compromising their privacy. Women involved in the sex industry, whether in a SEV setting, online, or indoors, can be victims to doxing (ie. malicious sharing of their personal details), stalking, harassment, sexual abuse, rape and femicide either during or outside their performance hours. There have been various instances of women who lost jobs and career prospects as a direct result of their involvement in the sex industry being revealed to their current/future employers (for example, [Demi Hunziker](#) and [Kirsten Vaughn](#) both lost jobs due to creating OnlyFans content).

Although most employers across different industries maintain identity records of their employees, the sex industry continues to be heavily stigmatised and tends to be associated with assumptions about a woman's character. The risk therefore of a woman's current/prior employment at a SEV affecting her future career prospects is therefore quite high, should this information not be adequately protected.

In line with the risks associated with performing at a SEV for women, is the precarious nature of the employment. This needs to be of particular concern when there is onus on the performers themselves (for example under point 1.24.6) to report any breach of license conditions by the SEV in which she is employed. Similar to other crimes (for example hate crime and sexual violence), it is a well-known fact that there is considerable underreporting. As a result, it would be hard to imagine that female performers would risk their precarious livelihoods by speaking up against their contracted employer or risk retribution by other staff members (including the proprietor) for blowing the whistle.

The Committee would like to raise a further concern around the safety of performers following the closing of premises each night. Item 34 clearly forbids performers from exchanging personal contact information with clients and any information provided to performers by clients is to be surrendered to the premises manager as soon as possible. However, this does not go far enough to ensure the safety of performers after exiting the premises, particularly after they may have been approached by a client during/after a performance. The Committee would highlight that this increases the risk of stalking/harassment, with the possibility of more serious crimes being committed including sexual assault of performers following the end of their shift.

Similarly, explicit mention needs to be made for the price lists of sexual entertainment available in a SEV (point 1.43.5) that any performer has the right to refuse to perform any type of entertainment without the need to provide a reason. This should also not impact her employment at the SEV, and this should be clearly stated as a condition to ensure that women are not under pressure to perform types of entertainment that they either feel uncomfortable performing or that would push their boundaries for consent.

Lastly, the Committee would like to raise the issue of touting for business and advertising. Although the conditions and policy documents are clear that there should be no touting for business on street near the premises, that the inside of the premises should not be visible from the street and that there should not be any explicit advertising, this does not prevent any of this activity taking place online. Advertising is often done anonymously, referring to the location where sexual entertainment is to take place as simply 'a gentlemen's club' ([for example in this advert](#)), while it can also include explicit imagery (such as [this website](#), advertising Edinburgh 'stag parties', or [this stag party organiser](#), advertising the 'Barcrawl Babes' activity, which includes entry to 'a hot strip club').

The Committee would use those examples to highlight that even with the best efforts to regulate SEVs, not only does advertising remain explicit online, but it also remains anonymous-ensuring that without knowledge of which venue(s) sexual entertainment will take place, regulation will become even more challenging. Further, the advertisements cited above portray an image of Edinburgh that directly undermines our efforts to promote equality for women and girls. The Committee believes that we live in a city that has so much more to offer in terms of education, entertainment, culture and history, and we would urge

for sexual entertainment and violence against women and girls not to be what we promote to the world.

Question 6

Would you like to make any further comments on these proposals?

The Equally Safe Edinburgh Committee (ESEC- 'the Committee') is a partnership of professionals and organisations working to ensure the implementation of Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls. The Committee consists of senior staff and managers from the City of Edinburgh Council, Police Scotland, NHS Lothian as well as specialist voluntary sector organisations such as Edinburgh Women's Aid, Shakti Women's Aid, Victim Support Scotland, and Edinburgh Rape Crisis among others.

It is the position of the Committee that the City of Edinburgh Council should hold licensing powers over Sexual Entertainment Venues (SEVs) and the number of licences should be set to 0 (nil). This response outlines the Committee's arguments for this position beyond the proposed policy and conditions documents.

The Scottish Government's Equally Safe Strategy clearly defines sexual entertainment as a form of Violence Against Women and Girls (VAWG) alongside commercial sexual exploitation, prostitution, pornography and trafficking among others⁴. Taking into consideration both the Equally Safe strategy as well as the fact that there are currently only three SEVs operating in Edinburgh with female performers, the Committee recognises that sexual entertainment is a heavily gendered issue which requires a gendered viewpoint to inform any future decisions.

The Committee's concerns focus on sexual entertainment as a key contributing factor to wider gender inequality in society, reinforcing the view that women are 'goods' or 'products' for the sexual entertainment of men, rather than whole persons beyond their external appearance. The very wording of the Draft Sexual Entertainment Venue Policy and the Standard Conditions on the Licensing and Regulation of Sexual Entertainment Venues (SEVs) implicitly recognises the wider risks and potential harms associated with SEVs: the special consideration of the existing character and function of the area, particularly the vicinity of schools, places of worship, charities and other landmarks or facilities demonstrates the recognition of the possible harms that can be caused by SEV to the local community. Further, the requirement for constant monitoring of the premises, and the monitoring of any increases in incidents of trafficking or sexual or other crimes in the vicinity is an alarming reminder of the risks associated with sexual entertainment and the wider impact on gender equality in society.

There is a very real concern with any new regulation or legislation that it will likely push the activity it seeks to outlaw or regulate 'underground'. However, the Committee would argue that over time, there tend to be longer-term benefits to legislation and regulations that aim to promote women's equality, regardless of how they affect the present status quo. For example, prior to the criminalisation of the purchase of sex and sexual services in Sweden

⁴ Equally Safe: Scotland' Strategy for Preventing and Eradicating Violence Against Women and Girls, p. 12 (<https://bit.ly/3bdBZke>, accessed on 26 October 2021)

in 1999, there were concerns that this would put women at risk by driving prostitution underground and lead women to more dangerous practices and locations in order to sell sex. However, less than 20 years later, a 2017 study⁵ found that 63% of the Swedish population now agree that purchasing sex is wrong and should in fact be illegal. Compared to countries like Germany and the Netherlands, where prostitution and sexual entertainment are legal and regulated, fewer than 20% of the population agrees with the above statement. This finding is particularly concerning as there is further research demonstrating that men who purchase sex and sexual services are also more likely to abuse women through tricking or coercing them into sexual activity and to believe that 'when women say 'no', they really mean 'yes'⁶.

Further, the Committee would argue that sexual entertainment and prostitution are already happening underground, similar to human trafficking and other forms of abuse and violence against women. There are numerous anecdotal reports that informal arrangements are held for sexual entertainment/sale of sex in Edinburgh hotels and AirBnB's as reported on the [AirBnB website](#), on [the BBC website](#) and in [the Scotsman](#) over a number of years. The fact that these reports span a decade, prior to the [Covid 19 pandemic which pushed a lot more women towards the sex industry](#), demonstrates that this is not a new issue, and unlikely to change if the Council proceeds with a requirement to license SEVs.

In terms of the views of women who work as performers in SEVs, it is very important that their views are taken into consideration. [One performer who took part in the consultation](#) with the Council around the licensing of SEVs highlighted the need for the protection of performers' employment rights. She proceeded to describe exploitative practices by SEV proprietors such as arbitrary fees for performers that are liable to unexpected change, which further demonstrates the inherently exploitative nature of this work against women.

A number of other women who have performed as erotic dancers in SEVs throughout the world and since retired, have also spoken of the demeaning nature of the job. Leigh Hopkinson, speaking to [The Guardian](#), stated that *'I thought I was subjugating existing power structures; it didn't occur to me that I might have been playing into them [...] Even though it was totally acceptable for men to visit strip clubs, it wasn't ok for women to work in them. [...] I don't think [stripping or sex work] can ever be unequivocally empowering when it places the pleasure of men above the equality of women'*.

In a similar vein, 'Liza' (not her real name), speaking to [The Atlantic](#) stated that: *[There's no respect for what we do. [...] What we do could potentially be very dangerous. We could potentially have stalkers; someone could follow us home; we could have a customer who comes in to see us all the time and thinks he's in love with us and you don't know what he could do']*. These are only two of many examples of former performers in SEVs highlighting both the risks that women are subject to while employed by the venue, but also the wider implications for equality for women. If we can accept that violence against women exists in a continuum, then we need to accept that an 'innocuous' visit to a SEV is on the same continuum as sexual violence, rape and the murder of women.

⁵ Johnsson, S. and Jakobsson, N. (2017): Is buying sex morally wrong? Comparing attitudes toward prostitution using individuallevel data across eight Western European countries. Women's Studies International Forum, Vol. 61, March-April 2017, pp.58-69

⁶ Farley, M.; Bindel, J.; and Golding, J.M. (2009): Men who buy sex: Who they buy and what they know. Eaves, London. Available at: <https://lastradainternational.org/Isidocs/Mensex.pdf> as accessed on 27 October 2021

The same can be echoed in the reviews provided by men who visit SEVs in Edinburgh. One user stated that *'the girls were ugly, annoying, coked up and stinky'*⁷; another reviewer stated that *'The women themselves were a mixed bag. Some were objectively attractive, but others were not to my discerning taste to say the least. They can also be incredibly brusque, possibly as a way to appeal to the banter loving lad culture they are surrounded by. I found this very off-putting as I prefer to be wooed by ladies I am paying to dance on me.'*⁸

These are just two examples of the continuum of sexual violence, demonstrating how SEVs serve to perpetuate oppressive cultural and societal norms perceiving women as 'objects' for the sexual gratification of men. They further demonstrate how the sex industry overall serves to enforce traditional male power and privilege over women, further obstructing the achievement of true gender equality in society.

The Committee further wishes to highlight the contradictions between the proposed licensing of SEVs and other Council plans and proposals for future development. The [Council Business Plan](#) recognises the importance of creating and sustaining women's and girls' safety in public spaces. However, according to the Royal Town Planning Institute (2007)⁹ 'in certain locations, lap dancing and exotic dancing clubs make women feel threatened and uncomfortable'. Indeed, the Lileth Project reported that in three London boroughs, there was a 50% increase in reported rapes in the vicinity of the clubs, as well as in harassment and fear of violence (Eden, 2007, as cited in Patiniotis and Standing, 2012¹⁰).

Patiniotis and Standing's (2012) findings further provide support to the claim that sexual violence exists in a continuum rather than in isolated incidents. This means that instead of violence and abuse seen as discrete issues in isolation of less violent behaviours such as unwanted comments and 'catcalling', they both exist within a continuum of male power and control. The strongest evidence for this continuum comes from the fact that SEVs normalise behaviours and interactions between men and women that would normally be considered as sexual harassment, violence and gender discrimination in any other setting. This only serves to consolidate traditional perceptions of masculinity and power that directly contravene gender equality.

Further, both [The Edinburgh Partnership Community Plan 2018-2028](#) and the [Council Equalities, Diversity and Inclusion Framework](#) recognise that women, and particularly Black, Asian and Minority Ethnic Women are at particular risk of harm due to poverty and deprivation, hate crime, discrimination and violence against women. They further state that the places people live, work and frequent have a significant impact on their quality of life and wellbeing and assert a commitment to create good places to live in Edinburgh-including accessible open spaces connected to health, childcare and other services. These commitments would be severely undermined by the presence of SEVs, which cause women

⁷ Review available at <https://www.designmynight.com/edinburgh/bars/baby-dolls-no-1-showbar> as accessed on 27 October 2021.

⁸ Review available at <https://restaurantguru.com/Western-Bar-Edinburgh/reviews?bylang=1> as accessed on 27 October 2021.

⁹ Royal Town Planning Institute (2007): *Gender and Spatial Planning*, RTPI Good Practice Note 7; London: Royal Town Planning Institute.

¹⁰ Patiniotis, J. and Standing, K. (2012): License to cause harm? Sex entertainment venues and women's sense of safety in inner city centres. *Criminal Justice Matters* 88(1), pp 10-12.

to experience fear and alarm, to the extent that they may avoid frequenting or accessing those areas altogether.

Lastly, the Committee would like to draw attention to Iceland as an example of a country that outlawed SEVs in 2010. Iceland has a similar population to Edinburgh (366,424 according to 2020 Icelandic data; compared to 482,005 according to the 2011 Scottish census). This has not affected the Icelandic economy, while the number of foreign visitors has more than quadrupled between 2010 and 2019¹¹ (from just under 460,000 to just over 2.3 million per year respectively). Further, Iceland has been titled 'the most gender-equal country in the world' by the World Economic Forum's Global Gender Gap Report 2021¹².

The Equally Safe Edinburgh Committee works towards an Edinburgh that values women and girls equally to boys and men, gives them equal opportunities and works tirelessly to prevent violence and abuse against them. We believe that the proposal to license SEVs setting the number of licenses to nil across the city will be a significant step towards helping us to promote the values of the Equally Safe Strategy and to send a strong message that the exploitation of women and girls in any setting and under any circumstances is never acceptable.

¹¹ Ferðamalastofa (the Icelandic Tourist Board): Number of Foreign Visitors. Data available for download at: <https://bit.ly/3mftewn> as accessed on 26 October 2021.

¹² Report available at: <https://bit.ly/3jyIO4g> as accessed on 26 October 2021.

Do you have any comments on the proposed Sexual Entertainment Policy? The proposed policy is attached below. - Please give us your comments. Written Responses.
I do not believe there is any need to change from the current license. The proposed changes really are not much different to how they currently operate. Introducing an SEV license means extra expense which could also mean a rise in house fees. Please bear in mind that we are still in a pandemic & Scotland is yet to see any light at the end of the tunnel. Lap dancing has now been closed for more than one year, businesses are in their arse & this is going to incur further fees for them. Dancers have also been out of work for more than one year & facing financial hardship. I'm sure you are aware of the palaver with the SEISS grants with so many delays etc
In principle, these types of venues should always be in a busy city centre location, away from residential areas, particularly those with families. At present the vast majority of these places seem to be around the Lothian Road area, and this would seem a sensible location for them given that it is low on residential units, while been a busy street, so therefore less susceptible to noise pollution, while also providing a busy environment where the seedier aspects of this industry can hopefully be diminished. There should be legislation as to appropriate signage so that Those who might be offended by such activity do not have this brazenly displayed in front of them
These places devalue the area in which they operate. They attract people of unfavorable character as both legal and illegal operations are associated with the type of people who would frequent an establishment which has a lap dance.
a Lap dance would be the appetiser for a much more destructive and unhealthy interaction for society.
A well considered policy.
I think the proposed licensing policy, from a community point of view make good sense. (I give no opinion on the health or ethical point of views and leave those for professionals on both sides of the argument to comment on). I think the increased discretion is to be welcomed. I think though that the name and the signage should not be such as it flouts the spirit of increased discretion/lack of promotion etc. and that there should be some guidance in the policy on this. In other words, the name and manner of the signage on the outside should not make it clear what is happening inside. To prevent innocent passers by from accidentally coming in a manned door entry system should be in place.
Closing SEV venues will only drive the industry underground and therefore put workers at risk and loss of jobs, also causing workers into more dangerous jobs in order to make ends meet. The clubs operate under strict working conditions in order to keep everyone safe and happy. As a dancer of 6 year, I can strongly argue I have always been genuinely safer in a lap dancing club than I am fully clothed in a nightclub. As security guards, cameras and management support measures are firmly in place to ensure our safety and well-being at all times. While nightclubs also offer CCTV and security, harassment is never taken seriously by security and staff and is usually dismissed as "that's just the way it is" approach. Lap dancing allows workers a safe comfortable and flexible place of work with better support options than most "normal" jobs despite being stricter. Closing clubs or limiting sev venues to 0 would only put workers at risk.
Public should determine numbers as in public demand through footfall.
Allowing any sexual entertainment goes against the Scottish Government Equally Safe policy, it's definition of violence against women clearly states 'commercial sexual exploitation including prostitution, lapdancing, stripping, pornography and human trafficking' as violence against women. It contravenes the Council's own policy 1.5.1 prevent public nuisance, crime and disorder 1.5.2 securing

<p>public safety, 1.5.3 protecting young people and children from harm and 1.5.4 reducing violence against women.</p> <p>Where these premises exist, prostitution is encouraged. Children and girls are taught that their self worth is only in sex. Men in these areas treat all women and girls as being for sale or their use and not as people.</p>
<p>I believe that a licensing scheme for these SEV's is a good idea, it will allow the premises to be managed and open for inspection to ensure the workers are not being exploited and the working environs are safe and secure. If SEV's are unlicensed then there is a risk that the industry will be driven underground and the risks of organised crime becoming involved in the operation. Not licensing these premises will not stop SEV's operating.</p> <p>If the numbers are too few then it is likely that large numbers of people will visit and congregate in the areas of the ones that are licensed with the risks of noise and antisocial behaviour. If sufficient are licensed for the number of users then the users will be spread around and not concentrated into one area.</p>
<p>The policy should be regulated independently of the council who have already shown lack of thought and knowledge when it comes to making business decisions.</p>
<p>How is the CEC going to build in consideration for the safety and comfort of women living and working in the vicinity, or simply passing by the venues. Answering as a female resident of Edinburgh I can say that it can feel extremely uncomfortable passing by these places. There must be controls on minimising groups of men and bouncers hanging around outside - and the exterior of such venues must not be explicit. There are only a couple of locations in the city centre that such venues might conceivably be acceptable in Edinburgh but even then the concept feels old-fashioned and out of place.</p>
<ul style="list-style-type: none"> • There should be no additional restrictions on SEV's in localities than are in place for other entertainment venues such as bars or restaurants. I agree with restrictions near schools. However, I fail to see why religious institutions need specific mention, business should not be curtailed in order to protect religious interests. • I strongly disagree with any move to set limits at nil. Sex workers should be able to go about their lawful business without the judgment of the council. SEV's are often much safer for these workers than alternative locations. This city has a fairly progressive record in these matters regarding the tolerance zones, which were sadly ended by Police Scotland, we should return to that evidence based empowerment model rather than moralisation. • Referring to Equally Safe a document which ignores the views of many sex workers is inappropriate. Sex Worker groups maintain that this strategy denies individual agency and makes situations more dangerous rather than the opposite.
<p>I'm not in favour of SEVs at all.</p>
<p>I absolutely hate seeing these venues in the city and I think it really ruins the tone of the city which is an historic and welcoming city for tourists. I think the council should adopt a strong stance against sexual entertainment as it continues to support an unhealthy sexual view of women in society. A policy is required to enable the council to prevent these establishments from operating in the city area at all.</p>
<p>There should be an acknowledgement that concentrating these premises in central areas does mean other businesses may seek to locate elsewhere and that tourists, other than those interested in such premises, will not want to stay in these areas. A good reason to limit them.</p> <p>Massage parlours and/or saunas should also be tightly regulated.</p>

Students, particularly females, will not want to frequent areas where sex clubs are located because these will be perceived as unsafe. Sexual harassment of young females in the city is already a problem (ask the student associations/unions). They should not be near purpose-built student accommodation.
Edinburgh should be a family friendly city where women feel safe. This should be the main focus of your policy.
Wherever the council decided it was appropriate to grant a license will harm that area to a greater or lesser degree for residents or people passing through. AS most of these premises operate in the evening this also has an impact as residents will more likely to be at home or returning home so the impact on them is unacceptably high.
They are safe spaces for men and woman. Leave them as they are with a later licence on par with nightclubs.
Such venues degrade women and should not exist
I strongly welcome these sex venues, I would rather see them busy than prowlers walking the streets
We need to move away from this in our City. I understand Glasgow has taken a strong stance against these types of venues in their city.
There is no place for this in Edinburgh.
I think that any legislation made about sex work must protect sex workers above all else.
It would be helpful if strip clubs had to employ their dancers - rather than making them pay to work - and require that strip clubs pay the dancers minimum wage at least.
Strip clubs must also be safe from immigration raids.
N/A
It's ludicrous and will turn people to the streets instead of a safe controlled environment like a venue.
I totally disagree to granting these licences for moral and health reasons to the general public who are affected by these policies
Not sure about allowing venues with only a few performances a year not to have to register. This will be abused.
How can a licence be suspended quickly following serious complaints and how can it be revoked.
I don't think live sex shows benefits anyone
My primary contention would be with the apparent adoption of the "nordic model" paradigm, which has been shown to put sex workers in harm's way and is near-universally opposed by sex workers of every capacity. This directly acts against point 1.5.4, in the service of a view of sex work which is as paternalistic as it is puritanical.
I would further argue against 3.3, which frames these services as dangerous or morally reprehensible and ultimately only serves to drive the sector away from "respectable" areas. On point c in particular, I would hope that due consideration is given that we may *want* these venues to be within reach of many of the services listed, who provide vital assistance to sex workers.
By licensing these premises the Council is condoning the sexual exploitation of woman and girls. The existence of Sexual Entertainment Venues sounds gender neutral and innocuous when they affect women and girls. They are owned by men, used by men to sexually exploit women.
The Council's Policy - 1.5.3 Protect children and young people from harm

1.5.4 Reduce violence against women

Equally Safe policy updated in 2016 to eradicate violence against women and girls defines violence against women as including "commercial sexual exploitation and prostitution, lap dancing, stripping, pornography and human trafficking."

The selling of women in any form should not be tolerated.

I'm completely opposed to such premises, SEVs, because of the likelihood that many of the women working there may have been trafficked, or be there because of some other form of abuse or coercive control.

To licence such premises will make it safer for participants and public alike. If left al fresco it could put performers in danger

I dont think any additional regulation is required

Very restrictive

It is important to not force these activities underground, which could prove a huge risk to the people who work in this industry.

In my past experience these venues were run well and effectively self regulated.

Supply of venues will not exceed demand and demand is not particularly high.

They tend to have a relatively low profile and I do to recall many, if any, issues with local residents.

As a sex worker in the UK, it hurts to see other workers who are in the same industry as me about to lose their jobs and livelihoods. The workers themselves would've chosen their profession and would be completely happy with it. Sex work is work - let them work !

In the section on the character and vicinity of the relevant locality, there appear to be a number of unnecessary articles:

3.3b requires clarification. "Other places of education" is sufficiently broad that it could encompass University or adult education facilities, which do not have the same relevance to the licensing of these establishments as a primary school would. Also, consideration should be given to the fact that the hours of operation of the entertainment venues would not coincide with that of educational establishments.

3.3c is inappropriate, as there should not be any special consideration for places of worship within an equal and secular society such as modern Scotland. Places of worship should be able to dictate the standards of behaviour for their adherents on their property, but not a centimetre beyond.

I am concerned that Item 3.7 is being set up as a justification to deny licences to existing SEV's by setting a limit of nil for the entire city, which would force the closure of existing businesses which have never breached the conditions laid out in the rest of these documents. I would contend that this number should not be set below the number of existing venues so that this arbitrary and high-handed course of action is avoided.

If the council comes to the conclusion that there is an undue concentration of SEVs within a specific area, then there should be a good-faith attempt to allow existing premises to relocate and be licensed in their new locations, rather than using this as an excuse to destroy existing businesses.

This looks like a solution in search of a problem, the existing SEVs in Edinburgh do not seem to me to cause any more issues than other licenced premises. Supply will to a large extent be determined by demand and I can think of a number of venues that have closed over the last decade or so due to lack

of demand.

So no problem, no need for the legislation.

1.5.1 Preventing public nuisance, crime and disorder: - this is already required for alcohol licensed premises

1.5.2 Securing public safety: this is already required for alcohol licensed premises

1.5.3 Protecting children and young people from harm: this is already required for alcohol licensed premises

1.5.4 Reducing violence against women - Dancers in these venues are self employed and are very well protected by management and stewarding and approved regulations for the safety of individuals

No evidence has been produced to indicate these premises are not well run safe premises.

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 - there is no evidence to indicate any legitimate adult entertainment premises are causing harm to public safety nor that there are issues with criminality

Believed there are no peep shows or live sex shows in Scotland in legitimate venues

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 - no nightclub/late night premises would be likely to be situated in a residential area due to the fact that residents might be disturbed by late night coming and going of patrons or staff or in the case of adult entertainment venues self employed dancers

b. Whether there are any schools and other places of education near the vicinity of the premises - it would be normal for schools to be closed when entertainment premises of this nature operate

c. Whether there are any places of worship in that vicinity - it would be normal for most places of worship to be closed when entertainment premises of this nature operate

d. Whether there are other relevant businesses or charities operating in the area e.g. homelessness shelters, women's refuges, supported accommodation, recovery units - there is no evidence of increase in criminality in and around premises of this nature in fact the high levels of stewarding within and outwith the premises would tend to make areas safer

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 - there is no evidence of increase in criminality in and around premises of this nature in fact the high levels of stewarding within and outwith the premises would tend to make areas safer
and it would be normal for premises referred to be closed when entertainment premises of this nature operate

f. Whether there have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area - there is no evidence of increase in criminality or human trafficking linked to premises of this nature and in and around premises of this nature in fact the high levels of stewarding within and outwith the premises would tend to make areas safer - the high levels of care taken by operators on advice from police Scotland and in compliance with conditions set by licensing boards for dancers to ensure their safety is one of the reasons so many women chose to take up dancing as a way of earning their living

g. Whether there have been incidents of human trafficking or exploitation in that area - there is no evidence of increase in criminality in and around premises of this nature in fact the high levels of stewarding within and outwith the premises would tend to make areas safer the high levels of care taken by operators on advice from police Scotland and in compliance with conditions set by licensing boards for dancers to ensure their safety is one of the reasons so many women chose to take up dancing as a way of earning their living

3.4 Suitability of Premises - all legitimate premises are already subject to this proposal and none have been deemed unsuitable in over 25 years of operation

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. This is already a requirement

I am writing on behalf of the National SEV Coalition, of which I am a member, to give our views on the matter. The coalition was set up by dancers who work or have worked in SEVs, and of their allies. We include dancers from the Bristol Sex Workers Collective, the Northern Sex Workers Collective, the East London Strippers Collective, and the United Sex Workers Branch of the union United Workers of The World.

The coalition represents the often overlooked dancers who work in SEVs. We are working against increasing concerns that SEVs nationwide may lose their licenses. We are committed to keeping these venues open to ensure dancers have safe, regulated places to work. This is of utmost importance, as without licensed venues dancers will lose their workers rights, and many will be forced to work in dangerous, unregulated conditions.

I have looked over the proposed strategy and have some concerns:

Para 3.3 allows for restriction of location on the basis of other nearby uses. The list of uses in (a) to (e) is extensive and could be used to justify a refusal pretty much anywhere. Many of these proposed restrictions are questionable, and fall far outside the current English guidelines for SEV licencing. These guidelines are underpinned by legislation, which has been informed by research and public consultation. We fail to see evidence that justifies a decision to deviate from these accepted restrictions. We ask that you revise this list and drastically cut it down to align with English legislated practice. SEVs are discreet venues and evidence (detailed further down this letter) shows that they do

not increase violent crime or sexual offences in the surrounding area. Refusing a license because the venue is in the vicinity of a retail shopping centre, for example, is unreasonable.

Para 3.3 (f, g) refers to consideration of anti-social behaviour, harassment, exploitation and human trafficking. We ask that you make it clear that cases should be linked directly, with evidence, to the venue being considered, not just to things that happen in the general area.

Para 3.7 sets out to restrict the number of licenses granted. It identifies the City Centre Ward as the only appropriate location for SEVs so in effect it is a nil policy for the rest of Edinburgh. We ask that you consider whether any venues are currently operating outside of the City Centre Ward. If they are, we ask that you remove the nil policy for the rest of Edinburgh to avoid putting the dancers in these clubs into unemployment or danger by removing their licensed workplace.

There is currently an agenda being pushed countrywide by Sex-Worker Exclusionary Radical Feminists (SWERFS) that SEVs contribute to violence against women. This is completely false, and is a dangerous and terrifying viewpoint that blames dancers for violence committed by men. There is currently NO evidence of any link between the operation of SEVs and violence against women occurring. In fact, much evidence points to the opposite.

Take, for example, the case study of Platinum Lounge in Chester, North West England. Platinum Lounge, Chester's only SEV, closed in 2015. Since its closure, violent crime and sexual offence rates in the city have shown an upward trend. I am going to now cover research, undertaken by coalition member Toni Mansell, into violent crime and sexual offence rates in the city of Chester before and after the closure of Platinum Lace.

Using the month of December as a sample, you can see that in Dec 2013, two years before Platinum Lounge closed, there were 46 recorded violent crimes in Chester City centre, In Dec 2014 there were 58 recorded violent crimes in Chester city centre. In December 2015, the year the Platinum Lace closed this went up to 63. In 2016 there were 70, 2017 there were 127, 2018 there were 101, and in 2019, 5 years after the closure of Platinum Lounge, there were 99 recorded violent crimes in Chester city centre.

These statistics can be fact checked from the source
<https://www.ukcrimestats.com/Neighbourhood/9887>

To ensure this data is not an outlier for the month of December, you can see the violent crime rates for June.

June 2013 – 44
June 2014 – 34
June 2015 – 40
June 2016 - 58
June 2017 - 49
June 2018 - 70
June 2019 - 72

In both samples you can see that the numbers of violent crimes in Chester City centre have had an upward trend AFTER Platinum Lounge's closure. This is even more interesting as the numbers had

actually dropped for 2014 and 2015. It is in the years following the closure that violence rose, suggesting that Platinum Lounge may have in fact kept the rates of violent crime down.

<https://www.police.uk/pu/your-area/cheshire-constabulary/chester-city/?tab=Statistics> further confirmed that in the last 3 years, violence and sexual offences in Chester City Centre had increased by 22.2% (percentages true as of 23/03/2021).

These statistics include violent crime as one encompassing bracket of violence and sexual assault. While I can not access sexual assault statistics for the city centre individually for these date periods, further research follows Chester and Cheshire West from Cheshire West and Chester Community Safety Partnership Strategic Assessment 2015 to see if the trends followed the same pattern. This is a larger geographical scope of the partnership area, but gives a good indication if we can consider the figures above to accurately reflect the trends of sexual violence.

The number of sexual offences recorded in Cheshire West and Chester increased by 21% from 317 in 2014 to 383 in 2015. This is a continued increase from 218 in 2012 and 279 in 2013.

In 2016, the total number of recorded sexual offences in this Chester and Cheshire West was 461. For the year 2019, this number had risen to 800 recorded cases (source: <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/recordedcrimedatabycommunitysafetypartnershiparea>).

While this look at data and figures is only a brief investigation, it strongly implies that closing the city's only SEV did not reduce the numbers of violent crimes in any way, in fact they have shown an upward trend after the clubs closure. Even taking into account influencing factors such as the change in the way certain crimes were recorded which contributed to a rise in statistics for crimes such as anti-social behaviour in 2016, there is zero evidence to prove that removing SEVs reduced violence against women in Chester.

These findings are also supported by peer-reviewed research and statistics from other cities. Evidence submitted to the last zero cap review in Bristol 2019 included a summary of the findings from the largest study conducted to date into the UK strip club industry by Leeds University in 2015. This suggested that one in four SEV performers had a degree and there was no evidence of forced labour, trafficking of women or connections to organised prostitution. The report also stated there was no local evidence of a rise in crime in the vicinity of Bristol's SEVs, and banning the clubs was likely to have a negative impact on the livelihood of predominantly female employees.

So we ask that you consider hard evidence when making decisions about the placement of SEVs in the community.

We ask that you reach out to local dancers, to local venue owners and to local customers to give their views, as part of your public consultation on introducing a new licensing scheme. This is imperative and an implicit part of your responsibility to your local community as a whole.

You say that businesses may require further support to give their views on the legislation and we want to ask that you provide that support. Please reach out directly to SEVs and also provide the necessary support to the dancers who work in these venues so they can have their say.

It is especially important that you speak to the dancers, as they are often overlooked and not given a voice in these issues, and but rather are spoken for by SWERFs and politicians without any lived experience of the industry. Professor Teela Sanders at the University of Leicester produced work on this very issue - 'Regulating Strip-Based Entertainment: Sexual Entertainment Venue Policy and the Ex/Inclusion of Dancers' Perspectives and Needs - in which she states that "community and campaign group voices were heard over that of the dancers themselves".

To this end, we ask you to clearly outline what steps you are actively taking to consult with the affected dancers and the venue owners. We also ask you to outline how you will consult with the customers of these venues, who are also part of the local community and deserve to have their say.

We would like to emphasise that any evidence of anti-social behaviour or crime being used to refuse a license should demonstrate objective proof that the SEVs are responsible. Any incidents must be traced back to the actual venue otherwise it is subjective evidence. Crime in city centres is driven far more by drugs and alcohol so nightclubs, pubs and off-licences are much more likely to be the cause of crime spikes than a small number of well-run SEVs. However SEVs are often scapegoated and discriminated against when blamed for unrelated crimes. It is of utmost importance that this will not happen.

We ask that no changes be considered without having done proper due diligence with these stakeholders. It is important that those who will be most affected by the proposed changes are involved in making decisions. We also ask that you provide some likely potential outcomes to the proposed change, so stakeholders can make an informed decision on where they stand.

We are concerned that new legislation may leave room for local authorities to try and abolish SEVs based on unfair and illegal grounds, such as subjective moralistic grounds. This has been seen to happen in other cities, such as Bristol and Blackpool. We ask that you provide reassurance that this will not occur under any proposed licensing scheme.

We want to thank you for extending the public consultation, and we ask that it is not completed until stakeholders have had their say. In 'Flexible Workers: Labour, regulation and the political economy of the stripping industry' Sanders and Hardy conclude "Dancers occupy a privileged position for understanding and critiquing their own conditions of existence... Dancers can speak, if only we will listen". We hope that in the case of Edinburgh, we will be fairly heard.

Please don't hesitate to get in touch with us at the Coalition to discuss this further.

Many thanks

Emer Lily Cowley, of the National SEV Coalition and the Northern Sex Workers Collective

I am a graduate from the University of Manchester who is now working full time as a stripper/exotic dancer.

I believe that there is currently an agenda being pushed across the U.K., by SWERFS, that strip clubs contribute to violence against women. This is completely false, and is a dangerous and terrifying viewpoint that blames sex workers for violence committed by men. There is currently NO evidence of any link between strip clubs operating and violence against women occurring. In fact, much evidence points to the opposite.

For example, the case study of Platinum Lounge in Chester. Platinum Lounge, Chester's only strip club,

closed in 2015. Since the closure violent crime and sexual offence rates in the city have shown an upward trend. I am going to now refer to research into violent crime and sexual offence rates in the city before and after the closure of Platinum Lace which I will cover below. This research was undertaken by Toni Mansell.

Using the month of December as a sample, you can see that in Dec 2013, two years before Platinum Lounge closed, there were 46 recorded violent crimes in Chester City centre, In Dec 2014 there were 58 recorded violent crimes in Chester city centre. In December 2015, the year the Platinum Lace closed this went up to 63. In 2016 there were 70, 2017 there were 127, 2018 there were 101, and in 2019, 5 years after the closure of Platinum Lounge, there were 99 recorded violent crimes in Chester city centre.

These statistics can be fact checked from the source

<https://www.ukcrimestats.com/Neighbourhood/9887>

To ensure this data is not an outlier for the month of December, you can see the violent crime rates for June.

June 2013 – 44

June 2014 – 34

June 2015 – 40

June 2016 - 58

June 2017 - 49

June 2018 - 70

June 2019 - 72

In both samples you can see that the numbers of violent crimes in Chester City centre have had an upward trend AFTER Platinum Lounge's closure. This is even more interesting as the numbers had actually dropped for 2014 and 2015. It is in the years following the Strip Club closure that violence rose, suggesting that Chesters strip club may have in fact kept the rates of violent crime down.

<https://www.police.uk/pu/your-area/cheshire-constabulary/chester-city/?tab=Statistics> further confirmed that in the last 3 years, Violence and Sexual Offences in Chester City Centre had increased by 22.2% (percentages true as of 23/03/2021).

These statistics include violent crime as one encompassing bracket of violence and sexual assault. While I can not access sexual assault statistics for the city centre individually for these date periods, further research follows Chester and Cheshire West from Cheshire West and Chester Community Safety Partnership Strategic Assessment 2015 to see if the trends followed the same pattern. This is a larger geographical scope of the partnership area, but gives a good indication if we can consider the figures above to accurately reflect the trends of sexual violence.

The number of sexual offences recorded in Cheshire West and Chester increased by 21% from 317 in 2014 to 383 in 2015. This is a continued increase from 218 in 2012 and 279 in 2013.

In 2016, the total number of recorded sexual offenses in this Chester and Cheshire West was 461. For the year 2019, this number had risen to 800 recorded cases. (source - [https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/recordedcrimedat](https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/recordedcrimedatabycommunitysafetypartnershiparea) [abycommunitysafetypartnershiparea](https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/recordedcrimedatabycommunitysafetypartnershiparea))

While this look at data and figures was only a brief investigation, it strongly implies that closing the city's only strip club did not reduce the numbers of violent crimes in any way, in fact they have shown an upward trend after the clubs closure. Even taking into account influencing factors such as the change in the way certain crimes were recorded which contributed to a rise in statistics for crimes such as anti social behaviour in 2016, there is zero evidence to prove that removing strip clubs reduced violence against women in Chester.

The idea that men will attend a strip club and then go on to commit sex crimes is completely absurd. There is no evidence of this happening, and we need to move past blaming women for the actions of men. If we are closing down businesses based off of their relationship to violence against women, why are we not looking at football. Figures show that when England loses a football match domestic violence incidents increase by 38%, so why aren't we closing down football stadiums? The facts show that the desire to close down strip clubs is a hatred for female sexuality disguised as an attempt to help women.

Stripping allows for flexible hours and financial stability that is a major lifeline. It allows people who cannot work typical hours (whether that's due to childcare responsibilities, caring responsibilities, mental health, disability ect) the ability to choose their own hours and work when they are capable of working. It's a huge lifeline for working class women as it allows them to fund higher education opportunities such as masters degrees that they would otherwise not be able to fund. It's a hugely positive experience for a lot of people, and also gives women a lot of transferable skills (such as sales skills) which are starting to be taken more seriously by other kinds of employers.

I can absolutely say, without a doubt, that starting stripping was the best decision I ever made. I went from being a heavy drinker with no direction to a motivated and healthy person. My passion for stripping inspired me to get healthy, reduce my drinking and focus on dance and fitness. It gave me confidence and assertiveness and improved my mental health ten fold. It's given me hope to undertake a masters degree and further my education, which, as a working class woman, I would not be able to afford otherwise. I am terrified of what will happen to my colleagues and myself if strip clubs were to close.

I have worked in a total of 6 strip clubs, and every single one has been a safe and controlled environment. We have no strictly enforced no touching policies staff do not tolerate any sexual harassment, and CCTV is constantly monitored. The staff ensure we get home safely and are willing to arrange taxis or escort us to cars. Staff look out for us to make sure we are not drunk or put in vulnerable positions. I can say that I feel so much safer in my workplace than I do in other environments such as nightclubs, where sexual harassment is rife.

If strip clubs were to be banned, it will push the industry underground, making it so much more dangerous. Currently, council approved strip clubs are run with strict safety measures as I mentioned above, such as no touching policies, constantly monitored cctv, and strict security. If the clubs were to go underground, all of the safety measures will dissappear. Even if underground clubs did not open up, the industry would move to unregulated private parties that would put dancers in danger.

I demand that you provide reassurance that strip clubs will be allowed to operate as they currently are in Edinburgh, and you won't take away a safe place for women to work.

I disagree with this policy as this can cause danger to workers in SEVs such as forcing underground and unsafe work. Limiting this will cause further damage to this community
Reducing the amount of clubs that can operate will seriously put women in danger, licensed clubs are a way for women to work safely and securely. There is a misconception that these clubs are seedy or bad for society but this is not the case at all these clubs have strict rules that keep the women protected while they work and stop bad things from happening to them, placing a limit on these clubs only leads to women working in unlicensed venues or in different avenues of the field that that can be life threatening
There shouldn't be a cap on the number of sexual entertainment venues in the area. This will help bring employment to many people and help the economy.
<p>United Voices of the World (UVW) appreciate the invitation to be consulted about Edinburgh Council's Sexual Entertainment Venue (SEV) licence policy. As a union representing strippers in clubs across Scotland we would like to focus our response upon the unique opportunity the Council has to enshrine workers rights in their SEV policy. We note that the Council's aims are to preserve public safety and the prevention of crime and disorder however we feel that worker safety should be given equal importance within the drafting of this policy. The majority of strippers are women and as such they should be included in the consideration of 'reducing violence against women' (draft sexual entertainment policy 1.5.4). We feel that enshrining strong worker rights in any council policy will preclude any illegal activity and any potential threat of exploitation and violence.</p> <p>Whilst we would like it to be noted that the Council did not directly contact the UVW to advise upon working conditions and worker safety when drafting this policy, we would like to comment upon specific issues that would affect our members if they were working within Edinburgh and will work through the policy document with our comments and recommendations.</p> <p>Our main concern is with Edinburgh Council focusing so much on setting a cap to the appropriate number of SEVs. We are worried that this will result in the minimisation of future opportunity for an SEV business to operate or open within Edinburgh, which in turn may affect employment opportunities for women. This will result in the more worrying effect of driving the stripping industry underground. This, in turn, precludes any worker in illegal workplaces from accessing representation in order to bargain for better working conditions. In addition, unregulated stripping venues are likely to run without appropriate working conditions, which could otherwise be written into the Standard Conditions of SEV licences. We therefore question the need to set any limit to the number of SEVs in the first place.</p> <p>Lastly, one of the hurdles that SEV applicants in England have passed onto performers are the arbitrarily high licence application fees. We would therefore like the fee to be appropriately set so that excessively high fee rises will not occur in the future.</p> <p>The SEV licensing regime in England and Wales was created in response to the false claim that lapdancing clubs/SEVs have led to increased levels of violence against women and girls (Eden, I, 2003. Lilith Report Lap dancing and strip-tease in the borough of Camden). This claim has since been disproven (Magnanti, B. 2011, The Impact of Adult Entertainment on Rape Statistics in Camden: A Re-Analysis). There is no evidence that strip clubs lead to violence against women elsewhere in society, and so to create policy on that basis is a moral argument, rather than an evidence based one. I would like to ask Edinburgh City Council to carefully consider the basis on which they are creating their SEV policy.</p> <p>SEVs have been scapegoated, stigmatised and blacklisted by many interest groups - this has had a</p>

detrimental impact on the women who work in them. In Scotland, the Encompass Network of women's rights organisations have assumed a public voice of authority in regards to the sex industry. However, the Encompass Network makes an ideological argument that the selling of sex and sexual services is a form of violence against women, and must therefore be criminalised. But there are many other organisations led by sex workers, such as Umbrella Lane, United Sex Workers, ELSC, National SEV Coalition, Bristol Sex Workers Collective, and SWARM, who take a different approach - these organisations take an evidence based, harm-reduction approach i.e. the criminalisation of sex work does not have positive social outcomes. I would like Edinburgh City Council to include voices and perspectives from sex worker led organisations as much as possible, when considering any regulation of the sex industry, and wherever possible to consider a harm-reduction analysis of sex work.

The SEV licensing regime has failed to safeguard and protect the women who work in them from workplace abuses, in fact the regime has lead to further levels of exploitation and coercion for workers. This is because licensing conditions are more difficult and more costly to uphold (for example, if a club as to go through an expensive licensing renewal process every year) these costs are usually passed on to workers, since the business model relies on charging dancers unfair house fees, fines and commissions. The typical business model of an SEV has grown out of a gig-economy culture, dancers are frequently missed classified as self-employed, when in actual fact they almost always meet the legal criteria for worker status. Since 2018, the sex workers trade union branch (United Sex Workers) have been bringing claims against workplace abuses for dancers in the UK and in 2020 won a landmark case, setting a legal precedent and opening the door for dancers all over the UK to begin bringing similar claims against club bosses. USW have won more than £100k combined compensation for members of the union, who are all sex workers demanding justice and standing up against exploitation in the sex industry. Trade union activism is proving a vital and powerful tool for turning back the culture of exploitation within the sex industry - strip clubs are an essential component to this, since we can only bring claims against workplace abuses when there is an actual, legal workplace. Our concern is that SEV licensing results in club closures, which means workers are unable to pursue legal claims and hold business owners accountable.

you can't give a number of premises per area unless the size of the area, population of the area or number of businesses in the area is shown

Do you have any comments on the proposed set of conditions for Sexual Entertainment Venues? The proposed set of conditions is attached below.

Written Responses.

1. Number 37 is of great concern to me- it is unclear whether you want to have an open plan room for private dances or an area in the club that is sectioned off;

 “the booth or area will not have a door, curtain or other similar closure”

 If this means that there is no partition for the private dances it means that any customer in the building can watch other customers receiving a private dance and see all of the girls undressed for free. This could create the following problems for the dancers;
 1)There would be less incentive for someone to pay for a dance when they can see someone else get one for free.
 2)As a dancer of 15 years who has worked all over the uk, I have chosen never to work in a table dance club (meaning the dance is given in the bar area rather than in private)

 If you mean an open plan dancing room that is partitioned off I also have a problem with this mainly because of CONSENT.
 To give a dance in a private booth I have the power to dance for who I want & equally NOT dance for anyone I don't want to dance for.
 To give a dance in an open plan booth/in the club with no partitions I have lost the power to decide who sees my body.

 Example 1;
 My neighbour walks in. I don't know him but I know he's my neighbour. So I carry on working, I can avoid him, pretend I don't know him, turn him down for a dance etc. I can also continue going for dances & earning money because I have the comfort of knowing he cannot see me performing in a private booth. What would happen in an open plan room? He could take another girl for a dance at the same time I'm in there, see me performing without my consent & see me performing for FREE. If I'm not willing to let a neighbour pay me to dance for him I'm certainly not ok with him watching me dance for someone else for free.

 Example 2;
 A colleague from my day job walks in, no one there knows I dance- I slip off to the staff room before I'm noticed & use that time to take a break, have some food, then I can go back & continue working after he leaves. What if I'm in an open plan dance room giving a dance when he arrives? Too late, he's seen me AND without my clothing! What if the only place to hide is a dance booth? I can't hide from him in an open plan dance room, he could come on for a dance!

 Obviously there are many different examples I could give but there will be some people you would want to hide from, sometimes you may decide to go home for the night or there could be some people who you don't mind knowing you work there but you wouldn't give them a dance. Working in a public place knowing anyone could come in is my choice & I have mentioned my options above. Some girls wouldn't bat an eyelid & would dance for any of these people. Money's money & business is business. Which is

	<p>also fine. But removing booths or curtains also removes CONSENT to who sees MY body.</p> <p>To be clear- I have no problem doing this job, showing my body or dancing. The examples above are not a regular occurrence but they do happen & consent is extremely important.</p>
2.	I agree with the limitations on signage, but would suggest that visual representations of the female form be also banned as this makes all too evident the activities inside, and creates a Seedy atmosphere
3.	I disagree with the banning on touting and flyering. After Covid SEV's should be allowed to market their business and if that includes filtering on a Friday and Saturday night to get customers then so be it.
4.	<p>If you look at the number of "SEVs" in an area, and the average crime statistic, I think you will find that there are often a connection.</p> <p>I think these places should absolutely be regulated, but rather by the police. I find this a deplorable notion that it is healthy for society. It opens the door to other situations that abuses and depraves vulnerable women into prostitution.</p> <p>I.e. what is the general lifecycle for a woman who chooses a career in Lap Dancing? what motivated her to start that? Rather become a model if anything... I feel the conditions of these places allow much worse things to happen.</p> <p>Rather society should look to protect their citizens and not create spaces for them to be abused.</p>
5.	Well considered conditions. Very pleased to see the council have included conditions on external advertising.
6.	My comments as above.
7.	<p>The current venues are mostly in one specific area of Edinburgh, therefore are not too close to schools/places of worship where residents may not want us. We are in an area that people must specifically travel to to find and use our services.</p> <p>I have also noticed that this consultation does not involve full service sexual entertainment services such as saunas, which are much less behind the scenes than lap dancing clubs yet have been allowed to remain open as normal, yet lap dancing clubs with no physical contact allowed is not? Even at tier 0.</p>
8.	I've no issue with conditions set out.
9.	The council should not be profiting from the sexual exploitation of women.
10.	They seem comprehensive,.
11.	How is the CEC going to build in consideration for the safety and comfort of women living and working in the vicinity, or simply passing by the venues. Answering as a female resident of Edinburgh I can say that it can feel extremely uncomfortable passing by these places.
12.	<ul style="list-style-type: none"> •Layout conditions seem far too stringent. I do not see any reason other than moralisation for putting additional restrictions on SEV's than on nightclubs. •Again the restrictions on the performers seem to achieve nothing but applying someone else's moral standards. Individual agency for performers should be maximised. At the very least the absurd requirement to put 'the same clothes back on' should be dropped. There is no reason for this to be in place. •Touting restrictions are not in place for nightclubs and restaurants. The only reason for additional restrictions is to pass moral judgement which is not the council's place.

13.	No
14.	The conditions seem reasonable except that: Private entertainment in booths is likely to be abused and should be specifically excluded (potential exploitation); There should be a commitment to frequent monitoring on the part of the council/police.
15.	Premises may well intent to control the immediate area outside entrances/ exits but this does not extend very far away from the premises and thus the public are not adequately protected.
16.	Yes, they are a pile of bureaucratic bullshit. Leave the SEV's alone to make money for the people that work in them.
17.	Better to have non at all
18.	Ransom à inspections by plain clothed officers to heck on staff welfare and human trafficking
19.	We need to move away from this in our City. I understand Glasgow has taken a strong stance against these types of venues in their city. There is no place for this in Edinburgh.
20.	These seem good, but would be better if included a requirement for businesses to pay performers a minimum wage.
21.	Na

Would you like to make any further comments on these proposals?	
Written Responses.	
1)	<p>One year ago I signed a petition for dancers to remain self employed. From your proposed changes there are a number of “control measures” put in place which could make the dancers “workers” rather than self employed. As a self employed contractor I have all of the power. As a worker I am treated more like an employee & have less control. It is very clear to me that UVW have played a part in some of the proposed changes. Let me be clear. I have worked in 3 UK clubs where this “union” have tried to interfere. They do not have the dancers best interests at heart, they are looking to build their reputation & to get membership money. Most dancers DO NOT want worker status! This will affect them massively! Please reach out to every dancer in Edinburgh & give them a voice on this. The girls bringing claims are extreme “undesirables” of society & out for revenge- not justice! Please look into this. This union & most of the people involved in it are bad news.</p> <p>To give an example- a price list must be on show- the girls are self employed & offer their own prices. To make a price list would make them workers. Please look into this. I should also highlight that GMB in Glasgow are fighting for SELF EMPLOYMENT for strippers. Please look into this! I have attached a link for the petition for your information.</p> <p>http://chng.it/CHWFGYnCTy</p>
2)	I believe allowing the council to have power over Sexual Entertainment venues is a form of removing body autonomy from women in the industry. It is misogynistic to believe the council should be entitled to say how, when and where women are allowed to profit in this legal industry. It would be doing a disservice to the progressive image of Scottish politics, A modern day 'witch burning' mentality against sex workers is harmful to all women.
3)	I would strongly agree the need to regulate the industry as a whole.
4)	No
5)	Please consider the safety and well-being of all those working in SEV environments, closing the clubs and venues will be simply oppressing women's rights by taking away the freedom to do as they please with their own bodies and lives and puts their safety and futures at high risk.
6)	Let's limit the number through public demand/footfall, I fear snobbery will play its part here, any establishment not meeting the conditions set out should lose their licence, I'd applaud it, what I don't wish to see is limits set based on snobbery.
7)	Edinburgh has large student population. Very few places to hear it see live bands.
8)	The venues to be licensed should be in areas where people already visit for entertainment, no proposed venue should be in an area where there isn't already entertainment venues (pubs and clubs) and should not be in residential areas where people would be encouraged to visit when there are no other reasons for prospective customers to visit the area.
9)	Just be sensible to remember if these places are forced underground then it cannot be regulated for safety of the workers in these establishments.

	<p>These businesses have given employment to many and also form part of the attraction with tourism that comes to Edinburgh ie. stag/hen parties on a weekly basis.</p>
10)	<p>Gender inequality anywhere causes violence against women. As such, I wish to make clear my strong support of a resolution to licence Sexual Entertainment Venues (SEVs) and, crucially, to set the limit at zero.</p> <p>The failure to instigate licensing will enable SEVs to operate unlicensed, unregulated and without any legal sanctions.</p> <p>I think it is important that we look to Equally Safe, which is Scotland's Strategy to prevent and eradicate violence against women and girls (also called gender based violence). For the purposes of this strategy, violence against women and girls includes (but is not limited to): domestic abuse, sexual violence (including harassment, sexual assault and rape and child sexual abuse), commercial sexual exploitation, child sexual exploitation, so called "Honour" based violence, including female genital mutilation and forced marriage. The gendered analysis that underpins Equally Safe recognises that women and girls are disproportionately affected by violence precisely because of their gender. It recognises that this violence stems from deep rooted and systemic gender inequality and the subordinate position women occupy in society in relation to men. In this instance, we are talking about the commercial sexual exploitation element, which includes prostitution, trafficking, pornography, lap dancing, pole dancing, peep and strip shows.</p> <p>All of these forms of commercial sexual exploitation are inherently harmful and exploitative of women and I reject the notion that lap and pole dancing are legitimate forms of entertainment.</p> <p>All of us must always take steps that work towards ending the structural inequalities in our society, that permit violence against women and girls to continue. I believe that licensing of sexual entertainment venues is one way we can do something about it, and that is within the gift of all local authorities in Scotland. It will significantly contribute to the elimination of gender inequality by recognising that setting the limit to anything else other than zero is, by default, continuing to perpetuate the very systems that allow violence against women and girls to happen.</p> <p>The National Council for Women and Girls which advises the First Minister on what is needed to tackle gender inequality in Scotland reported that:</p> <p>"Gender inequality is an enduring issue because structures perpetuate it. The Scottish Government; public and third sectors and business need to lead by example and take steps to restructure Scotland to be gender competent to see the desired changes we seek...As well as making this long-established system universally gender competent, we need to ensure there are no conflicting messages and the standards are clear."</p> <p>It would be welcome if Edinburgh City Council would set a clear commitment to eradicating the systems and structures that allow gender inequality to thrive, as well as ensuring there are no "conflicting messages" between a commitment to gender equality and the licensing of SEVs. By setting the number of licences available to grant at zero, the Council would demonstrate aspirations for the city as a whole for gender equality and an end to violence against women and girls as well as taking seriously the obligations toward Public Sector Equality Duty.</p> <p>Sexual entertainment is both inappropriate and unnecessary. Lap dancing clubs are where fully clothed men go to be 'entertained' by naked or semi naked women in an environment where sexual harassment is the norm. There is a major power differential between the man who buys sexual entertainment and the woman he buys, in terms of</p>

her poverty and inequality, unequal social status and abuse history. These clubs are driven by male demand and provided by club owners who seek to make profit on the back of sexual exploitation of women. There is no other comparable form of public entertainment that is as gendered in its nature as sexual entertainment. It is steeped in gender inequality and seeks to make a profit on the sexual objectification and commodification of women. It is an industry that is detrimental and damaging to women reducing them to body parts and is never “harmless fun.”

Regardless of the proximity of SEV's to residential areas, schools or places of worship their very existence creates 'no go areas' for women. There is too often an assumption made by men using these venues that any women in the area are willing to be propositioned for sex by strangers, the belief being if they were not, they wouldn't be in the area. Consequently, women are forced to modify their movements - particularly at night and in the early hours of the morning.

Obligations under the Public Sector Equality Duty must be considered as well as the stated position on violence against women. An equality impact assessment must be carried out on how their existence impacts on the freedom of movement of women and girls and the right of all women and girls to freedom, respect and dignity.

The use of private booths is common place in SEVs, and in that environment of one-to-one performances, women are at significantly more risk of sexual harassment and sexual assault or to be manipulated or coerced into unwanted sexual activity. The safety and wellbeing of the women involved should be of paramount concern here. Research shows that women who are involved in lap dancing and other such similar activities experience verbal, physical and sexual assault from male customers, managers, owners and staff on an alarmingly frequent basis.

Sexual entertainment is not a human right. It is sexual exploitation. Sexual exploitation is a practice by which a person or persons receive sexual gratification, financial gain, or advancement, through the abuse of another person's sexuality, by removing that person's human right to dignity, equality, autonomy, and physical and mental well-being. The rights of a minority of individuals (for example, customers, club owners and managers) should never take precedence over the systematic exploitation of the majority (for example, those who are being harmed through sexual entertainment and other forms of sexual exploitation). Under Article 1 of the European Convention of Human Rights, the UK is required to convey the Convention Rights and fundamental freedoms of “everyone within their jurisdiction.” Given this, a failure to protect a woman from sexual exploitation may breach:

- Article 2 (her right to life);
- Article 3 (her right to be free of inhuman and degrading treatment);
- Article 4 (her right to be free of slavery and servitude).

The only “choices” in these situations lie with those men who seek to use their economic power and male privilege to buy sexual entertainment. In Scotland, the majority of women involved in commercial sexual exploitation are affected by poverty, welfare cuts, substance misuse, homelessness and involvement in the criminal justice system. These are not causes of sexual exploitation, but secondary symptoms that underscore women's inequality and together compound their lack of choice. While some women say it is their ‘choice’ to dance in clubs, the vast majority are involved through the very lack of choice and economic alternatives.

If the Edinburgh City Council choose to set the number of SEVs at zero, there are no legitimate negative consequences for men, but there will be countless positive

	<p>consequences for women across the city and beyond, in the long term. In the short term, they must ensure that assistance is given to the women involved to find an alternative income source to enable this change to be made without those exploited being subject to additional hardship.</p> <p>In order to stop violence against women we must change the attitude of some men – the men who believe they are entitled to sex and superior to the women who must provide it. Enabling men to buy sexual entertainment reinforces this sense of entitlement and maintains the lesser status of women. If we want a truly equal and safe society for women, we must tackle these issues.</p>
11)	This entire approach to licensing is fundamentally judgemental. Restrictions should match other entertainment venues as much as practicable. It is not the council's job to pass moral judgement.
12)	I'm not sure why there is a need to have these premises at all. Whenever I have come across them they always appear seedy.
13)	A good idea so long as the venues and operators are closely monitored.
14)	<p>Councils should place more consideration on the reasons not to grant a license and, as these premises are no doubt very profitable, should impose far greater checks and curbs and penalties that are actually enforced before even considering a license.</p> <p>Residential areas should be exempt from such premises and licenses banned.</p>
15)	Yes open all bars and clubs until 5am
16)	Edinburgh is a city of culture - time to do away with sexual entertainment venues
17)	I wouldn't allow anyone with a criminal record to own, operate, or work in such a business. Now would I allow anyone who is on the sex offenders list.
18)	na
19)	I don't think three locations should be concentrated in one place like currently at Main Point, West Port
20)	Yes, they should be voted out instantly.
21)	NO
22)	I've already been pretty extensive, but if possible I'd like to see some mandate supporting the presence of worker unions - I have no idea if the council has the power to include anything like that, though.
23)	Women feel unsafe and uneasy in and around venues such as these because the men who go there and men in general thanks to pornography freely available on electronic devices tend to treat all women as objects.
24)	I'm concerned that it's not clear what provision there will be for local residents to comment or object to an SEV being located in their neighbourhood. Many local people, particularly women, will have concerns about personal safety should such premises be located near to their homes. I would be very upset to have an SEV nearby.
25)	I don't think any additional regulation is required
26)	Just leave that industry as it's been here for so long, your going to drive the workers back into the streets.
27)	A lot of extra admin for a problem that may not really exist
28)	It has been widely reported that these plans are merely a cover for the plans of a small minority of activists who wish to ban SEVs, under cover of setting licensing requirements. I do not wish for the licensing process to be abused in such a manner, and I hope that this consultation does not capitulate to this vocal minority.

	<p>If this process is unfairly used to close the existing SEVs, then the impact of the closure of these venues will be felt most keenly by their employees, who will have lost an income opportunity after the hugely disruptive events of the coronavirus pandemic and the collapse in the hospitality trade. It seems grossly unfair for workers made vulnerable by the pandemic to lose their livelihoods due to the machinations of a few comfortable, middle class activists.</p>
29)	<p>Failure to permit these premises of this nature to exist in Scotland will drive the activity underground and place the dancers in the hands of persons unknown - to the dancers certain harm. It is already alleged that girls are being engaged by unregulated unscrupulous persons to perform in private houses and other venues. The legitimate operators of whom there are 11 in Scotland condemn such behaviour.</p>
30)	<p>Please make sure you do the extra work required to ask *customers* what they think. There is lots of misinformation about who customers are: they are normal people and going to a strip club can fulfill many mental and emotional health needs as much as be a bit of titillation. You yourself might be a customer, so might your family, friends, colleagues, neighbours. But because of the old-fashioned taboos around erotic entertainment, the misguided and misinformed rhetoric from extremist anti-strip club feminists and the stifling of any intelligent conversation about a) sexual wellness and b) how to prevent the toxic masculinity and other issues that actually do cause the social damage often falsely attributed to the presence of strip clubs in a location, they don't speak up.</p> <p>If we were talking about the closing of any other facility: a swimming pool, a pool hall, a pub, the management, the surrounding community, the workers and the service users would be consulted. So please do the same here.</p> <p>In addition, please know that the dancer community is a mobile workforce and issues that affect dancers in Scotland impact the rest of the UK's strippers. In addition, dancers in Scotland often work in other venues too. So please take the time to really do the digging that might be required to make sure you reach this key group of stakeholders too.</p> <p>Finally, don't be under any illusions. If you close licensed strip clubs you won't stop striptease. It will be pushed underground where client and worker safety is jeopardised. And if you make licensing impositions even harder, you'll only lessen the amount of money and time that venue management have to maintain and invest in their venues.</p> <p>It's also important to remember that strip clubs teach boundaries and about real women in a way that porn does not. They provide a valuable in-person counterweight to online sexuality which is even more vital now than ever when you have teens and even pre-teens finding sexually explicit content online.</p>
31)	No
32)	<p>As a trade union representing workers within all aspects of the Adult Entertainment Industry, we categorically disagree with the Scottish Government's 'Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls'. It sets out a definition of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and</p>

	human trafficking'. We dispute the link between SEVs and "prostitution and trafficking". No evidence has been found of this link and therefore we regard it as inflammatory and evidence of an ideological stance taken by the Council. Indeed, we feel that enshrining strong worker rights in any council policy will preclude any illegal activity and any potential threat of trafficking. We would also like to point out that prostitution is currently not a crime in Scotland.
33)	Criminal marketplaces are more violent and coercive than regulated workplaces - we therefore beseech Edinburgh City Council to consider very carefully your approach to SEV policy, and remind you that working towards a future in which sex work "is a thing of the past" is an impossibility. Banning sex work will not end the supply or the demand, closing safe, legal workplaces and criminalising the sex industry will only serve to drive sex workers into unsafe work environments where they cannot access justice and labour rights.
34)	We would be more than happy to set up a meeting should you wish to discuss any of these matters further, perhaps you may also wish to have a chat to some of the performers. We would welcome this.

Draft Sexual Entertainment Venues Licensing Policy

Draft Sexual Entertainment Venue Licensing 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 (the 1982 Act).
- 1.2 Section 76 of the Air Weapons and Licensing (Scotland) Act 2015 (the 2015 Act) 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 agreed on 31 March 2022 to make a resolution under section 45B(1) of the 1982 Act to introduce a licensing scheme for SEVs with effect from [Date to be added after committee decision] Consequently, this SEV policy applies to the whole of Edinburgh.
- 1.4 The making 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 to determine the appropriate number of premises to be licensed as SEVs within the city or any identified locality of the city and the appropriate number may be set at zero.
- 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 statutory licensing 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 SEVs 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. Having regard to Scottish Government guidance, due consideration 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 and/or in connection with the premises
- g. Whether there have been incidents of human trafficking or exploitation in that area and/or in connection with the premises

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 local authority area or 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 the local authority area or locality. The Council is able to determine that the appropriate number for the local authority area or locality is nil.
- 3.6 The Council must determine the appropriate number of SEVs which it considers appropriate in any area within the Council's control. Having done so, each application will be considered on its own individual merits at the time the application is submitted to the Council.
- 3.7 The Council considers the appropriate maximum limit on the number of SEVs within the City of Edinburgh is {To be updated after Committee decision}.. The Council considers that the city centre ward 11 (as shown appendix 1) is the only area of the city where it is appropriate to have SEVs located. No separate localities have been identified. It is considered that no other Council wards are appropriate to have any SEVs operating within them given the predominantly residential nature and character of those wards.
- 3.8 Notwithstanding the terms of paragraph 3.7 above, the Council does not consider any commercial or industrial areas in the city appropriate locations for SEVs. At the time of passing the resolution there were no SEVs operating in these areas. Further it is possible that the classification of such areas can change through regeneration or development to become residential in character. Finally, these areas are not considered suitable as they can be isolated or quiet after normal business hours and these would not be appropriate locations having regard to the safety of performers.

Suitability of Premises

- 3.9 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.
- 3.10 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](#).

4.4 The following list organisations will receive a copy of an application upon its submission to the Council

- a. Edinburgh Rape Crisis Centre
- b. Edinburgh Women's Aid
- c. Equally Safe (Edinburgh) Committee
- d. Rape Crisis Scotland
- e. Scottish Women's Aid
- f. Zero Tolerance
- g. Any community council within or neighbouring the locality in which the premises is situated

Making an Objection

4.5 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.

- 4.6 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
- 4.7 Objections to a SEV application will be considered by the Licensing Sub-Committee when determining the application. A copy of the general terms of the objection will be sent to the applicant, however certain contact details such as telephone numbers, email addresses and signatures will be removed. The name and address of any objector will not be provided to the applicant without the objector's consent.

Determining an Application

- 4.8 Every application for a SEV licence will be considered 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 also be considered at the Committee meeting.
- 4.9 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.
- 4.10 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, which states

"A licence under this Schedule shall not be granted -

- a) To a person under the age of 18;
- b) to a person who is for the time being disqualified under paragraph 13(10) or 19(5) below;
- c) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management is disqualified under paragraph 13(10) or 19(5) below;

- d) to a person who has been convicted of an offence under paragraphs 19 to 21 below;
- e) to a person who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- f) to a body corporate which is not incorporated in the United Kingdom;
- g) to person who has, within the period of 12 months immediately preceding the date the application was made, been refused by the same local authority the grant or renewal of a licence under this Schedule for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal; or
- h) to a person other than a natural person if any director of it or partner in it or any other person responsible for its management has within that period, been refused by the same local authority the grant or renewal of such a licence, unless the refusal has been reversed on appeal.”

4.11 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 local authority area or relevant locality at the time the application is made is equal to or exceeds the number which the Council considers appropriate for their area or that locality;
- d. That the grant or renewal of the licence would inappropriate having regard:
 - a) To the character of the relevant locality; or
 - b) To the use to which any premises in the vicinity are put; or
 - c) To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

Suitability of Applicant

4.12 In determining an application, the Committee will consider whether the applicant is or remains fit and proper to hold a licence. The Council does not expect any fines, arbitrary or otherwise, to be in place for performers, which could result in

their loss of income. Additionally, the Council expect that house fees for performers will be transparent and agreed in advance. The Council does not expect that these would be subject to change at short notice, resulting in a loss of income to the performer. Where examples of fining or issues with house fees are brought to their attention, the Committee could take this into account when considering whether an applicant is or remains fit and proper to hold a SEV licence.

Variation of a SEV Licence

- 4.13 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.
- 4.14 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.
- 4.15 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

- 4.16 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.
- 4.17 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

- 4.18 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.

- 4.19 Where an application for a licence is refused on the under paragraph 9(5)(c) or (d) of Schedule 2 of the Civic Government Act 1982, the applicant can only challenge the refusal by way of judicial review.

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 31 March 2022 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 last updated in 2018 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

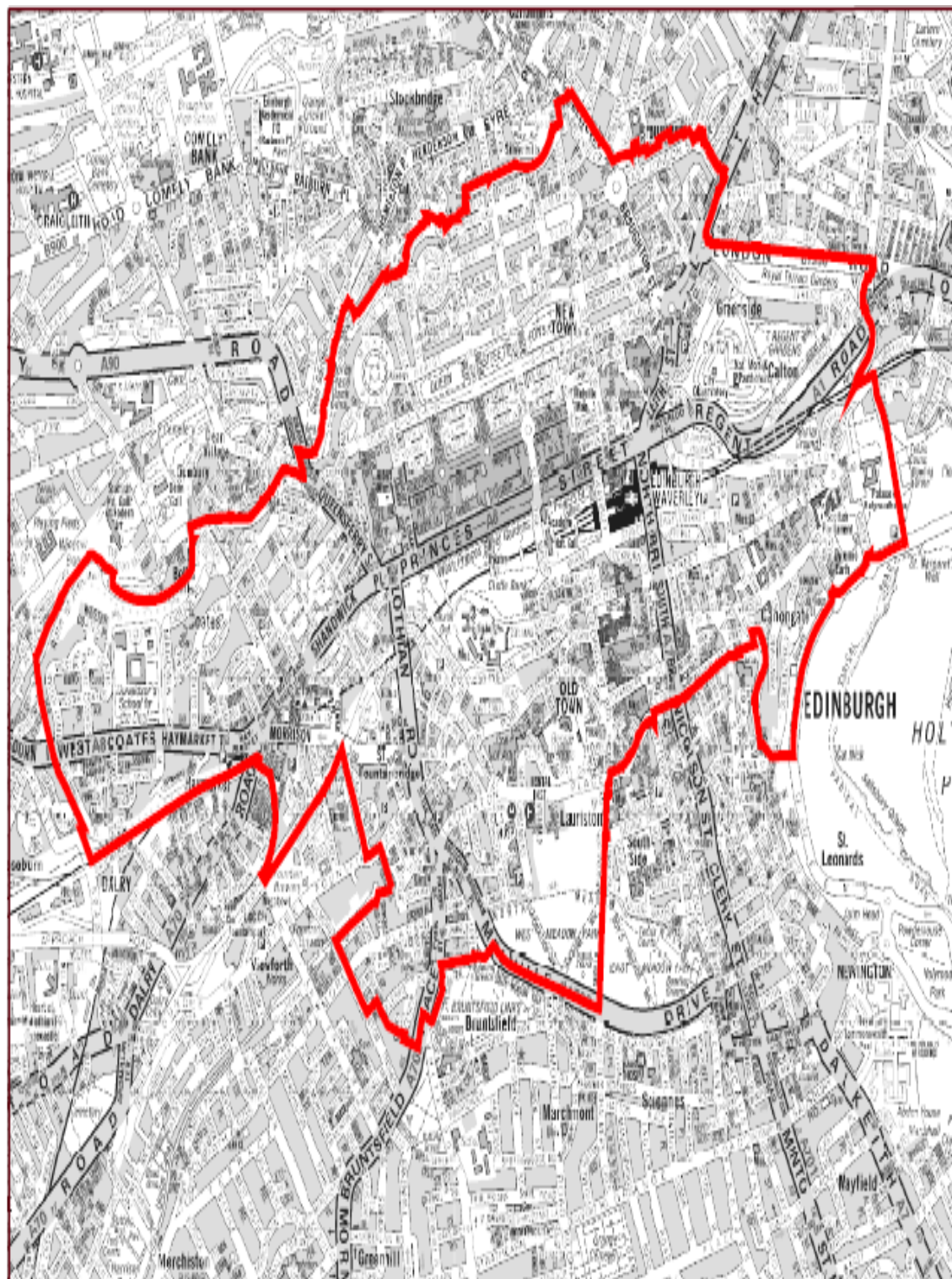
- 7.1 [Air Weapons & Licensing \(Scotland\) Act 2015 – Sexual Entertainment Venues– Update After Initial Consultation – Regulatory Committee – 21 October 2019](#)
- 7.2 [Civic Government \(Scotland\) Act 1982 – Sections 45A-45C](#)
- 7.3 [Provisions for Licensing of Sexual Entertainment Venues: Guidance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

Review

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

Appendices

Appendix One – Map of City Centre - Ward 11



NOTES

Produced using
Smallworld GIS

WARD 11 - CITY CENTRE

Scale: 1:19660



Reproduced by permission of Geographers' A-
Z Map Co. Ltd. ©Crown Copyright 2015. All
rights reserved. Licence number 100023420

DATE:
08/12/2017

Draft 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

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 Chief Constable 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:
 - a. The name of the premises
 - b. The opening hours of the premises

- c. Notice of any admission charge to the premises
- d. 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 or 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:
 - a. All crimes reported to the premises;
 - b. All ejections of patrons;
 - c. Any incidents of disorder;
 - d. Any faults in the CCTV system;
 - e. Any refusal of the sale of alcohol;
 - f. 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 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:
- A copy of the Sexual Entertainment Venue Licence, including these and any additional conditions applied by the Council.
 - 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.
 - Details of how to report crime to the relevant authority.
 - Details of unions, trade organisations or other bodies that represent the interests of performers
 - 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
- 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.
 - 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.
 - Any customer behaving inappropriately will be ejected from the premises.
 - Performers shall be provided with free drinking water on request.

Touting for Business

- 47 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.

Draft Sexual Entertainment Venues Resolution

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

THE CITY OF EDINBURGH SEXUAL ENTERTAINMENT VENUES RESOLUTION Number
1 of 2022

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

- (1) Schedule 2 of the 1982 Act shall have effect throughout the Council's area in relation to the licensing of Sexual Entertainment Venues.
- (2) Subject to the terms of the Act, a Sexual Entertainment Venue licence shall be required for the use of the premises as places of Sexual Entertainment as from **1 April 2023**
- (3) The premises in the Council's area which require to be licensed under the Resolution include those which provide the following, as they are commonly known:

- (a) Lap dancing
- (b) Pole dancing
- (c) Table dancing
- (d) Strip shows
- (e) Peep shows
- (f) Live sex shows

The list of examples 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.

In terms of the Act ‘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).

Section 4 Integrated Impact Assessment

Summary Report Template

Each of the numbered sections below must be completed

Interim report		Final report	X		(Tick as appropriate)
----------------	--	--------------	---	--	-----------------------

1. Title of proposal

City of Edinburgh Council Sexual Entertainment Venues Licensing Policy

2. What will change as a result of this proposal?

The Air Weapons and Licensing (Scotland) Act 2015 adds new sections to the Civic Government (Scotland) Act 1982 which enables local authorities to introduce a discretionary licensing system for sexual entertainment venues (SEVs). As a result of this policy, a licensing regime will be implemented for premises classed as SEVs. The policy and conditions allow the Council to consider local circumstances and to exercise appropriate control and regulation of these venues in setting the number of venues able to operate within Edinburgh. If the Council does not adopt this discretionary power then SEVs will continue to operate without any direct influence from the Council. Premises which fall under the definition of a sexual entertainment venue could close or be forced to significantly change their operation if a SEV policy is introduced with a zero limit in relation to the number of SEV premises

3. Briefly describe public involvement in this proposal to date and planned

The Council has engaged in public consultation throughout the process of agreeing to adopt, in principle, a scheme to licence sexual entertainment venues.

On 11 March 2019 the Regulatory Committee instructed officers to carry out an initial public consultation with a view to gaining a broader understanding of community views in relation to the potential introduction of a resolution which, if implemented, would require premises classed as SEVs to be licensed in 2021. Subsequently, a consultation exercise was carried out from 8 July to 17 August with over 800 responses.

A further report containing a comprehensive analysis of the response was considered by the Committee on 21 October 2019. The Committee agreed to adopt a scheme to licence SEVs, in principle and instructed officers to draft a proposed SEVs policy, resolution & conditions for consideration.

As part of the process in developing a draft policy and conditions, officers referred to the information gathered during the initial consultation exercise. Information was also gathered by holding a series of evidence sessions with key stakeholders such as existing operators and performers, Police Scotland, NHS, members of the public and community councils. In addition, the Committee also held sessions with the appropriate internal Council officers, elected members 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. Furthermore, officers carried out a document review of existing SEV licensing policies in operation in England, including those council areas of a similar size to Edinburgh, such as Westminster. A full list of those policies that were studied is included in section 6. There has also been engagement with the SOLAR licensing SEV working group, which has brought together officers from a number of Scottish local authorities to discuss and consider proposed SEV licensing schemes and policies. As part of this work, officers attended a SEV licensing seminar which had expert speakers on the subject from both England and Scotland.

Following a period of extensive research, previous consultation exercises and instruction from the Regulatory Committee, a draft SEVs policy and draft licensing conditions were published with a further round of public consultation taking place on both draft proposals. This consultation took place between 9 April – 2 July 2021 and received 89 responses in total.

Since the Committee initially considered the licensing of SEVs and draft policy framework in December 2021, additional correspondence has been received by the Council from various interest groups and organisations representing contrary views on the possible numbers limitation if SEVs become regulated under the 1982 Act.

4. Is the proposal considered strategic under the Fairer Scotland Duty?

No

5. Date of IIA

23 March 2022

6. Who was present at the IIA? Identify facilitator, lead officer, report writer and any employee representative present and main stakeholder (e.g. Council, NHS)

Name	Job Title	Date of IIA training
Chris McKee (co-facilitator, lead officer, report writer)	Regulatory Officer	

Jackie McInnes (Co-facilitator)	Senior Planning Officer	09 March 22
Catherine Scanlin	Licensing Manager	
Gordon Hunter	Regulatory Officer	2015
Morag Leck	Principal Solicitor – Licensing	15 November 2018
Mark Upward	Advice Services Manager	November 2018

7. Evidence available at the time of the IIA

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
Data on populations in need	Yes	The consultation responses gave data on respondents ethnic group or background, sexual orientation, age, national identity, gender, religion, religious denomination or body.
Data on service uptake/access	Yes	<p>Information on the service uptake/access to SEV premises could be considered commercially sensitive and therefore the Council has not been able to access this information.</p> <p>However, the consultation process has resulted in information being received from the following groups:</p> <p>Customers SEV Performers & Union Reps SEV Operators & Legal Agents Neighbours / Residents</p>
Data on socio-economic disadvantage e.g. low income, low wealth, material deprivation, area deprivation.	Yes	<p>Information received during the consultation process from SEV operators, SEV performer and SEV performer union representatives stated that by introducing a licensing scheme which bans SEVs from operating would result in a loss of income for a number of people, including operators, performers and premises employees such and bar and door staff, which would create a socio-economic disadvantage for them and any dependents. The same respondents also stated that a zero limit would likely cause the sexual entertainment to operate 'underground' in unregulated locations which would create a greater chance of performers being a victim of crime.</p> <p>Information received from organisations such as violence against women's groups stated that by introducing a licensing scheme which bans SEVs, it would allow</p>

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		performers to find alternative, safer and more stable means of employment
Data on equality outcomes	Yes	<p>Information from trade organisations such as performers union groups have stated that by introducing a licensing scheme which bans SEVs from operating, the equality outcomes of performers, employees and operators of SEVs would be adversely affected.</p> <p>Information from organisations such as violence against women's groups have stated that by licensing SEVs and allowing them to operate that women's equality outcomes could be adversely affected.</p>
Research/literature evidence	Yes	<p>Some consultation responses have referred the Committee to existing research and literature on a range of issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> • SEV performer perspectives of working in the industry • If any links exist between SEVs and violent crimes; sexual offences; violence against women and girls <p>The titles and links to the research and literature are included in the responses to the consultation</p>
Public/patient/client experience information	Yes	<p>There are a range of views on this subject. At a high level it is possible to identify two very different points of view that are diametrically opposed to each other, as to whether SEVs should be permitted to operate.</p> <p>As noted below and in the information put before the Committee, there are those who feel SEVs are safe and that those who work in SEVs have the right to work and it is their right to choose how they earn an income. On the other hand, there are some respondents who feel that SEVs negatively</p>

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		<p>contribute towards equality outcomes and act as a form of violence against women. Given that the 4 SEV premises have operated for a minimum of 20 years, this indicates there is a demand for this service.</p>
Evidence of inclusive engagement of people who use the service and involvement findings	Yes	<p>During the public consultation exercises, information has been provided from those who work in the SEV trade and those who have identified themselves as customers of SEV premises.</p> <p>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</p> <p>To encourage participation, the public consultations and evidence sessions were open to all interested parties to contribute</p> <p>The evidence session with the performers and operators was conducted in private to protect identities, commercially sensitive information and to encourage participation. Those evidence sessions held with members of the public, community/interest groups, Police Scotland, NHS Scotland, Licensing Standards Officer took place in public and were broadcast on the Council's website for transparency. Officers also met with a SEV performer Union representative and the Council's</p>

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		Equally Safe Lead Officer to update them on the proposals. Given the sensitive and emotive nature of this subject, the Council have taken a range of measures to encourage participation in the consultation process.
Evidence of unmet need	No	No evidence of unmet demand for SEV premises has been identified during this process. At present, there are 4 premises which would fall under the definition of a SEV which have operated continuously for a number of years.
Good practice guidelines	Yes	In forming a SEVs policy and conditions framework, the Council has taken into account the information available from existing SEV licensing schemes in England. These include those from the following local authority areas: <ul style="list-style-type: none"> • Birmingham • Camden • Leeds • Manchester • Sheffield • Westminster The Council has also referred to the Scottish Government's Guidance on the Provisions for Licensing of Sexual Entertainment Venues.
Carbon emissions generated/reduced data	N/A	N/A
Environmental data	N/A	N/A
Risk from cumulative impacts	N/A	N/A
Other (please specify)	Yes	The decisions of other Scottish local authorities, which had resolved to licence SEVs at the time of writing, and the associated SEV licensing policies of those local authorities were considered.

Evidence	Available – detail source	Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal
		Correspondence to the Council from the Equally Safe Edinburgh Committee and the United Sex Workers branch of the United Voices of the World trade union were also considered.
Additional evidence required	No	No

8. In summary, what impacts were identified and which groups will they affect?

Equality, Health and Wellbeing and Human Rights	Affected populations
<p>Positive</p> <p>From the information gathered through the consultation processes and evidence sessions, it is evident that the majority of SEV workers identify as female.</p> <p>If a policy was introduced to licence SEVs, it could have a positive impact on women as it would mean there is more regulation in the industry. The SEV operator would have to comply with licence conditions, imposed by the Committee. A licensing regime would also provide a mechanism for SEV workers and also members of the public, to report any problems they have with the running of the premises to the Committee, who could investigate and possibly take appropriate action against the licence holder to ensure the SEV workers safety is not being compromised or any nuisance being caused to the public by the operation of the premises.</p> <p>If licensed, it could allow an opportunity through the licensing policy statement to provide a more secure and safe environment for SEV workers and also members of the public.</p> <p>If a SEV licensing scheme was introduced with limits placed on the number of SEVs in a certain locality, it would</p>	<p>Men (including trans men), Women (including trans women) and Non-binary people; Children & young persons; SEV performers; SEV premises operators; SEV employees (bar staff, door staff); Neighbours/Residents; Customers</p>

<p>allow the Council to control the number of SEVs operating in certain vicinities. For example, near schools, places of worship, women's refuges, residential areas etc.</p> <p>If SEVs were to be licensed and an appropriate number set to enable SEVs that the Committee is currently aware of, to remain open, it would ensure that the SEVs workers continue to be employed and receive an income to support themselves and any dependents.</p> <p>If SEVs were to be licensed and the number set to zero SEVs in Edinburgh, this could have a positive impact on SEV workers as some responses stated that workers in SEVs are sexually exploited, suffer sexual assault and are abused.</p> <p>If SEVs were to be licensed and the number set to zero SEVs in Edinburgh, this could have a positive impact on women (including trans women) in Edinburgh as some responses have stated that the existence of SEVs can lead to them feeling unsafe in certain parts of the city.</p> <p>The responses highlighted that some workers in SEVs may be transgender. The positives and negatives for transgender would be similar to those listed above for men and women.</p> <p>Although the majority of responses received from SEVs workers were from women, there are men who also work in the SEVs that the Committee has knowledge of. The positives and negatives for men would be similar to those listed for women above</p> <p>The evidence sessions highlighted that the owners and the majority of premises managers in SEVs in Edinburgh, that the Committee are aware of, were men. The owners and managers were in favour of a licensing regime and the number set to allow current SEVs that the Committee is aware of in Edinburgh, to continue operating. The owners and managers stated that if licensed, it would provide direct regulation for the dancers and premises.</p> <p>The information gathered in developing a draft SEV licensing policy and conditions framework has allowed the Council to gain a better understanding of the issues related to SEVs in general and more specifically in Edinburgh.</p>	
--	--

<p>Negative</p> <p>If SEVs were to be licensed and an appropriate number set to enable SEVs that the Committee is currently aware of, to remain open, this could have a negative impact on SEV workers as some responses stated that workers in SEVs are sexually exploited, suffer sexual assault and are abused and that the existence of SEVs contributes towards violence against women and girls, the objectification of women and gender inequality.</p> <p>If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at zero this could have a negative impact on the majority of SEVs workers who are women, as the venues they currently work in may close. This could lead to unemployment which would not only impact on the worker but also any family members who are dependent upon their income.</p> <p>If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at zero, this could have a negative impact as it could cause the sexual entertainment to operate 'underground' in unregulated locations which would create a greater chance of performers being a victim of crime.</p> <p>The external appearance of sex establishments has the potential to impact those persons under 18 negatively as it could expose them to sexually explicit imagery.</p> <p>Persons under 18 accessing the SEVs premises has the potential to impact those persons negatively. This risk exists as with any age restricted licensed premises.</p>	
--	--

<p>Environment and Sustainability including climate change emissions and impacts</p> <p>Positive</p> <p>If SEVs were to be licensed and the number set to zero, this could have a positive effect as it could encourage new businesses to the premises, should the existing SEV premises operators vacate.</p>	<p>Affected populations</p> <p>SEVs premises operators/Local businesses</p> <p>Residents</p>
--	---

<p>If SEVs were to be licensed and an appropriate number set to enable SEVs that the Committee is currently aware of, to remain open, it would result in the continued use of a business premises in the area.</p> <p>Negative</p> <p>If SEVs were to be licensed and the number set to zero, this could have a negative impact as those affected businesses could be forced to close and could result in empty premises. This could have a negative impact on, or contribute to the decline of, the surrounding built environment.</p>	
--	--

<p>Economic</p> <p>Positive</p> <p>If SEVs were to be licensed and an appropriate number set to enable SEVs that the Committee is currently aware of, to remain open, it would ensure that the SEVs workers continue to be employed and receive an income to support themselves and any dependents. This would not result in socio-economic disadvantage for these populations.</p> <p>If SEVs were to be licensed and the number set to zero SEVs in Edinburgh, this would have a positive impact on SEV workers/performers as some responses stated that workers in SEVs are financially exploited by the SEV operators. There are also various ways in which performers can access support in finding alternative employment in Edinburgh. However, it is also noted that some workers will live out with Edinburgh or also work at venues in different local authority areas.</p> <p>Negative</p> <p>Premises which fall under the definition of a sexual entertainment venue could close or be forced to significantly change their operation if a SEV policy is introduced with a zero limit in relation to the number of SEV premises.</p> <p>If the Committee determined to licence SEVs but set the appropriate number of SEVs in the locality at zero this could have a negative impact on the majority of SEVs workers, who are women, as the venues they currently</p>	<p>Affected populations</p> <p>Men (including trans men), Women (including trans women) and Non-binary people; SEV performers SEV premises operators/Local businesses; SEV employees (bar staff, door staff, full time staff, part time staff); SEV Customers, SEV suppliers</p>
---	---

<p>work in may close. This could lead to loss of income, unemployment and create a socio-economic disadvantage, which would not only impact on the worker and any other staff but also any family members who are dependent upon their income. The continuing increases to the cost of living (e.g. fuel, food & energy costs), at the time of writing, was also noted and that any loss of income would exacerbate any cost increases for those affected.</p> <p>If a SEV licensing scheme was introduced with limits placed on the number of SEVs in a certain locality, it would allow the Council to control the number of SEVs operating in certain vicinities. This could restrict the ability of SEV businesses to operate in certain areas of the city.</p> <p>If a SEV premises closed as a result of a licensing scheme it could have a negative impact on other businesses which supply the SEV business, such as suppliers who provide cleaning or bar supplies.</p>	
--	--

9. Is any part of this policy/ service to be carried out wholly or partly by contractors and if so how will equality, human rights including children's rights, environmental and sustainability issues be addressed?

N/A

10. Consider how you will communicate information about this policy/ service change to children and young people and those affected by sensory impairment, speech impairment, low level literacy or numeracy, learning difficulties or English as a second language? Please provide a summary of the communications plan.

The Licensing Service currently deals with customers from a range of backgrounds. This includes those affected by sensory impairment, speech impairment, low level literacy or numeracy, learning difficulties or English as a second language.

If the Regulatory Committee passes a resolution to licence SEVs, it must specify a date from when it is to take effect in their area. This must be at least one year from the date the resolution is passed. The local authority must also publish notice that they have 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 SEV, and be published either electronically or in a local newspaper.

If the Regulatory Committee agree to adopt a resolution to licence SEVs, the licensing service will communicate this in a number of ways. All affected premises will be written to in order to inform them of the decision along with information on the agreed SEVs policy, conditions framework and any other appropriate information. Furthermore, the Committee's decision will be communicated using the Council's and Licensing Service's social media accounts in addition to updates being placed on the Council's website. The Licensing Service will also include information of the Committee's decision in its regular newsletter which is sent to all licence holders. The decision will also be communicated to Community Councils.

Where customers require further support to access information in respect of SEV licensing, the licensing service will make the necessary reasonable adjustments to cater for this. For example, translators can be provided for those customers whose primary language is not English and who have difficulty understanding this information.

11. Is the plan, programme, strategy or policy likely to result in significant environmental effects, either positive or negative? If yes, it is likely that a [Strategic Environmental Assessment](#) (SEA) will be required and the impacts identified in the IIA should be included in this. See section 2.10 in the Guidance for further information.

No

12. Additional Information and Evidence Required

If further evidence is required, please note how it will be gathered. If appropriate, mark this report as interim and submit updated final report once further evidence has been gathered.

At this stage, it has not been established that any additional information of evidence is required. Should the Regulatory Committee request further information, this will be provided.

13. Specific to this IIA only, what recommended actions have been, or will be, undertaken and by when? (these should be drawn from 7 – 11 above) Please complete:

Specific actions (as a result of the IIA which may include financial implications, mitigating actions and risks of cumulative impacts)	Who will take them forward (name and job title)	Deadline for progressing	Review date
Include a copy of this IIA in the Regulatory Committee Report due to be considered on 31 March 2022.	Chris McKee, Regulatory Officer	24 March 2022	31 March 2022

14. Are there any negative impacts in section 8 for which there are no identified mitigating actions?

No

15. How will you monitor how this proposal affects different groups, including people with protected characteristics?

It is proposed that the SEV licensing policy is reviewed annually, or more frequently, should circumstances require it. A review of the IIA and how the policy is affecting different groups, including those with protected characteristics, will form part of that work.

16. Sign off by Head of Service

Name – Peter Watton

Date – 25 March 2022

17. Publication

Completed and signed IIAs should be sent to:

integratedimpactassessments@edinburgh.gov.uk to be published on the Council website www.edinburgh.gov.uk/impactassessments

Edinburgh Integration Joint Board/Health and Social Care

sarah.bryson@edinburgh.gov.uk to be published at www.edinburghhsc.scot/the-ijb/integrated-impact-assessments/

**Scottish Government Guidance on the Provisions for Licensing
Of Sexual Entertainment Venues**

Air Weapons and Licensing (Scotland) Act 2015

Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres

March 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

GUIDANCE ON THE PROVISIONS FOR LICENSING OF SEXUAL ENTERTAINMENT VENUES AND CHANGES TO LICENSING OF THEATRES

CONTENTS LIST

Introduction

- Legislation
- The Guidance
- Background
- Relationship with other Strategies

Licensing of sexual entertainment venues

- Local Authority Resolution
- Specified Day

Statements of policy in relation to sexual entertainment venues

- Content
- Licensing conditions

Applications

- Consideration
- Notification
- List of Appropriate Persons
- ECHR Issues
- Fees
- Enforcement
- Conclusion

Licensing of sexual entertainment venues: interpretation

- Definitions
- Exemptions
- Sex shops
- Under 18s
- Public entertainment

Licensing of Theatres

- Repeal of existing mandatory licensing provisions
- Local Authority resolution

Commencement of licensing of theatres and sexual entertainment venues

- Transitional provisions
- Consequential amendments - The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 and The Premises Licence (Scotland) Regulations 2007

Introduction

The key aims of civic licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for sexual entertainment venues will allow local authorities to consider local circumstances in setting the number of venues able to operate within their areas (this could be nil) and to exercise appropriate control and regulation of these venues.

Local authorities that do not currently have any sexual entertainment venues may wish to carefully consider whether there would be merit in making a resolution and setting a number (including nil) of such venues for their area to allow them to control the number of sexual entertainment venues operating in their area in the future.

It is important to note that The Licensing (Amendment) (EU Exit) (Scotland) Regulations 2019¹ amend Schedule 2, paragraphs 9(3)(e) and 9(3)(f) of the Civic Government (Scotland) Act 1982² (the 1982 Act). This change prevents the granting of a licence for a sex shop or sexual entertainment venue to a person who is not resident in the United Kingdom (the UK) or was not resident throughout the 6 month period prior to the application being made. It also prevents the granting of a licence to a body corporate not incorporated in the UK. These provisions come into force on exit day. The previous residency restrictions for granting a licence were to a member state of the EU.

A published sexual entertainment policy statement will provide local communities with a clear indication of the local authority's policy and examples of licensing conditions, along with enforcement details. The policy should also demonstrate how the local authority intends to help protect the safety and wellbeing of performers, customers and the wider public.

Legislation

1. The Air Weapons and Licensing (Scotland) Act 2015³ (the 2015 Act) received Royal Assent on 4 August 2015. The provisions of the Act which relate to the licensing of sexual entertainment venues (SEV) come into force on 28 April 2019. However this is not a mandatory licensing regime and it is for local authorities to determine whether they wish to licence SEV, whether to limit their numbers and to determine individual licence applications. When doing so local authorities will need to consider the implications, opportunities and risks of their decisions.
2. Section 76 of the 2015 Act inserts sections 45A, 45B and 45C into Part III of the 1982 Act. These provisions establish a specific licensing regime for the regulation of SEV and allow for greater local control over the provision of such

¹ <http://www.legislation.gov.uk/ssi/2019/6/contents/made>

² <http://www.legislation.gov.uk/ukpga/1982/45/contents>

³ <http://www.legislation.gov.uk/asp/2015/10/contents>

venues. Although licensing of SEV follows a similar pattern to that covered by Part I, Part II and Schedule 1 of the 1982 Act, local authorities may wish to note that these provisions have no application to Part III licences which are solely governed by Schedule 2 of the Act.

3. While this guidance is primarily in respect of the SEV licensing regime, it also includes details at paragraphs 91-92 of the repeal of the existing mandatory licensing regime for theatrical performances under section 12 of the Theatre Act 1968 and the ability of local authorities to licence theatres under the more flexible public entertainment licence requirements contained within the 1982 Act. To address concerns raised, it is worth emphasising that **theatrical performances which are not provided solely or principally for the purpose of sexually stimulating the audience will not be classed as sexual entertainment. As a result, the use of the premises for those performances will not require an SEV licence.**
4. Information in respect of both SEV and the theatre provisions is provided at: paragraphs 93-96 on commencement; at paragraphs 97-102 on transitional provisions; and at paragraphs 103-107 on the consequential changes required to The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 and The Premises Licence (Scotland) Regulations 2007 as a result of the creation of a SEV licensing regime and the changes to theatre licensing.
5. This guidance also makes reference to the Licensing (Scotland) Act 2005 (the 2005 Act⁴), which provides a licensing regime for the sale of alcohol. The 1982 Act, and the 2005 Act provide for a variety of different licences, and it is possible that the same premises may require more than one licence. Care should therefore be taken to ensure that the requirement to obtain a licence and any exemptions from the requirement to obtain a licence are carefully considered.
6. The 1982 Act sets out that civic licensing decisions are the responsibility of the licensing authority, a committee made up of locally elected councillors. The 2005 Act provides that alcohol licensing decisions are the responsibility of the local Licensing Board. These terms are used throughout this guidance and refer to the licensing functions of a local authority. Where different committees are involved in the licensing of the same business, then it can be useful to co-ordinate in relation to the setting of licence conditions etc.
7. Where a local authority opts to licence SEV within its area, the provisions at paragraph 4 of Schedule 2 of the 1982 Act will apply in their area and a licence will be required for premises operated as SEV. Premises are classed as an SEV where sexual entertainment is provided before a live audience for the direct or indirect financial benefit of the organiser. Sexual entertainment is any live performance or live display of nudity provided 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 4 occasions in a twelve month period are not to be treated as SEV. *The Licensing of sexual entertainment*

⁴ <http://www.legislation.gov.uk/asp/2005/16/contents>

venues: interpretation section at paragraphs 84-90 of this guidance provides additional definitions and further information.

8. The passage of the Air Weapons and Licensing (Scotland) Bill through the Scottish Parliament includes further documentation that may be of interest including the Explanatory Notes and Policy memorandum⁵.

The Guidance

9. Section 45B(7) of the 1982 Act requires that, in carrying out its functions, a local authority must have regard to guidance issued by Ministers. This non-statutory guidance is intended to assist local authorities, but other parties such as the Police, venue operators, relevant organisations and performers may also find it useful.
10. A *Consultation on Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres*⁶ was published on 1 November 2017 with a closing date of 7 February 2018. The responses received were carefully considered and were of assistance in finalising this guidance.
11. The guidance should be read in conjunction with the relevant legislation, particularly Part III and Schedule 2 of the 1982 Act and the relevant accompanying documents for the Air Weapons and Licensing (Scotland) Act 2015. This guidance does not represent legal advice and any individual or organisation reading this guidance should not treat this guidance as a replacement for independent legal advice. The interpretation of the 1982 Act, as amended by the 2015 Act, is ultimately a matter for the courts.

Background

12. On 24 March 2005, previous Scottish Ministers set up a Working Group on Adult Entertainment to review the scope and impact of adult entertainment activity and make recommendations on the way forward. This followed concerns expressed about the lack of controls on adult entertainment activity. The Group⁷ made a number of recommendations aimed at improving standards in the industry, ensuring the safety of performers and customers, regulating the impact on the locality, improving local accountability and control and ensuring that there was no inadvertent impact on artistic freedoms.
13. At that time, it was felt that, as SEV also sold alcohol and therefore required alcohol licences, it was best left to local licensing boards to regulate adult entertainment via the existing licensing regime for alcohol.

⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/76383.aspx>

⁶ <https://consult.gov.scot/justice/licensing-of-sexual-entertainment-venues/>

⁷ <http://www.gov.scot/Publications/2006/04/24135036/0>

14. In 2010 Sandra White MSP introduced amendments to provide for a specific system of licensing for sexual entertainment which were considered by the Scottish Parliament as part of its scrutiny of the Criminal Justice and Licensing Bill at Stages 2 and 3. The proposed provisions broadly mirrored those that had been introduced in England and Wales in section 27 of the Policing and Crime Act 2009. While the Scottish Government supported the proposals, Parliament rejected them due to concerns about the effect of operating a dual licensing system and concerns about the lack of opportunity to fully consider the proposals.
15. Since then, the Inner House of the Court Of Session in *BrightCrew Limited v City of Glasgow Licensing Board* ([2011] CSIH 48⁸) held that the licensing regime in the 2005 Act was limited to the regulation of the sale of alcohol and couldn't extend to matters not linked to the sale of alcohol. As a result, Scottish Ministers considered that a specific licensing regime for SEV was the best solution for future regulation of the industry. This approach would remove concerns around Licensing Boards attempting to use the alcohol licensing regime to regulate matters that go beyond the remit of that regime.
16. A consultation was published in June 2013⁹ (the consultation) inviting views on the establishment of a licensing regime based on the draft provisions that Ms White had proposed in 2010. Section 76 of the 2015 Act amends the 1982 Act to provide for this.

Relationship with other Strategies

17. In response to the consultation there was wide support for the principle of a new licensing regime including from local authorities, Police, violence against woman and gender groups.
18. However, some concerns were raised that licensing SEV encouraged unhealthy attitudes to women and therefore damaged society as a whole.
19. The Scottish Government accepts the freedom of adults to engage in legal activities and employment. However, it will continue to promote, through all relevant means, gender equality and actions that tackle out-dated attitudes that denigrate or objectify particular groups or individuals.
20. *Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls*¹⁰ was first published in 2014 and updated in 2016 and again in 2018. 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'.

⁸ <https://www.scotcourts.gov.uk/search-judgments/judgment?id=2a9286a6-8980-69d2-b500-m0000d74aa7>

⁹ <http://www.gov.scot/Publications/2013/06/3607>

¹⁰ <https://beta.gov.scot/policies/violence-against-women-and-girls/equally-safe-strategy/>

21. Whilst recognising the conflict between this definition and the licensing of SEV, this guidance will help to ensure that such activities take place in safe and regulated environments. When deciding whether to licence, and whether to limit, SEV in their area, local authorities will need to consider the interaction with their own local policies and strategies, as well as the legal implications around limiting a legitimate business activity to minimise the risk of legal challenge.
22. Equally Safe's aim is to work collaboratively with key partners across all sectors to prevent and eradicate all forms of violence against women and girls and the attitudes which perpetuate them. Its priorities are: achieving gender equality; intervening early and effectively to prevent violence; and maximising the safety and wellbeing of women, children and young people. *Equally Safe: A Delivery Plan for Scotland's strategy to prevent and eradicate violence against women and girls*¹¹ was published in November 2017. It will help to ensure that the ambitions of the Equally Safe Strategy make a tangible difference.
23. The *Trafficking and Exploitation Strategy*¹², required under section 35 of the Human Trafficking and Exploitation (Scotland) Act 2015 was published on 30 May 2017. It sets out the Scottish Government's strategy to work with partners to make Scotland a more hostile place for human trafficking. The aims of the strategy are to identify victims and support them to safety and recovery; identify perpetrators and disrupt their activity; and address the conditions that foster trafficking and exploitation.
24. In developing the licensing regime, care has therefore been taken to balance the freedom of individuals to engage in legal employment and activities with the right of local authorities to exercise appropriate control and regulation of SEV that operate within their areas.
25. Ministers consider that local authorities are best placed to reflect the views of the communities they serve and to determine whether SEV should be licensed within their areas and, if so, under what conditions.
26. A local authority which chooses to licence SEV will have to publish an SEV policy statement, developed in consultation with relevant interest groups (including violence against women partnerships) which will provide local communities with a clear indication of the local authority's policy. Where an SEV licence is granted, licence conditions, along with enforcement, will help reduce the risk of criminality such as prostitution and human trafficking; and help protect the safety and wellbeing of performers, customers and the wider public. The community should, in turn, benefit from a safe, regulated environment.
27. Local authorities will have to consider the circumstances pertaining in their local area and their statutory obligations (including, but not limited to, their obligations under the EU Services Directive¹³ and the Regulatory Reform (Scotland) Act

¹¹ <http://www.gov.scot/Publications/2017/11/5647>

¹² <http://www.gov.scot/Publications/2017/05/6059>

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?url=OJ:L:2006:376:0036:0068:EN:PDF>

2014¹⁴). Local authorities will also have to consider the rights SEV operators may have under the European Convention on Human Rights (ECHR) particularly under Article 1, Protocol 1 (peaceful enjoyment of possessions) and Article 10 (freedom of expression) of the Convention. ECHR issues are discussed further at paragraphs 73-77.

Licensing of sexual entertainment venues

28. Section 76 of the 2015 Act introduces a discretionary licensing regime for SEV. It achieves that by amending the existing licensing regime for sex shops provided for in Part III and Schedule 2 of the 1982 Act so that the provisions, with necessary modification, also apply to SEV. It is important to emphasise that it is not mandatory for a local authority to licence SEV. A flowchart setting out the steps local authorities are required to take is at Annex A.

29. When deciding whether to licence SEV, local authorities should obtain independent legal advice in order to ensure that they are able to mitigate the risks of legal challenge to an acceptable level. They should also take into account the Public Sector Equality Duty¹⁵ to which local authorities are required to pay 'due regard' when carrying out their functions and the specific duty¹⁶ to assess and review policies and practices.

Local Authority Resolution

30. Where a local authority decides to licence SEV, section 45B of the 1982 Act, requires the local authority to pass a resolution in order for SEV licensing to have effect in their area. It also requires at section 45C that where a local authority decides to licence SEV it must prepare an SEV policy statement and further information on this is provided at paragraphs 38-57.

31. In considering whether to pass a resolution a local authority should consider, whether they will wish to control SEV even if no such premises are currently in operation in their area. If there is no resolution in place, then no licence is required to operate an SEV. Existing SEV could continue to operate, new SEV could come into operation, without an SEV licence. Sexual entertainment in those venues would remain largely unregulated. If a resolution is passed, existing SEV and any new SEV, will require an SEV licence.

32. In considering whether to pass a resolution to licence SEV, local authorities may wish to look carefully at their localities and consider a range of issues such as:

- whether there are any sexual entertainment venues already operating;
- the location of schools;

¹⁴ <https://www.legislation.gov.uk/asp/2014/3/contents>

¹⁵ <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

¹⁶ <https://www.legislation.gov.uk/ss/2012/162/regulation/5/made>

- the location of places of worship;
- the location of heavily residential areas;
- the location of women's refuges and shelters and other services focussed on supporting women, children and young people;
- whether there have been incidents involving anti-social behaviour, sexual assaults, prostitution or more minor harassment reported in any particular area; and
- whether there have been incidents of human trafficking or exploitation locally.

33. Local authorities who have resolved to licence SEV must determine the appropriate number of SEV for both their area and for each relevant locality within their area (see paragraph 9(5A) of Schedule 2 of the 1982 Act). Paragraph 9(5)(c) of Schedule 2 allows local authorities to refuse applications on grounds that, at the time the application is determined, the number of SEV in the local authority's area or relevant locality is equal to or exceeds the number that the authority considers appropriate for their area or that locality.
34. Local authorities have extensive experience of engaging with local people and will know what works best in their individual areas. Local authorities may wish, as a matter of good practice, to seek the views of local people and businesses prior to deciding whether to pass a resolution. In doing so, local authorities may wish to make any relevant information available to local people in order to inform their understanding. Local authorities may also wish to engage with the operators of known SEV as soon as a decision has been made, to ensure that they are aware of what action they will need to take, and to seek input from the local Police Scotland human trafficking champion or the Human Trafficking Unit at Gartcosh.
35. In considering whether to pass a resolution to licence SEV, local authorities must also have cognisance of other relevant legislation such as the EU Services Directive, the Regulatory Reform (Scotland) Act 2014 and the Convention rights of SEV operators. Local authorities should consider whether the decision to licence SEV is proportionate and justifiable.
36. If licensing SEV, a local authority must determine, from time to time, the number of SEV that they consider appropriate for their area and each relevant locality. Nil may be considered the appropriate number. The determination should be publicised. Further guidance on what a local authority may wish to consider in determining numbers and localities is provided below in relation to developing the policy statement.

Specified Day

37. Where a local authority passes a resolution, it must specify a date from when it is to take effect in their area. This must be at least one year from the date the resolution is passed. The local authority must also publish notice that they have 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 SEV, and be published either electronically or in a local newspaper.

Statements of policy in relation to sexual entertainment venues

38. Section 45C of the 1982 Act requires that where a local authority has passed a resolution under section 45B(1) that a licensing regime for SEV will have effect in their area, they will then be required to prepare and publish an SEV policy statement. The statement of policy should set out and justify the position of the local authority with regards to licensing SEV and should support local authorities should they face any legal challenges.

Content

39. The policy statement should include details of the impact a local authority considers the licensing of SEV will have in its area. Section 45C(3) of the 1982 Act states:

“In preparing a SEV policy statement, a local authority must—

(a) consider the impact of the licensing of SEV in their area, having regard, in particular, to how it will affect the objectives of—

- (i) preventing public nuisance, crime and disorder,
- (ii) securing public safety,
- (iii) protecting children and young people from harm,
- (iv) reducing violence against women, and

(b) consult such persons or bodies as they consider appropriate.”

40. For the purposes of the section, “children” are defined as persons under the age of 16 and “young people” as persons aged 16 or 17.

41. Policy statements should be published at the same time and in the same manner as the notice of resolution is published i.e. it should be published not less than 28 days prior to the date the resolution is to take effect, either electronically or in a local newspaper.

42. The policy statement should provide local communities with a clear indication of the local authority’s policy and should also be consistent with the licensing objectives and procedures set out in the 1982 Act as amended.

43. The statement might include information on the locations where the local authority is likely to consider the operation of SEV to be appropriate or inappropriate. The statement could also be used to indicate how many SEV are considered to be appropriate for the local authority’s area or particular localities within its area. The reasons for these policy positions should also be provided.

44. In developing the statement, the local authority may also wish to take account of whether any SEV are already operating in its area under the existing regime for

alcohol licensing and, if so, whether they wish to continue to licence the same number of venues as are currently operating.

45. The local authority may wish to reflect on whether reducing the number of venues, or setting the number at zero, in their area will have a disproportionate effect on business. The local authority should also consider whether reducing the number of SEV in their area or setting the number at zero would create a risk of legal challenge (for example under ECHR or on grounds of reasonableness).
46. Where there are currently no sexual entertainment venues operating, a local authority may wish to consider if there may be benefit in making a resolution to give effect to the licensing regime even where it considers that the number should be set at zero. In setting the number at zero, a local authority will require to demonstrate proportionality by evidencing that the competing interests of SEV operators alongside those of the community had been fairly considered and appropriately balanced.
47. In developing the policy statement, we consider it best practice for local authorities to consult with persons with an interest and this should include organisations such as violence against women partnerships, child protection committees and community councils as well as Police Scotland and local businesses (including the operators of any existing SEV).
48. In exercising any functions in relation to the licensing of SEV, the local authority is required to have regard to their SEV licensing policy statement. It is also required, from time to time, to review the policy statement, revise it as appropriate and publish the revised statement. We suggest that it may be best practice to align the review of both the local authority's stated appropriate number of SEV and the policy statement. However it will be for individual local authorities to determine the timeframe for undertaking the reviews required.

Licensing Conditions

49. Under paragraph 9 of Schedule 2 to the 1982 Act local authorities have a power to impose reasonable licence conditions. In doing this local authorities need to be flexible in responding to each application and in some cases additional or more tailored conditions reflecting local circumstances may be appropriate.
50. Conditions are specific requirements that the licence holder must comply with, otherwise the licence could be revoked. Paragraph 19(1)(c) of Schedule 2 states that a licence holder who, without reasonable excuse, knowingly contravenes or permits the contravention of a specified condition will be guilty of an offence.
51. The local authority can attach standard conditions for all licences granted for SEV, they may also impose individual conditions to licences. By way of example, such licence conditions could regulate:
 - the display of advertisements on or connected to the venue;
 - the days and times when the premises may be used as a SEV;
 - the visibility of the interior of the SEV to passers-by; and

- the number of persons to be admitted to the premises.

52. The local authority should give careful consideration as to whether the condition proposed is necessary and, with the Brightorew case in mind, whether it is linked to the regulation of sexual entertainment. The local authority should also consider whether, in all the circumstances, the condition is reasonable and proportionate and therefore not susceptible to challenge.
53. Any condition attached to the licence must be clear, so that the licence holder is aware of their obligation to comply.
54. Part of the local authority's role is to ensure improved working conditions and a safe environment for the women who work in SEV. The local authority may wish to encourage operators to actively identify potential victims of human trafficking in their recruitment procedures. Where a local authority is made aware of a person who is or appears to be a victim of human trafficking, they have a duty to notify Police Scotland.
55. The Association of Licensed Adult Entertainment Venues in Scotland has a toolkit, *A Guide for Employers and Contractors*¹⁷ which is intended to ensure that venues are operated in a fair manner, protecting human rights and that potential victims of human trafficking are identified in the recruitment process.
56. In terms of how a premises licensed as an SEV should be run, in addition to the minimum standards expected of workplaces through health and safety regulations, local authorities may wish to consider adopting some or all of the following non-exhaustive list of suggestions and develop them as model conditions within their Policy Statement:
 - list of full names, dates of birth, nationality and contact details (address or telephone number) for all performers to be available on the premises for immediate production if requested by Police or local authority officers;
 - ensure immigration status is in order and actively seek to identify performers who may have been the victim of human trafficking;
 - employment of security guards;
 - use and storage of CCTV;
 - provision of hygienic changing and showering facilities and a toilet with access to hot water exclusively for the use of the performers;
 - set break times for performers;
 - the provision of a break room exclusively for the use of the performers;
 - performers to be escorted by security to nominated taxi or to their car at end of shift;
 - access to medical checks and sexual health advice to be provided on site;
 - the licence holder to ensure performers remain clothed outwith performance area;
 - the licence holder to ensure no physical contact between performers and customers;

¹⁷ <http://www.alaevs.co.uk/members/>

- the customers to be informed of rules of customer conduct that is deemed acceptable e.g. customers to remain fully clothed at all times and these rules displayed at appropriate locations within the venue licence holder to ensure customers do not seek sexual favours or offer performers payment in return for sexual favours;
- the licence holder to ensure customers do not to offer or ask for any form of contact details from performers;
- the licence holder to ensure customers do not to engage in any unlawful activity within the SEV;
- the licence holder to ensure no photographs or video recordings are taken of the performers.

57. It should be borne in mind that it is extremely likely that SEV will also require to have a premises licence under Part 3 of the 2005 Act and care will be required to ensure that the SEV licence conditions do not contradict the conditions applied to the alcohol licence. In the event that the SEV does not also require an alcohol licence, local authorities may wish to consider whether any of the conditions attached to such licences would be appropriate to that particular SEV.

Applications

58. The local authority resolution will specify a date from which the SEV licensing regime is to take effect in its area. Under paragraph 25(3) of Schedule 2 of the 1982 Act a local authority cannot consider any application for an SEV licence prior to the date specified in the resolution and cannot grant any licence until it has considered all applications received prior to that date.

59. Local authorities will therefore wish to consider developing new application forms specifically in respect of SEV licences. Authorities will also have to determine a date when these forms should be made available to operators / prospective operators. It may also be appropriate to intimate in the resolution when applications will be considered by the local authority.

60. Paragraph 25 of Schedule 2 also provides that where a SEV is trading in the area before the resolution has been published and before the specified day of effect has applied for a SEV licence under Schedule 2, then they may continue trading until the application is considered. If the application is refused they may continue to trade until the timescale for an appeal under paragraph 24 has lapsed or the appeal has been determined or abandoned.

61. We suggest that in considering an application for an SEV licence, with the view to reaching an evidence- based decision on whether it should be granted, local authorities will wish to look carefully at the proposed location and take account of:

- the existing character and function of the area in which it will be located;
- whether there are any schools near the vicinity of the SEV;
- whether there any places of worship in that vicinity;
- whether there are other relevant businesses or charities operating in the area e.g. homelessness shelters, women's refuges, supported accommodation, recovery units etc.;

- whether the SEV is close to heavily residential areas;
- whether there have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area;
- the views of residents and other relevant interested persons as far as is possible¹⁸; and
- input from the local Police Scotland human trafficking champion or the Human Trafficking Unit at Gartoosh.

62. It is important to note that an SEV licence will be required for premises where sexual entertainment is provided on more than 4 occasions in a twelve month period even where that entertainment is booked by the person hiring the venue. Paragraphs 85-86 of this guidance provide additional definitions and further information regarding exemptions.

Consideration

63. Local authorities will follow the established procedure for considering applications laid out at Schedule 2 of the 1982 Act. The procedure is applicable to licensing sex shops and has been modified to apply to SEV. Paragraph 9(3) sets out a list of persons to whom a licence may not be granted and paragraph 9(5) lists grounds on which a local authority may refuse an application for the granting or renewal of a licence. Each licence application should be fully considered on its own merits. However note, under paragraph 9(5)(c), where the number of venues in the local authority's area or relevant locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for their area or that locality the local authority should refuse the application.

64. The provisions in relation to making an application for a licence or the renewal of a licence are detailed at paragraph 6 of Schedule 2. In considering an application, the local authority will wish to satisfy itself that the applicant is not an unsuitable person to hold a licence by reason of having been convicted of an offence or for any other reason.

65. Under paragraph 15 of Schedule 2, the local authority can at any time decide to vary a licence on any grounds it thinks fit. The local authority can revoke a licence in line with the provisions set out at paragraph 13 of Schedule 2.

66. A decision not to grant a licence or to revoke a licence may be subject to appeal under paragraph 24 of Schedule 2. An appeal would be to a Sheriff in the first instance and could be on the grounds that the authority erred in law, based their decision on an incorrect material fact, acted contrary to natural justice or exercised their discretion unreasonably.

67. Any appeal to a Sheriff in relation to a SEV licence must be made within 28 days of the date of the decision appealed against. However, where the application is

¹⁸ It should be noted that local authorities do not have a duty to engage in full neighbourhood notification or power to require applicants to do so.

refused under paragraph 9(5)(c) or (d) of Schedule 2, the applicant can only challenge the refusal by way of judicial review.

68. Under paragraph 12(2)(b) of Schedule 2 a local authority may grant an SEV licence for one year or such other period that it deems appropriate.

Notification

69. Applicants will require to advertise their applications for a licence in a local newspaper specified by the local authority and to display a notice on or near the relevant premises. However, a local authority may dispense with the requirement for an applicant to publish a notice in a newspaper and instead publish notice of the application electronically. The legislation imposes a further duty at paragraph 7(3C) of Schedule 2 requiring each applicant for a licence to operate an SEV to send a copy of their application to such persons or bodies as have been determined by the local authority within 7 days of making the application and to certify to the local authority that they have done so. There is also an obligation on local authorities at paragraph 7(3D), requiring them to determine which persons and bodies are to receive copies of applications and to publicise that list as they consider appropriate.

List of appropriate persons

70. In relation to notification of an SEV licence application, the Cabinet Secretary for Justice stated during Stage 3 consideration of the legislation:

"Although the current process already allows for robust notification procedures, with requirements for both newspaper advertising and notices to be publicly displayed, there are advantages in requiring specific notification to particular bodies that will have an interest in the licensing of sexual entertainment venues. There is a practical advantage in ensuring important stakeholders, including violence against women partnerships and community councils are notified of applications early, so that they have sufficient time to consider applications and to make such representations to the authority as they consider appropriate. There is also an advantage in that it will send a very clear message that groups identified as being appropriate to receive copies of the application, including violence against women partnerships and community groups, are at the heart of the licensing process."

71. In line with this, we suggest that it is essential to ensure that those with an interest are notified as early as possible and that particular organisations such as violence against women partnerships and community councils should be considered important stakeholders in the licensing process. They should therefore be included on the published local authority list of those who are to receive copies of applications.
72. Local authorities may also wish to consider including on the list local businesses, schools, places of worship and child protection committees, along with anyone else they consider appropriate.

ECHR Issues

73. When taking a decision to refuse an application local authorities should take account of any rights SEV operators may have, particularly under:

*Article 1, Protocol 1 of the European Convention of Human Rights
Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law..)* and

Article 10 –

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

74. Local authorities may wish to consider whether there is any interference with the applicant's human rights. And if so is it necessary and proportionate for the prevention of disorder or crime, the protection of health or the protection of the rights and freedom of others and whether the interference can be justified in the general public interest.

75. In deciding whether or not to grant a licence for an SEV, local authorities should also bear in mind the rights provided for at the following ECHR Articles

Article 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4

- 1. No one shall be held in slavery or servitude.*
- 2 No one shall be required to perform forced or compulsory labour.*

Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

76. Further information can be found in the Equality and Human Rights Commission Freedom of Expression Legal Framework guidance¹⁹ which explains the legal framework which protects freedom of expression and the circumstances in which that freedom may be restricted in order to prevent violence, abuse or discrimination.

77. In implementing the SEV legislative provisions local authorities will wish to ensure that they do so in compliance with the Convention rights and that they put in place flexible policies which take account of the competing interests of individuals alongside those of the community.

Fees

78. Paragraph 18 of Schedule 2 provides that a local authority must charge a reasonable fee which is sufficient to meet the expenses incurred by the authority in exercising its functions under the Schedule. In setting fees, local authorities will wish to have regard to the EU Services Directive. The R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City Council (Appellant) [2015 and 2017]²⁰ rulings may also be of interest.

Enforcement

79. Offences and sanctions which relate to SEV licensing fall wholly under Schedule 2 of the 1982 Act and are set out in paragraph 19 of Schedule 2. Local authorities will wish to be aware that these provisions only apply where a resolution to licence SEV has been made.

80. The powers to enter and inspect and to enter and search licensed SEV are set out at paragraphs 20 and 21 of Schedule 2. These are similar to the provisions relating to Part II licences.

Conclusion

81. The 1982 Act makes clear that any decision made by the local authority, when considering applications for SEV licences, should be reasonable. This applies to fees, conditions which may be added to the licence, and to the time taken to consider the application.

82. The local authority should consider the facts of individual licence applications, and make decisions which are based on local priorities and circumstances.

83. The local authority should, where possible, ensure that there is consistency in these decisions, and in the conditions which may be attached to any licence granted.

¹⁹ <https://www.equalityhumanrights.com/en/publication-download/freedom-expression-legal-framework>

²⁰ <https://www.supremecourt.uk/cases/uksc-2013-0146.html>

Licensing of sexual entertainment venues: interpretation

84. Part III of the 1982 Act currently allows local authorities to control the number and location of sex shops in their area and Schedule 2 contains the detailed licensing procedures and provisions for sex shops. Section 76 of the 2015 Act creates a new licensing regime for SEV. It inserts sections 45A - 45C into Part III of the 1982 Act; modifies Schedule 2 so that it applies when a local authority resolves to licence SEV; and amends the title of Part III to "Control of sex shops and sexual entertainment venues".

Definitions

85. Section 76(3) inserts an interpretation section, which underpins the SEV licensing regime, into the 1982 Act at Part III, section 45A. The relevant definitions are:

"(2) "Sexual entertainment venue" means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.

(3) For the purposes of that definition—

"audience" includes an audience of one,

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

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

(a) the person ("A") who is responsible for—

(i) the management of the premises, or

(ii) the organisation or management of the sexual entertainment, or

(b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person,

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

"sexual entertainment" means—

(a) any live performance, or

(b) any live display of nudity,

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(4) For the purposes of the definition of "sexual entertainment", "display of nudity" means—

(a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,

(b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.”

Exemptions

86. However, premises where sexual entertainment is provided on no more than 4 occasions in a twelve month period are not to be treated as SEV. This exemption is to avoid drawing into the SEV licensing regime venues where the main purpose is clearly not to provide regular sexual entertainment e.g. venues which have the very odd stag or hen party providing such entertainment. Section 45A(10) specifies how occasional use is to be calculated:

“(a) each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion, and
(b) where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.”

87. It is important to note that an SEV licence will be required where such entertainment occurs on more than 4 occasions in a twelve month period even where that entertainment is booked by the person hiring the venue. It is also important that any premises where sexual entertainment may be performed are properly supervised, as breach of the above limit without a licence is an offence.

Sex shops

88. Section 45A expressly states that sex shops are not SEV and provides a power to allow Ministers to specify other premises which do not fall into the category of SEV. A further power is provided so that Ministers can specify descriptions of performances or displays of nudity that are not to be treated as sexual entertainment for the purposes of the legislation.

Under 18s

89. Paragraph 19(1) of Schedule 2 of the 1982 Act provides that the employment of anyone under the age of 18 in an SEV is an offence. Section 45B(8)(g) of the 1982 Act modifies paragraph 19(1)(e) of Schedule 2 in respect of SEV to make it an offence for a licence holder or their agents to knowingly permit a person under the age of 18 entry to the SEV at a time when sexual entertainment is being provided, or at any other time without reasonable excuse. An example of a reasonable excuse might be where a plumber's mate is called upon to fix an emergency leak. It is worth noting that the reasonable excuse defence only applies where entry to the SEV is knowingly permitted to a person under the age of 18 at a time when sexual entertainment is not being provided – there is no reasonable excuse defence where entry is permitted at a time when sexual entertainment is being provided.

Public entertainment

90. Section 41 of the 1982 Act enables a licensing authority to direct that a public entertainment licence is necessary for certain types of activity. Section 41(2) of the 1982 Act provides that a "place of public entertainment" is any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation. Section 76(2) of the 2015 Act amends section 41(2) of the 1982 Act to exclude a sexual entertainment venue from being licensed under a public entertainment licence.

Licensing of Theatres

Repeal of existing mandatory licensing provisions

91. The provisions at section 74 of the 2015 Act repeal the existing mandatory requirement for theatrical performances to be licensed under the Theatre Act 1968²¹ (the 1968 Act) and supporting provisions in the 1968 Act that allow for powers of entry and inspection. Section 74 of the 2015 Act also removes the exemption for premises licensed under the 1968 Act from the public entertainment licensing regime in the 1982 Act. This means that local authorities will be able to licence theatres under the public entertainment licence requirements contained in section 41 of the 1982 Act. Section 74 also inserts an equivalent of the anti-censorship provisions from the 1968 Act into the 1982 Act, so that licensing authorities will not be able to censor theatrical performances under the public entertainment licensing regime within the 1982 Act.

Local Authority resolution

92. Following the repeal of the theatre licensing provisions within the 1968 Act, local authorities may wish to consider making a public entertainment licensing resolution, or vary an existing resolution, under section 9 of the 1982 Act in order to require theatres to obtain a public entertainment licence. This requires local consultation, publicity and a 9 month period of notice before having effect. Local authorities are familiar with setting a resolution to bring activities within the scope of public entertainment licensing as the public entertainment licensing regime is currently used for licensing activities such as concerts, funfairs, variety shows etc. Having the local authority set out the scope of the public entertainment regime allows for greater flexibility and local authorities will, for example, be able to exclude premises offering plays to very small audiences from the licensing requirement where they consider that appropriate and proportionate.

Commencement of licensing of theatres and sexual entertainment venues

93. The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 1) Order brought section 76(1) and 76(3) into force on 1 December 2015 for the purpose of inserting section 45A into the 1982 Act, but only for the purposes of

²¹ <http://www.legislation.gov.uk/ukpga/1968/54>

making orders under section 45A(7)(b) and (11) of that Act. These provisions enable subordinate legislation to be made under the 1982 Act.

94. The provisions at section 74 and the outstanding provisions at section 76 of the 2015 Act are fully commenced by the Air Weapons and Licensing (Scotland) Act 2015 (Commencement No.9 and Transitional Provisions) Order 2019.

95. In commencing the primary legislation, careful consideration was given as to the transitional arrangements for the repeal of existing legislation and the commencement of the new licensing regimes in the 2015 Act. Any necessary consequential changes to existing secondary legislation brought about by the commencement of the 2015 Act provisions was also considered.

96. The transitional arrangements, and the consequential amendments to existing legislation, required as a result of the commencement of sections 74 and 76 of the 2015 Act are detailed below.

Transitional provisions

Section 74 - Theatres

97. To ensure a smooth transition from the mandatory theatre licensing regime under the 1968 Act to the optional public entertainment licensing regime within the 1982 Act the amendment to the public entertainment licensing regime will be commenced first and the repeal of the theatre licensing regime will follow at a later date. This will give local authorities sufficient time to consider whether to licence theatres under the 1982 Act and for any resolution under section 9 of the 1982 Act to take effect before the licensing regime under the 1968 Act ends.

98. This means that theatre licences will continue until the repeal of the 1968 Act provisions but, during that timeframe, local authorities will be able to introduce a public entertainment licensing regime for theatres to take effect from the date of repeal. This will enable local authorities which wish to continue licensing theatres to ensure that public entertainment licences will come into force immediately on the repeal of theatre licences, leaving no period in between where theatres are unlicensed.

Section 76 – SEV

99. Section 45B(1) - (3) of the 1982 Act provides:

“(1) A local authority may resolve that Schedule 2 (as modified for the purposes of this section) is to have effect in their area in relation to SEV.

(2) If a local authority passes a resolution under subsection (1), Schedule 2 (as so modified) has effect in their area from the day specified in the resolution.

(3) The day mentioned in subsection (2) must not be before the expiry of the period of one year beginning with the day on which the resolution is passed.”

100. If a local authority chooses to introduce a licensing regime for SEV they will first require to pass a resolution under section 45B of the 1982 Act. Following a local authority resolution being passed to licence SEV, existing SEV will require to apply for an SEV licence but will be able to continue to trade without a licence until the final determination of that application. The existence of a premises licence under the 2005 Act will be no guarantee that an SEV licence will be granted for those premises – the SEV licensing regime and the alcohol licensing regime regulate two different activities.

101. Local authorities may wish to be aware of court judgements in:

- Thompson R v Oxford City Council [2013] EWHC 1819 (admin) (28 June 2013)²² and
- Thompson R v Oxford City Council & Anor [2014] EWCA Civ 94 (11 February 2014)²³

102. The 'Oxford' cases stressed that the grant of a licence should not be viewed as a grant for eternity and that a new licensing committee can take a different view of the same facts.

Consequential Amendments in relation to alcohol –

The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007

103. Following a review of secondary legislation we noted that amendments are required to secondary legislation related to alcohol licensing, namely The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007²⁴ (the Regulations). These alcohol regulations include a definition of adult entertainment and a reference to theatre licensing.

104. The Regulations specify conditions which must be imposed by a Licensing Board on the granting of an alcohol premises licence where the operating plan specifies that the premises will, on any occasion, be open for a continuous period beginning on one day and ending after 1am on the following day.

105. Local authorities may wish to be aware that, as sexual entertainment venues now fall to be regulated under a separate specific licensing scheme it is no longer necessary to provide a definition of "adult entertainment" in these alcohol Regulations. Similarly, as licensing of theatres now falls under the optional public entertainment licensing scheme, reference to section 12 of the Theatres Act 1968 (which has been repealed by section 74(3) of the 2015 Act) is not required.

²²<http://www.bailii.org/ew/cases/EWHC/Admin/2013/1819.html>

²³<http://cases436.rssing.com/browser.php?Idx=12680078&Item=11604>

²⁴<http://www.legislation.gov.uk/ssi/2007/336/regulation/1/made>

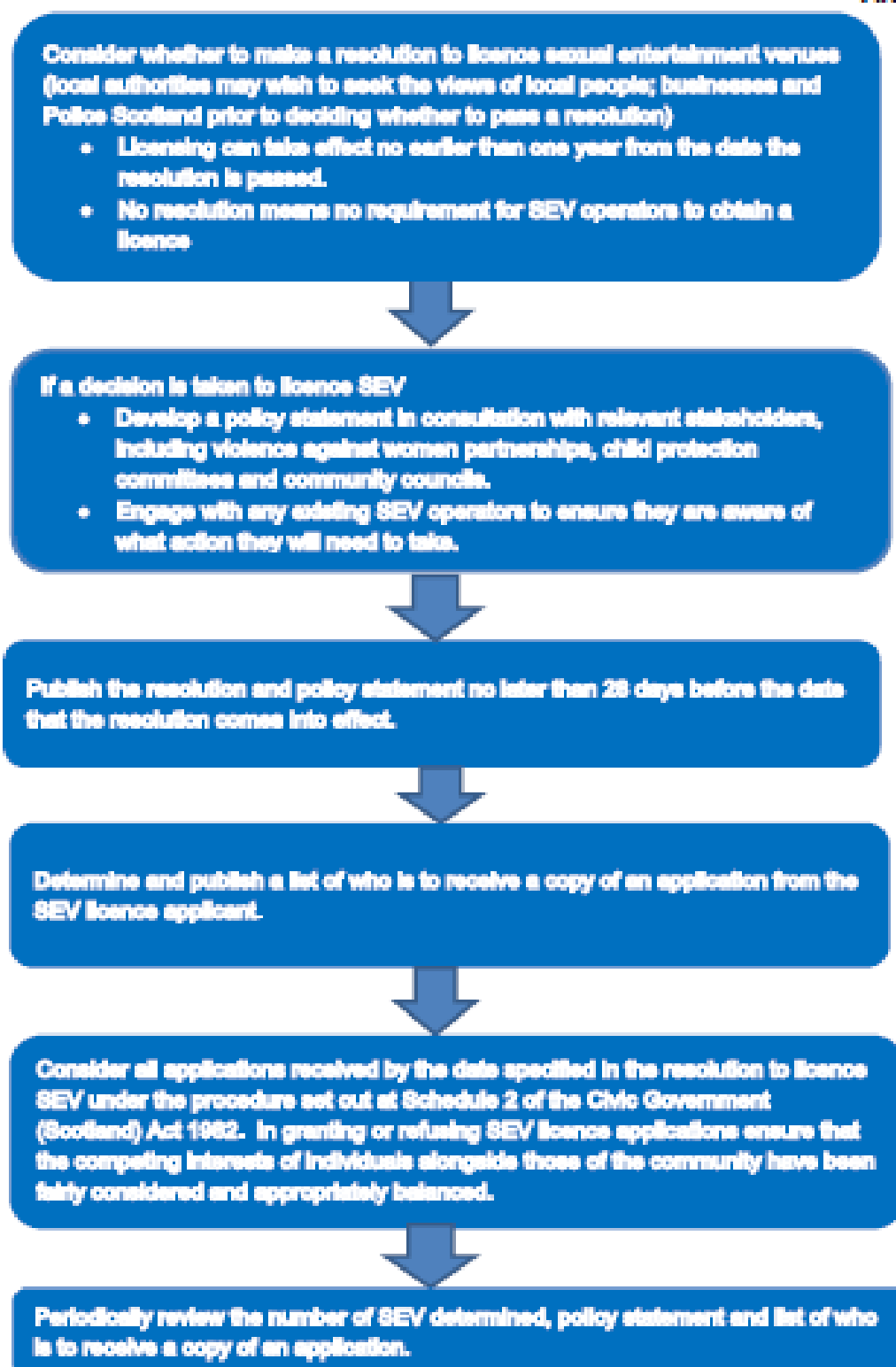
106. The Regulations therefore will be amended in due course to remove the definition of "adult entertainment" in regulation 1(2) and the reference to "adult entertainment" in regulation 3(2)(a)(iii); the reference at regulation 3(3)(c) to section 12 of the Theatres Act 1968 will also be removed.

The Premises Licence (Scotland) Regulations 2007

107. Amendments are also required to The Premises Licence (Scotland) Regulations 2007²⁸. Regulation 8 and Schedule 5 of these regulations provide for an operating plan in respect of licensed premises. Question 5(e) refers to the activity "adult entertainment" which is undefined. This will be amended to refer to "sexual entertainment" as defined at section 45A of the 1982 Act. A reminder will also be included that, where a local authority has decided to licence SEV, unless the entertainment is to take place on no more than four occasions in a twelve month period, an application for a separate SEV licence will have to be made. Whether or not an SEV licence is granted will depend on the individual local authority's consideration of the application in line with the resolution made. If no resolution has been made to licence SEV then no separate licence application will be required.

²⁸ http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf

ANNEX A





Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-671-8 (web only)

Published by The Scottish Government, March 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDA5557351 (03/19)

W W W . g o v . s c o t

Appendix 14 – SEV Consultation – Key Dates

Initial Consultation – 8 July 2019 to 17 August 2019

Evidence Session One – 21 January 2020 – Community Groups, Residents etc

Evidence Session Two – 31 January 2020 – Licensing Enforcement, Police Scotland, NHS Scotland

Evidence Session Three – 17 February 2020 – Trade Groups (operators, performers, union representatives

Second Consultation - 9 April 2021 – 2 July 2021

This page is intentionally left blank

Regulatory Committee

2.00pm, Thursday, 31 March 2022

Short Term Lets: New Licensing Powers Consultation

Executive/routine

Wards

Council Commitments

Citywide

1. Recommendations

- 1.1 The Regulatory Committee is asked to:
 - 1.1.1 Note the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 on 1 March 2022;
 - 1.1.2 Note that as a result of the provisions of the legislation, local authorities must open a licensing scheme for short term lets by 1 October 2022; and
 - 1.1.3 Instruct officers to carry out a statutory consultation on the draft policy and conditions framework for short term lets.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4208

Short Term Lets: New Licensing Powers Consultation

2. Executive Summary

- 2.1 This report provides Committee with an update on the new powers which have been given to local authorities to regulate short term lets in the form of a licensing scheme. This follows the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, which brings short term lets within the scope of licensable activities covered by the statutory provisions of the Civic Government (Scotland) Act 1982 ('the Act'). This report details what powers are available to the Council in relation to mandatory and discretionary controls under the Act. It sets out the timeline for the implementation of those powers following a period of public consultation and final Committee decision.
- 2.2 The report also sets out the preparatory work underway and the issues the Council will have to consider as a result of the legislation coming into force and gives further information on how officers intend to consult on a draft short term lets policy statement and conditions framework, ahead of bringing proposals back to Committee for consideration.

3. Background

- 3.1 The Council has previously called for additional regulation of the short term lets (STLs) sector, either through changes to planning classifications or the introduction of a licensing system. To achieve the objective of additional regulation, legislation would have to be introduced.
- 3.2 As previously reported to members, complaints received regarding short term lets cover a number of broad types and include:
 - 3.2.1 Impact on available housing supply within the city;
 - 3.2.2 Erosion of sense of community in areas with dense concentrations of short term lets;
 - 3.2.3 Short term letting is generally not suitable for tenement properties;
 - 3.2.4 Properties which are used as short term lets may not reach the same safety standards as other types of visitor accommodation;

- 3.2.5 Noise and anti-social behaviour created by guests using short term lets; and
- 3.2.6 Short term lets which operate on a commercial basis may not be paying rates or other council charges required.
- 3.3 On 23 February 2022, the Planning Committee approved a proposal to designate the entire City of Edinburgh Council area as a Short Term Let Control Area (STLCA). The proposal, if approved by Scottish Government, would mean that residential property owners wholly letting a property as a STL, which is not their principal home, would need to apply for planning permission for a 'change of use'.

4. Main report

- 4.1 On 1 March 2022, the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 ('the 2022 Order') was enacted to introduce new powers for local authorities to regulate short term lets through the introduction of a licensing scheme under the Act.
Licensing Scheme
- 4.2 The 2022 Order brings Short Term Lets within the scope of the Civic Government (Scotland) Act 1982 ('the 1982 Act') and enables local authorities to implement a licensing scheme for short term lets in order to improve safety and mitigate the impact on communities.
- 4.3 The licensing scheme includes a new mandatory safety requirement that will cover every type of short term let to ensure a safe, quality experience for visitors. It will also include a 'fit and proper' test to assess whether the applicant is suitable to hold such a licence, as with all other types of licensable activities under the 1982 Act. The Council also has the discretion to apply further appropriate conditions to address any local concerns.
- 4.4 The Order sets out a timetable for the implementation of the licensing scheme, which will take place incrementally to give hosts and operators time to comply. The legislation contains transitional provisions which allow existing operators to continue hosting guests whilst their application is considered and determined. Accordingly, the timeline for local authorities to open a licensing scheme for short term lets to applications is as follows:
 - 4.4.1 1 October 2022 – Licensing system opens to applications;
 - 4.4.2 By 1 April 2023 – Existing hosts or operators must have made an application to the Council and can continue to operate whilst their application is processed and determined. New entrants to the market will be required to have a licence application granted before being able to operate; and
 - 4.4.3 1 July 2024 – All short term lets to be licensed.

Proposed Consultation Process

- 4.5 The implementation of any discretionary powers or conditions will require the Council to carry out a statutory consultation on whether not to adopt further powers and their scope. If agreed, any discretionary powers would again be likely to require a transition period to allow for compliance.
- 4.6 Subject to Committee approval, a two-stage consultation exercise will begin in April 2022 as set out in Appendix 1, with each stage lasting for a period of eight weeks. An initial consultation will aim to gather a broader understanding of community and business views in relation to what a STL licensing policy should include, and whether the Council should adopt any discretionary powers.
- 4.7 Following consideration of the results from the initial consultation, a draft statement of licensing policy and licence conditions framework will be developed. A second consultation, again taking place over eight weeks, will ask for views on the draft policy and conditions. The two consultation stages, lasting approximately 16 weeks in total, should provide the Committee with a significant evidence base on which to base future decisions.
- 4.8 Given the timescales involved, officers will continually monitor the responses received in response to the consultation, in order to inform the work carried out on the draft policy and conditions.

Preparation

- 4.9 The introduction of a mandatory licensing scheme and adoption of further discretionary powers, as well as new planning regulations, will present a significant number of issues for the Council which will require to be resolved.
- 4.10 Introducing a licencing regime on the scale of the short term let sector in Edinburgh will be a significant undertaking for the Council to effectively deliver. The most recently available figures suggest that there are approximately 10-14,000 properties registered for short term let in the city. This will result in a substantial increase in workload for both the Licensing & Planning Services, and will place additional pressure on the current ICT infrastructure for processing applications. Officers are currently assessing the effect that this will have on existing resources, and what measures can be introduced to mitigate the impact, including on current ICT systems.
- 4.11 There is also the potential for business of the Licensing Sub-Committee and Development Management Sub-Committee to become pressured by the volume of applications requiring Committee oversight. For example, the Licensing Sub-Committee typically deals with existing applications under the 1982 Act which attract public objections or requests for exemption to Council policy. A new licensing scheme could result in a large number of objections or exemption requests being received by the Council, which would then require Committee scrutiny.

- 4.12 Consideration will need to be given to the capacity of Committee meetings and whether changes will need to be made to processes, including amending delegated powers and/or other business to allow for this volume.

5. Next Steps

- 5.1 A two-stage statutory public consultation exercise will begin in early April and officers will seek to engage with relevant stakeholders to ensure that a wide range of views are received.
- 5.2 Officers will monitor and review the comments made during the consultation process. A further report will subsequently be brought forward detailing the responses to the consultation and providing recommendations in relation to agreeing a statement of licensing policy and conditions framework.

6. Financial impact

- 6.1 Any costs incurred by implementing the policy are, at present, funded by £150K allocated to the Directorate as part of the 2022/23 budget.
- 6.2 Officers will carry out work to devise a new, cost neutral fee structure for short term lets and will bring this back to Committee for approval.

7. Stakeholder/Community Impact

- 7.1 There will be a requirement to carry out a statutory consultation as part of the process of adopting further discretionary powers and conditions and forming a short term let policy. In developing a policy, it will be necessary to consult with a wide range of stakeholders which should include organisations such as community councils, local residents, local business communities, existing businesses, trade/tourist organisations and Police Scotland.
- 7.2 A full equalities impact assessment will be completed as part of the consultation.

8. Background reading/external references

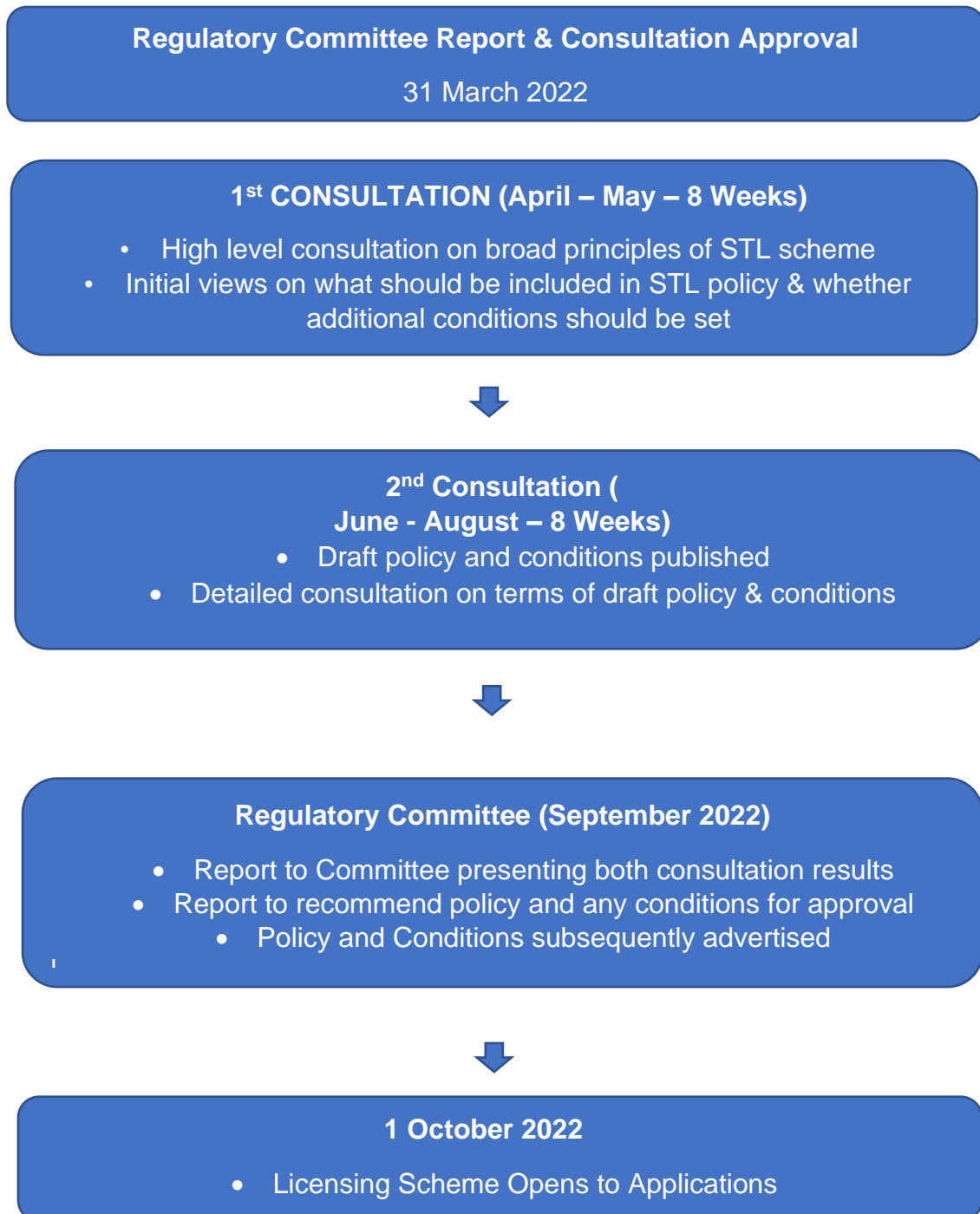
- 8.1 [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short Term Lets\) Order 2022](#)
- 8.2 [Short Term Letting in Edinburgh Update](#) report to Corporate Policy and Strategy Committee on 14 May 2019

9. Appendices

9.1 Appendix 1 – Short Term Lets Consultation Timeline

Appendix 1

Short Term Lets Consultation Timeline



This page is intentionally left blank

Regulatory Committee

2.00pm, Thursday, 31 March 2022

Animal Welfare Regulations

Executive/routine
Wards
Council Commitments

Executive
All

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the contents of this report;
 - 1.1.2 Agree to implement the new licensing regime and notes the fee structure and mandatory conditions of licence as set out in Appendices 1 to 8;
 - 1.1.3 Agree to delegate authority to the Executive Director of Place to determine whether to grant, renew or vary any licence under the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021; and
 - 1.1.4 Instruct the Chief Executive to include this additional delegation in future drafts of the Council's Scheme of Delegation when submitted to Council for approval.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 469 5822

Contact: Gordon Hunter, Regulatory Officer (Licensing)

E-mail: gordon.hunter@edinburgh.gov.uk | Tel: 0131 529 4042

Animal Welfare Regulations

2 Executive Summary

- 2.1 The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 (the 2021 Regulations) came into force on 1 September 2021. This new legislation introduced a revised licensing regime for some animal-related businesses.
- 2.2 The purpose of the Regulations is to provide for the licensing of persons who, in Scotland, carry on activities of:
 - 2.2.1 Selling animals as pets;
 - 2.2.2 Rehoming animals as pets;
 - 2.2.3 Operating animal welfare establishments (including sanctuaries and rehoming centres); and
 - 2.2.4 The breeding of dogs, cats and rabbits.
- 2.3 This means that any pet shops, animal breeders and sanctuaries or rehoming centres will now be required to be licensed under the new legislation, with the City of Edinburgh Council being the Licensing Authority. Current licences will be permitted to continue until their expiry, after which a licence must be applied for in line with the new scheme. A licensed premises register will be made available for all licences held under the legislation.

3 Background

- 3.1 Previously, legislation such as The Pet Animals Act 1951 and The Breeding of Dogs Act 1973 ensured that activities such as the sale of animals as pets and the breeding of dogs came under the remit of a licensing regime. This legislation became outdated and no longer fit for purpose. While a small number of independent pet shops and a few larger operators continue to exist, the majority of licensed sales of puppies and kittens are now made direct from breeder to purchaser or are completed online.
- 3.2 Similarly, licensing controls which already existed for dog breeders also became outdated and no longer fit for purpose. This legislation only imposed basic conditions

to protect animal welfare and, as demand for puppies continues to increase, this has resulted in an alarming increase in low-welfare breeders.

- 3.3 The breeding of cats and rabbits was previously an unregulated activity. This meant that there was no oversight of these activities and no way to ensure that persons breeding cats or rabbits had any regard to the welfare of the animals.
- 3.4 Prior to 2021, there were no licensing requirements for the rehoming of animals; the operation of animal welfare establishments; or the breeding of cats and rabbits
- 3.5 While most animal welfare establishments and rehoming activities were well run, the fact that it was an unregulated activity could result in animal welfare issues. There were concerns that such activities might be undertaken by un/underqualified individuals; that unsuitable premises might be used; that some establishments might also be operating as a pet retailer; and that imported animals could be carrying diseases not found in the UK.
- 3.6 In the Programme for Government 2017-18, the Scottish Government committed to preparing legislation for a modern system of registration and licensing of animal sanctuaries and rehoming activities in Scotland, and improving licensing for dog, cat and rabbit breeding, dealing and selling so that conditions in breeding units in Scotland could be controlled and breeders identified when advertising animals for sale.
- 3.7 The above resulted in the introduction of The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021. The 2021 Regulations replaced the outdated licensing legislation and also extended licensing regimes to a wider range of activities to ensure better protection of animal welfare. Under the legislation local authorities are, with one exception, the Licensing Authority. The exception applies in respect of any licence application made in connection with the activity of rehoming animals as pets in Scotland by persons that neither reside in or have a place of business in Scotland. In such circumstances the Licensing Authority is Scottish Ministers.
- 3.8 Pet shops, animal breeders and sanctuaries or rehoming centres will be required to be licensed under the 2021 Regulations, with the City of Edinburgh Council being the Licensing Authority. Current licences will be permitted to continue until their expiry, after which a licence must be applied for in line with the new scheme.

4 Main report

- 4.1 As the Licensing Authority, the Council has an obligation to facilitate the revised licensing regime introduced by the 2021 Regulations.
- 4.2 The licensing system must include conditions of licence, an application process, an inspection regime and a fee structure. A person may apply to the Council to grant or renew a licence to carry out a licensable activity.

- 4.3 The updated mandatory conditions are attached at Appendices 1 - 7 and detail the conditions that will be applicable across all licence types and conditions specific to each licence type. The conditions will thereafter be applicable in respect of any licence granted or renewed under the 2021 Regulations.
- 4.4 The 2021 Regulations include a provision that allows local authorities to charge a fee for the consideration and granting of a licence for a licensable activity. The Council can refuse to consider any application submitted for a licence if the applicant fails to pay any fee set by the Council. The proposed fee structure is set out at Appendix 8.
- 4.5 When a valid application is received, the Council should arrange for an inspection of the premises on which the licensable activity is to be undertaken. The inspector appointed must be suitably experienced and qualified and have a sound understanding of animal welfare. Following an inspection, a report which includes sufficient information to enable the Council to make an informed decision on whether to grant a licence must be produced.
- 4.6 In addition to inspections carried out by Council officers, there may be occasions where the appointment of a private veterinary surgeon is necessary. Any veterinary fees incurred by the Council shall be charged to the applicant in addition to any fee already set.
- 4.7 The Regulations require the Council to publish a register of licence holders for each of the licensable activities on its website in order to enable the public and prospective buyers of pet animals to quickly and easily check whether a breeder or seller is indeed licensed by the Council to operate as such.
- 4.8 The Scottish Government has produced a helpful toolkit that provides additional guidance and information for potential applicants in a simplified manner to assist with the process.
- 4.9 Regulatory Committee is therefore asked to:
- 4.9.1 Approve the updated conditions and fee structure;
 - 4.9.2 Agree the additional request for delegation of authority to the Executive Director of Place to grant, renew and vary and licence as detailed in this report where there are no objections to the application from members of the public or the Chief Constable; and
 - 4.9.3 Request that such delegated authority be included within the next iteration of the Council's Scheme of Delegation when submitted to Council for approval.

5 Next Steps

- 5.1 If Committee approves the recommendations in this report, officers will contact all known parties that will be affected by the changes, both existing and new.

6 Financial impact

- 6.1 There is no financial impact arising directly from this report. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees and the proposed fee structure.

7 Stakeholder/Community Impact

- 7.1 The development of policy in respect of licensing of Animal Welfare is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the revised conditions are consistent with these.
- 7.2 That the city's licensing function is modernised to ensure that it meets the needs of customers.
- 7.3 That any Licensing policy adopted balances appropriate protection of citizens with the need to ensure a minimum burden on economic development.
- 7.4 The revised licensing conditions and fee structure are suitable for the needs of the city and address concerns raised with the Council.

8 Background reading/external references

- 8.1 [The Animal Welfare \(Licensing of Activities Involving Animals\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](#)
- 8.2 [Regulatory Committee report - Animal Boarding Establishments - 26 June 2018](#)
- 8.3 The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 Toolkit (available from Licensing on request)

9 Appendices

- 9.1 Appendix 1 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- GENERAL CONDITIONS
- 9.2 Appendix 2 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – SELLING ANIMALS AS PETS
- 9.3 Appendix 3 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – ENGAGING IN ANIMAL REHOMING
- 9.4 Appendix 4 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – OPERATING AN ANIMAL WELFARE ESTABLISHMENT

- 9.5 Appendix 5 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING DOGS
- 9.6 Appendix 6 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING CATS
- 9.7 Appendix 7 - The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING RABBITS
- 9.8 Appendix 8 – Proposed Fee Structure

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- GENERAL CONDITIONS

General conditions

Licence display

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) Any website operated by the licence holder in respect of the licensable activity must clearly and prominently display—

- (a) the name of the licence holder,
- (b) the number of the licence holder's licence, and
- (c) the name of the licensing authority that granted the licence.

Records

2.—(1) The licence holder must ensure that all the records that the licence holder is required to keep as a condition of the licence are either—

(a) available for inspection by an inspector in a visible and legible form at any premises specified in the licence at which the licensable activity is carried on, or

(b) if not kept at such premises, are kept in a manner in which they can be readily made available to an inspector.

(2) Where any records that the licence holder is required to keep as a condition of the licence are stored in electronic form they must be stored in a form from which they can readily be produced in a visible and legible form.

(3) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

(4) Where records are not kept at any premises specified in the licence at which the licensable activity is carried on, the licence holder must promptly make such records available (whether in electronic format or otherwise) for inspection upon request by an inspector.

Number of animals

3. The total number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and numbers of employed staff and volunteers on any premises on which the licensable activity is carried on.

Staffing

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must be competent to identify the normal behaviour of the species for which they routinely care and to recognise signs of, and take appropriate measures to mitigate or prevent, suffering, injury, disease or abnormal behaviour.

(3) Volunteers who assist in relation to the licensable activity must only undertake tasks for which they have been suitably trained.

(4) The licence holder must provide and ensure the implementation of a written training policy for all staff members and volunteers who care for the animals.

Suitable environment

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) If the licensable activity is carried on from premises at which animals are kept, such premises must provide an environment suitable to their species and condition (including health status and age) with respect to—

- (a) their behavioural needs,
- (b) its situation, space, air quality, cleanliness and temperature,
- (c) the water quality (where relevant),
- (d) noise levels,
- (e) light levels,
- (f) ventilation.

(3) Animals must be kept clean and comfortable.

(4) Where appropriate for the species—

- (a) opportunities for toileting must be provided, and
- (b) a toileting area must be provided if the licensable activity is carried on from premises at which animals are kept.

(5) Procedures must be in place to ensure that—

- (a) accommodation in any premises from which the licensable activity is carried on and in which animals are kept is capable of being thoroughly cleaned and disinfected,
- (b) any equipment within the accommodation is cleaned as often as necessary, and
- (c) good hygiene standards are maintained.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from suffering, injury and disease.

(7) If the animals are kept in premises from which the licensable activity is carried on, all the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

Suitable diet

6.—(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.

(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) If the animals are kept in premises from which the licensable activity is carried on, constant access to fresh and clean drinking water must be provided in a suitable receptacle for the species that require it.

(6) Where feed is prepared on any premises from which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

Enrichment and training of animals

7. If the animals are kept in premises from which the licensable activity is carried on, active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

Animal handling and interactions

8.—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from suffering, injury or disease.

(2) If the animals are kept in premises from which the licensable activity is carried on, the animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals.

(3) No animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

Protection from suffering, injury and disease

9.—(1) Written procedures must—

(a) be in place and implemented covering—

(i) feeding regimes,

(ii) cleaning regimes,

(iii) transportation,

(iv) the prevention of, and control of the spread of, disease,

(v) monitoring and ensuring the health and welfare of all the animals, and

(vi) except in relation to fish, the death or escape of an animal (including the storage of carcasses),

(b) be in place covering the care of the animals—

(i) following the suspension or revocation of the licence,

(ii) during an emergency, and

(iii) following an emergency.

(2) All people responsible for the care of the animals must be made fully aware of these procedures before they attend to any animal in the course of the licensable activity.

(3) If animals are kept in premises from which the licensable activity is carried on, appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.

(4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.

(5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.

(6) Sick or injured animals must receive prompt attention from a veterinary surgeon or, in the case of any sick or injured fish, an appropriately trained person and the advice of that veterinary surgeon or that trained person must be followed.

(7) Where necessary, animals must receive preventative treatment by an appropriately competent person in consultation with a veterinary surgeon.

(8) The licence holder must register with a veterinary surgeon and the contact details of that veterinary surgeon must be readily available to all staff on any premises on which animals are kept and from which the licensable activity is carried on.

(9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinary surgeon.

(10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinary surgeon.

(11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.

(12) No person may euthanase an animal except a veterinary surgeon, a person acting under supervision of a veterinary surgeon, a person who has been authorised by a veterinary surgeon as competent for such purpose or—

(a) in the case of fish, a person who is competent for such purpose,

(b) in the case of equines and species generally regarded as farmed livestock, a person who is competent, and who holds a licence or certificate which is relevant to the species, for such purpose,

except where the purpose of the euthanasia is to end suffering that has arisen suddenly and unexpectedly and to arrange for such a person to euthanase the animal would prolong the suffering.

(13) All animals must be checked at least once daily and more regularly as necessary for any signs of suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of suffering, injury, disease or abnormal behaviour must be recorded and if necessary the advice of a veterinary surgeon (or in the case of fish, of an appropriately competent person) must be sought and followed.

Emergencies

10.—(1) If animals are kept in premises, other than domestic premises, from which the licensable activity is carried on—

(a) a written emergency plan, acceptable to the licensing authority, must be in place, known and available to all the staff on the premises, and

(b) such a plan must be followed where necessary to ensure appropriate steps are taken to protect all animals on the premises (without risking human life) in case of fire, breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) Any such emergency plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) If animals are kept in premises from which the licensable activity is carried on, a designated key holder with access to all animal areas must at all times be within reasonable travel distance of those premises and available to attend in an emergency.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – SELLING ANIMALS AS PETS

Specific conditions: selling animals as pets

Interpretation

1. In this schedule—
 - “prospective owner” means a person who seeks to purchase an animal to be kept or to be resold as a pet,
 - “premises” means the premises specified in the licence and on which the licensable activity described in paragraph 1 of schedule 1 is carried on,
 - “purchaser” means a person who purchases an animal to be kept or to be resold as a pet.

Records and advertisements

2. (1) A register must be maintained for all the animals or, in the case of fish or other animals (not including dogs and cats) kept in groups where it is not practicable to keep individual records, all the groups of such animals, on the premises which must include—
 - (a) the full name of the supplier of the animal,
 - (b) the animal's sex (where known),
 - (c) (except in the case of fish) the animal's age (where known),
 - (d) details of any veterinary treatment (where known),
 - (e) the date of birth of the animal or, if the animal was acquired by the licence holder, the date of its acquisition,
 - (f) the date of the sale of the animal by the licence holder,
 - (g) the date of the animal's death (if applicable), and
 - (h) the animal's microchip number (if any).
- (2) Where an animal is undergoing any medical treatment—
 - (a) this fact must be clearly indicated—
 - (i) in writing next to it, or
 - (ii) (where appropriate) by labelling it accordingly, if it is on display in the premises with the purpose of being sold, and
 - (b) it may only be sold to a prospective owner if—
 - (i) a veterinary surgeon advises that the animal is in a suitable condition to be rehomed, and
 - (ii) details of, and the reasons for, the treatment are communicated to the prospective owner prior to the sale.
- (3) Any advertisement for the sale of an animal must—
 - (a) include the number of the licence holder's licence,
 - (b) specify the local authority that issued the licence,
 - (c) if the animal being advertised is a dog or cat, include a recognisable photograph of the animal,
 - (d) (except in the case of fish) display the age of the animal being advertised,
 - (e) state the country of residence of the animal from which it is being sold, and
 - (f) state the country of origin of the animal.

Prospective sales: pet care and advice

3. (1) Any equipment and accessories being sold with an animal must be suitable for the animal.
- (2) The purchaser must be provided with information on the appropriate care of the animal including in relation to—
 - (a) feeding,
 - (b) housing,
 - (c) handling,
 - (d) husbandry,
 - (e) the life expectancy of its species,
 - (f) the provision of suitable accessories, and
 - (g) veterinary care.
- (3) Appropriate reference materials on the care of all animals for sale must be—
 - (a) on display and available to be consulted by prospective owners in the premises, or

- (b) provided to prospective owners in an electronic format, if the licensable activity is conducted in a way that involves persons attending the premises to view animals available for sale as pets, or otherwise in relation to arranging the purchase of animals as pets.
- (4) The licence holder and all staff must have been suitably trained to advise prospective owners about the animals being sold.
- (5) The purchaser must be informed of, where known, the country of origin, age, sex and veterinary record of the animal being sold.

Suitable Accommodation

- 4. (1) Animals must be kept in housing which minimises stress including from other animals and the public.
- (2) Where members of the public can view or come into contact with the animals, signage must be in place to deter disturbance of the animals.
- (3) Dangerous wild animals (if any) must be kept in secure accommodation that is lockable and appropriate for the species.

Training and Exercise

- 5. (1) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinary surgeon recommends otherwise.
- (2) All immature animals must be given suitable and adequate opportunities to—
 - (a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and
 - (b) become habituated to noises, objects and activities associated with a domestic environment.
- (3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

Sale of Animals

- 6. (1) No animal of any of the following descriptions may be sold as a pet, or sold with a view to being resold as a pet, by or on behalf of the licence holder—
 - (a) unweaned mammals,
 - (b) mammals weaned at an age at which they should not have been weaned,
 - (c) non-mammals that are incapable of feeding themselves,
 - (d) puppies, kittens, ferrets or kits, aged under 8 weeks, and
 - (e) puppies or kittens which were not bred by the licence holder.
- (2) The sale of a dog or a cat must be completed in the presence of the purchaser on the premises.
- (3) No animals or types of animal other than those animals and types of animal specified in the licence may be sold.
- (4) No animal may be sold in any part of a road or public place or at a point of sale at a market (unless the point of sale at the market forms part of the premises).

Protection from suffering, injury and disease

- 7. (1) All animals for sale must be in good health.
- (2) Any animal with a condition which is likely to affect its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until the animal has recovered.
- (3) When arranging for the receipt of animals, the licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner.
- (4) When an animal is to be transported or handed to a purchaser in a container, the container must be suitable for the species and expected duration of the journey.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – ENGAGING IN ANIMAL REHOMING

Specific conditions: engaging in animal rehoming activities (other than in the course of operating an animal welfare establishment)

Supply of animals

1. No animal of any of the following descriptions may be supplied as a pet by or on behalf of the licence holder—
 - (a) unweaned mammals,
 - (b) mammals weaned at an age at which they should not have been weaned,
 - (c) non-mammals that are incapable of feeding themselves,
 - (d) puppies, kittens, ferrets or kits, aged under 8 weeks, and
 - (e) puppies or kittens which were not bred by the licence holder.

Protection from suffering, injury and disease

2.
 - (1) All animals supplied as pets must be in good health
 - (2) Any animal with a condition which is likely to affect its quality of life must not be moved, transferred or supplied as a pet but may be moved to an isolation facility or veterinary care facility if required until the animal has recovered.
 - (3) When arranging for the receipt of animals, the licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner.
 - (4) When an animal is transported in or handed over in a container to the person to whom the licence holder is supplying the animal, the container must be suitable for the species and expected duration of the journey.

Pet care and advice

3.
 - (1) Any equipment and accessories being sold with an animal must be suitable for the animal.
 - (2) The purchaser must be provided with information on the appropriate care of the animal including in relation to—
 - (a) feeding,
 - (b) housing,
 - (c) handling,
 - (d) husbandry,
 - (e) the life expectancy of its species,
 - (f) the provision of suitable accessories, and
 - (g) veterinary care.
 - (3) A person supplied with the animal as a pet must be informed of the country of origin of the animal and the species, and where known, the age, sex and veterinary record of the animal.

Return of animals

4. The licence holder must accept return of any live animal that the licence holder has supplied to a person in the course of the licensable activity, and arrange for the collection of the animal to facilitate the return if requested by the person supplied, if—
 - (a) the person supplied notifies the licence holder of the intention to return the animal within the 10 days following the date the animal was supplied, and
 - (b) the animal is in a fit state to be transported.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – OPERATING AN ANIMAL WELFARE ESTABLISHMENT

Specific conditions: operating an animal welfare establishment

Interpretation

1. In this schedule—

“animal welfare establishment” means the place or places within the areas of the local authority at which the licensable activity of operating an animal welfare establishment is carried on,

“prospective keeper” means a person who seeks to become the keeper of the animal (or, where it is proposed that there be more than one keeper of the animal, one of such persons).

Records and advertisements

2. (1) A register must be maintained for all the animals or, in the case of animals (not including dogs and cats) kept in groups where it is not practicable to keep individual records, all the groups of such animals, in the animal welfare establishment which must include—
 - (a) the species of the animal (where known),
 - (b) the animal's sex (where known),
 - (c) (except in the case of fish) the animal's age (where known),
 - (d) details of any veterinary treatment (where known),
 - (e) the date on which the animal was received by the licence holder,
 - (f) the date on which the animal was rehomed or otherwise released from the animal welfare establishment (if applicable),
 - (g) the site of the animal's release into the wild (if the animal is so released), and
 - (h) the date of the animal's death (if applicable).
- (2) Where an animal is undergoing any medical treatment it may only be supplied as a pet to a prospective keeper if—
 - (a) details of, and the reasons for, the treatment are communicated to the prospective keeper of the animal prior to any agreement being concluded with that person for the supply of that animal, and
 - (b) a veterinary surgeon advises that the animal is in a suitable condition to be supplied to a person as a pet from the animal welfare establishment.
- (3) Any advertisement for the rehoming of an animal must—
 - (a) include the number of the licence holder's licence,
 - (b) specify the local authority that issued the licence,
 - (c) if the animal being advertised is a dog, cat or horse, include a recognisable photograph of the animal, and
 - (d) (except in the case of fish) display the age of the animal being advertised (where known).

Rehoming: pet care and advice

3. (1) Any equipment and accessories being sold with an animal must be suitable for the animal.
- (2) Prospective keepers must be provided with information on the appropriate care of the animal including in relation to—
 - (a) feeding,
 - (b) housing,
 - (c) handling,
 - (d) husbandry,
 - (e) the life expectancy of its species,
 - (f) the provision of suitable accessories, and
 - (g) veterinary care.
- (3) A suitably trained person must be available to provide advice to prospective keepers about the animals made available for rehoming.

- (4) Any new keeper (or at least one new keeper where there is more than one new keeper of the animal) to whom an animal is being rehomed must be informed of, where known, the age, sex and veterinary record of the animal.

Release of animals into the wild

- 4.
 - (1) An animal that has been kept at the animal welfare establishment must only be released into the wild in an area that is suitable for its species.
 - (2) An animal that has been kept at the animal welfare establishment must only be released into the wild if it is able to feed and fend for itself.

Dangerous wild animals: duty to notify

- 5. The licence holder must notify the licensing authority of any dangerous wild animals held in the animal welfare establishment.

Suitable accommodation

- 6.
 - (1) Animals must be kept in housing which minimises stress including from other animals and the public.
 - (2) Where members of the public can view or come into contact with the animals, signage must be in place to deter disturbance of the animals.
 - (3) Dangerous wild animals (if any) must be kept in secure accommodation that is lockable and appropriate for the species.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING DOGS

Specific conditions: breeding dogs

Interpretation

1. In this schedule—
 - “adult dog” means a dog aged 6 months or more,
 - “breeding procedure” means a procedure involving—
 - (a) artificial insemination of semen into the vagina or uterus, or
 - (b) the placement of one or more embryos into the uterus, with the purpose of establishing pregnancy,
 - “microchipped” means microchipped in accordance with regulation 6(5) of the Microchipping of Dogs (Scotland) Regulations 2016(1),
 - “prospective purchaser” means a person who seeks to purchase a puppy,
 - “sleeping area” means a fully-enclosed indoor area in which a dog can rest and sleep.

Advertisements and sales

2. (1) A dog must not be advertised or offered for sale—
 - (a) which was not bred by the licence holder,
 - (b) from any place other than the premises where it was born and reared under the licence, unless the dog is over the age of 12 months and was procured by the licence holder for breeding purposes.
- (2) Any advertisement for the sale of a dog must—
 - (a) include the number of the licence holder’s licence,
 - (b) specify the local authority that issued the licence,
 - (c) include a recognisable photograph of the dog being advertised, and
 - (d) display the age of the dog being advertised.
- (3) Any equipment and accessories being sold with a dog must be suitable for it.
- (4) The purchaser must be informed of the age, sex and veterinary record of the dog being sold.
- (5) No puppy aged under 8 weeks may be—
 - (a) sold, or
 - (b) permanently separated from its biological mother.
- (6) A puppy may only be shown to a prospective purchaser if it is together with its biological mother.
- (7) Sub-paragraphs (5)(b) and (6) do not apply in relation to a puppy if—
 - (a) separation of the puppy from its biological mother is necessary for the health or welfare of the puppy, other puppies from the same litter or its biological mother, or
 - (b) the puppy’s biological mother is deceased.
- (8) A dog may only be sold if the name, and an address, of the licence holder are disclosed to the purchaser.

Number of breeding bitches and litters produced

3. (1) The number of breeding bitches kept in relation to the licensable activity of breeding dogs at any time on the premises specified in the licence and on which the licensable activity is carried on must not exceed the maximum number specified by the local authority in the licence.
- (2) The number of litters produced on the premises during each consecutive 12 month period commencing with the date on which the licence was granted or, as the case may be, renewed must not exceed the maximum number of breeding bitches specified in the licence.

Suitable environment

4. (1) Each dog must have access to—
 - (a) a clean, dry and warm sleeping area with comfortable bedding and which is free from draughts, and
 - (b) an exercise area.
- (2) Each dog must be provided with sufficient space to—

- (a) stand upright on its hind legs,
 - (b) lie down fully stretched out,
 - (c) wag its tail,
 - (d) walk, and
 - (e) turn around,
- without touching another dog or the walls of the sleeping area.
- (3) The exercise area must not be used as a sleeping area unless the dog chooses to do so.
 - (4) There must be a separate whelping area for each breeding bitch to whelp in which contains a suitable bed for whelping.
 - (5) Each whelping area must be maintained at an appropriate temperature and include an area which allows the breeding bitch to move away from heat spots and from her young if she chooses to do so.
 - (6) Each dog must be provided with constant access to a sleeping area.
 - (7) A separate bed or area with bedding must be provided for each adult dog.
 - (8) No puppy aged under 8 weeks may be transported without its biological mother except—
 - (a) if a veterinary surgeon agrees for health or welfare reasons that it may be so transported, or
 - (b) in an emergency.
 - (9) No pregnant breeding bitch may be transported later than 54 days after the date of successful mating or breeding procedure except to a veterinary surgeon.
 - (10) No breeding bitch may be transported earlier than 48 hours after whelping except to a veterinary surgeon where it is not otherwise practicable or appropriate for that person to attend to the bitch.
 - (11) In this paragraph, “exercise area” means a secure area where dogs may exercise and play.

Suitable diet

- 5. (1) Each puppy must be provided with the opportunity to start weaning as soon as it is capable of ingesting feed on its own.
- (2) Each adult dog must be provided with feed appropriate to its needs.
- (3) Each puppy must be provided with feed appropriate for its stage of development.
- (4) Reasonable efforts must be made so that each puppy ingests the correct share of the feed provided.

Monitoring of behaviour, exercise and training

- 6. (1) The licence holder must implement and be able to demonstrate use of a documented socialisation and habituation programme for the puppies.
- (2) All puppies must be given suitable and adequate opportunities to—
 - (a) learn how to interact with people, dogs and other animals where such interaction benefits their welfare, and
 - (b) become habituated to noises, objects and activities associated with a domestic environment.
- (3) Each dog must be provided with toys or feeding enrichment (or both) unless advised otherwise by a veterinary surgeon.
- (4) All adult dogs must be exercised at least twice daily away from their sleeping area unless advised otherwise by a veterinary surgeon.
- (5) Where a veterinary surgeon has advised against exercising a dog, the dog must be provided with alternative forms of mental stimulation or environmental enrichment.
- (6) All adult dogs must have at least daily opportunities to interact with people where such interaction benefits their welfare.

Housing with or apart from other dogs

- 7. (1) Each adult dog must be provided with opportunities for social contact with other dogs where such contact benefits the dog's welfare.
- (2) Each adult dog must be given suitable and adequate opportunities to become habituated to handling by people.
- (3) There must be an area within each sleeping area in which dogs can avoid seeing people and other dogs outside the sleeping area if they so choose.

Protection from suffering, injury and disease

- 8. (1) All dogs for sale must be in good health.

- (2) Any dog with a condition which materially affects, or is likely to materially affect, its quality of life must not be—
 - (a) transferred in ownership,
 - (b) offered for sale, or
 - (c) moved from the premises specified in the licence and on which the licensable activity is carried on, other than to an isolation facility or veterinary care facility where the animal is in need of isolation or treatment,
 until it has recovered, ceased to require isolation or, where there is no need for the animal to be isolated, been certified by a veterinary surgeon as being in a condition that is suitable for such transfer, sale or movement.
- (3) The licence holder must ensure that no bitch—
 - (a) is mated or undergoes a breeding procedure if aged less than 12 months,
 - (b) gives birth to more than one litter of puppies in a 12-month period,
 - (c) gives birth to more than 6 litters of puppies in her lifetime,
 - (d) is mated or undergoes a breeding procedure if she has had—
 - (i) two litters delivered by caesarean section, or
 - (ii) one litter delivered by caesarean section if the need for the caesarean section was due to the conformation of the bitch or her offspring.
 - (e) is mated or undergoes a breeding procedure if aged 8 or more years.
- (4) Each puppy must be microchipped and registered to the licence holder before it is sold.
- (5) No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, conformation, behaviour or state of health, that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.
- (6) Each dog must be checked in person at least two times per day.
- (7) Breeding bitches must be adequately supervised during whelping and the licence holder must keep a record of—
 - (a) the date of birth of each puppy,
 - (b) each puppy's sex and colour,
 - (c) the number of puppies in the litter, and
 - (d) any other significant events.
- (8) The licence holder must keep a record of each puppy sale including—
 - (a) the microchip number of the puppy,
 - (b) the date of the sale, and
 - (c) the age of the puppy on that date.
- (9) The licence holder must keep a record of the following in relation to each breeding dog—
 - (a) its name,
 - (b) its sex,
 - (c) its microchip and database details,
 - (d) its date of birth,
 - (e) the postal address where it normally resides,
 - (f) its breed or type,
 - (g) the date or dates of any matings and breeding procedures (whether or not any such mating or procedure is successful),
 - (h) details of its biological parents,
 - (i) details of any veterinary treatment it has received, and
 - (j) the date and cause of its death (where applicable).
- (10) In addition to the matters mentioned in sub-paragraph (9), the licence holder must keep a record of the following in relation to each breeding bitch—
 - (a) the number of matings and breeding procedures,
 - (b) its age at the time of each mating and breeding procedure,
 - (c) the total number of its litters,
 - (d) the date or dates on which it has given birth, and
 - (e) the caesarean sections it has had, if any, and their cause.
- (11) Any preventative healthcare plan agreed with the veterinary surgeon with whom the licence holder has registered under the condition specified in paragraph 9(8) of the general conditions must be implemented.
- (12) The licence holder must keep a record of any preventative or curative healthcare (or both) given to each dog.
- (13) Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding dogs is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING CATS

Specific conditions: breeding cats

Interpretation

1. In this schedule—
“adult cat” means a cat aged 6 months or more,
“sleeping area” means a fully-enclosed indoor area in which a cat can rest and sleep.

Advertisements and sales

2. (1) A cat must not be advertised or offered for sale—
(a) which was not bred by the licence holder,
(b) from any place other than the premises where it was born and reared under the licence, unless the cat is over the age of 12 months and was procured by the licence holder for breeding purposes.
- (2) Any advertisement for the sale of a cat must—
(a) include the number of the licence holder’s licence,
(b) specify the local authority that issued the licence,
(c) display the age of the cat being advertised.
- (3) Any equipment and accessories being sold with a cat must be suitable for it.
- (4) The purchaser must be informed of the age, sex and veterinary record of the cat being sold.
- (5) No kitten aged under 8 weeks may be—
(a) sold, or
(b) permanently separated from its biological mother.
- (6) Sub-paragraph (5)(b) does not apply in relation to a kitten if—
(a) separation of the kitten from its biological mother is necessary for the health or welfare of the kitten, other kittens from the same litter or its biological mother, or
(b) the kitten’s biological mother is deceased.
- (7) A cat may only be sold if the name, and an address, of the licence holder are disclosed to the purchaser.

Number of breeding female cats and litters produced

3. (1) The number of breeding female cats kept in relation to the licensable activity of breeding cats at any time on the premises specified in the licence and on which the licensable activity is carried on must not exceed the maximum number specified by the local authority in the licence.
- (2) The number of litters produced on the premises during each consecutive 12 month period commencing with the date on which the licence was granted or, as the case may be, renewed must not exceed the maximum number of breeding female cats specified in the licence.

Suitable environment

4. (1) Each cat must have access to—
(a) a clean, dry and warm sleeping area with comfortable bedding and which is free from draughts, and
(b) an exercise area.
- (2) Each cat must be provided with sufficient space to—
(a) stand upright on its hind legs,
(b) lie down fully stretched out,
(c) walk, and
(d) turn around,
without touching another cat or the walls of the sleeping area.
- (3) The exercise area must not be used as a sleeping area unless the cat chooses to do so.
- (4) There must be a separate birthing area for each breeding female cat to birth in which contains a suitable bed for giving birth.

- (5) Each birthing area must be maintained at an appropriate temperature and include an area which allows the breeding female cat to move away from heat spots and from her young if she chooses to do so.
- (6) Each cat must be provided with constant access to a sleeping area.
- (7) No kitten aged under 8 weeks may be transported without its biological mother except—
 - (a) if a veterinary surgeon agrees for health or welfare reasons that it may be so transported, or
 - (b) in an emergency.
- (9) No pregnant breeding female cat may be transported later than 54 days after the date of successful mating or artificial insemination except to a veterinary surgeon.
- (10) In this paragraph, “exercise area” means a secure area where cats may exercise and play.

Suitable diet

5.
 - (1) Each kitten must be provided with the opportunity to start weaning as soon as it is capable of ingesting feed on its own.
 - (2) Each adult cat must be provided with feed appropriate to its needs.
 - (3) Each kitten must be provided with feed appropriate for its stage of development.
 - (4) Reasonable efforts must be made so that each kitten ingests the correct share of the feed provided.

Training and exercise

6.
 - (1) Opportunities to exercise which benefit the cats' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.
 - (2) All kittens must be given suitable and adequate opportunities to—
 - (a) learn how to interact with people, cats and other animals where such interaction benefits their welfare, and
 - (b) become habituated to noises, objects and activities associated with a domestic environment.
 - (3) All adult cats must have at least daily opportunities to interact with people where such interaction benefits their welfare.

Housing with or apart from other cats

7.
 - (1) Each adult cat must be given suitable and adequate opportunities to become habituated to handling by people.

Protection from suffering, injury and disease

8.
 - (1) All cats for sale must be in good health.
 - (2) Any cat with a condition which materially affects, or is likely to materially affect, its quality of life must not be—
 - (a) transferred in ownership,
 - (b) offered for sale, or
 - (c) moved from the premises specified in the licence and on which the licensable activity is carried on, other than to an isolation facility or veterinary care facility where the animal is in need of isolation or treatment, until it has recovered, ceased to require isolation or, where there is no need for the cat to be isolated, been certified by a veterinary surgeon as being in a condition that is suitable for such transfer, sale or movement.
 - (3) The licence holder must ensure that no female cat—
 - (a) is mated or undergoes a breeding procedure if aged less than 10 months,
 - (b) gives birth to more than two litters of kittens in a 12-month period,
 - (c) gives birth to more than 8 litters of kittens in her lifetime,
 - (d) is mated or artificially inseminated if aged 8 or more years,
 - (e) is mated or artificially inseminated after she has delivered one litter of kittens by caesarean section.
 - (4) No cat may be kept for breeding if it can reasonably be expected, on the basis of its genotype, conformation, behaviour or state of health, that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.
 - (5) Breeding female cats must be supervised with minimal disturbance during birthing and the licence holder must keep a record of—
 - (a) the date of birth of each kitten,

- (b) each kitten's sex and colour,
 - (c) the number of kittens in the litter, and
 - (d) any other significant events.
- (6) The licence holder must keep a record of each kitten sale including—
- (a) the microchip number of the kitten (if any),
 - (b) the date of the sale, and
 - (c) the age of the kitten on that date.
- (7) The licence holder must keep a record of the following in relation to each breeding cat—
- (a) its name,
 - (b) its sex,
 - (c) its microchip and database details,
 - (d) its date of birth,
 - (e) the postal address where it normally resides,
 - (f) its breed or type,
 - (g) its description,
 - (h) details of its biological parents (to the extent known),
 - (i) details of any veterinary treatment it has received, and
 - (j) the date and cause of its death (where applicable).
- (8) In addition to the matters mentioned in sub-paragraph (7), the licence holder must keep a record of the following in relation to each breeding female cat—
- (a) the number of any known pregnancies,
 - (b) the number of its litters,
 - (d) the date or dates on which it has given birth, and
 - (e) the caesarean sections it has had, if any.
- (9) Any preventative healthcare plan agreed with the veterinary surgeon with whom the licence holder has registered under the condition specified in paragraph 9(8) of the general conditions must be implemented.
- (10) The licence holder must keep a record of any preventative or curative healthcare (or both) given to each cat.
- (11) Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding cats is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021- SPECIFIC CONDITIONS – BREEDING RABBITS

Specific conditions: breeding rabbits

Interpretation

1. In this schedule—
“adult rabbit” means a rabbit aged 3 months or more,
“nesting box” means a fully-enclosed indoor area in which a rabbit can rest and sleep.

Advertisements and sales

2. (1) No kit aged under 8 weeks may be—
(a) sold, or
(b) permanently separated from its biological mother.
(2) Sub-paragraph (1)(b) does not apply in relation to a kit if—
(a) separation of the kit from its biological mother is necessary for the health or welfare of the kit, other kits from the same litter or its biological mother, or
(b) the kit’s biological mother is deceased.
(3) Any advertisement for the sale of a rabbit must—
(a) include the number of the licence holder’s licence, and
(b) specify the local authority that issued the licence.

Number of breeding female rabbits

3. (1) The number of breeding female rabbits kept in relation to the licensable activity of breeding rabbits at any time on the premises specified in the licence and on which the licensable activity is carried on must not exceed the maximum number specified by the local authority in the licence.

Suitable environment

4. (1) Each rabbit must have access to—
(a) a clean, dry and warm sleeping area which is free from draughts, and
(b) an exercise area.
(2) Each rabbit must be provided with sufficient space in the sleeping area to—
(a) lie down fully stretched out,
(c) hop, and
(d) turn around,
without touching another rabbit or the walls of the sleeping area.
(3) The exercise area must not be used as a sleeping area unless the rabbit chooses to do so.
(4) For each breeding female rabbit, there must be—
(i) a nesting box to give birth in and which is lined with suitable nesting material such as dust-free wood shavings or grass hay, or
(ii) a plentiful supply of such nesting material available to the rabbit.
(5) The nesting box must not be accessible to other rabbits when being used by a breeding female rabbit to give birth in.
(6) In this paragraph, “exercise area” means a secure area where rabbits can hop, scratch, forage and stretch to their full height.

Training and exercise

5. (1) Opportunities to exercise which benefit the rabbits’ physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.
(2) All kits must be given suitable and adequate opportunities to—
(a) learn how to interact with people, rabbits and other animals where such interaction benefits their welfare, and
(b) become habituated to noises, objects and activities associated with a domestic environment.

- (3) All rabbits must have at least daily opportunities to interact with people where such interaction benefits their welfare.

Suitable diet

- 6.
 - (1) All adult rabbits must have continuous access to clean and safe drinking water.
 - (2) Each adult rabbit must be provided with feed appropriate to its needs.
 - (3) Each kit must be provided with feed appropriate for its stage of development.

Protection from suffering, injury and disease

- 7.
 - (1) All rabbits for sale must be in good health.
 - (2) Any rabbit with a condition which materially affects, or is likely to materially affect, its quality of life must not be—
 - (a) transferred in ownership,
 - (b) offered for sale, or
 - (c) moved from the premises specified in the licence and on which the licensable activity is carried on, other than to an isolation facility or veterinary care facility where the animal is in need of isolation or treatment,until it has recovered, ceased to require isolation or, where there is no need for the rabbit to be isolated, been certified by a veterinary surgeon as being in a condition that is suitable for such transfer, sale or movement.
 - (3) The licence holder must ensure that no female rabbit—
 - (a) is mated or artificially inseminated if aged less than 5 months,
 - (b) gives birth to more than 4 litters of kits within 12 months,
 - (c) gives birth to more than 16 litters of kits in her lifetime,
 - (d) is mated or artificially inseminated if aged 6 or more years,
 - (4) No rabbit may be kept for breeding if it can reasonably be expected, on the basis of its genotype, conformation, behaviour or state of health, that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.
 - (5) Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding rabbits is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.
 - (6) No adult rabbit may be isolated or separated from others rabbits for longer than is necessary.

Proposed Fee Structure

OTHER LICENCE TYPES		
ANIMAL BOARDING		
	Commercial Kennels*	£372 – 1 year
	Home Boarding or Dog Day Care (1–10 animals) *	£173 – 1 year
	Home Boarding or Dog Day Care (>10 animals) *	£372 – 1 year
*any application that involves a vet inspection will be charged the full cost of that inspection <u>in addition to</u> the licence application fee		
ANIMAL WELFARE		
New & Renewal	Breeding of animals - dogs, cats and rabbits *	£372 – 1 year
	animal rehoming activities (other than in the course of operating an animal welfare establishment) (1 -10 animals) *	£173 – 1 year
	animal rehoming activities (other than in the course of operating an animal welfare establishment) (>10 animals)	£372 – 1 year
	animal rehoming activities (animal welfare establishment)	£436 – 1 year
	Sale of animals as pets (Pet shops etc)	£436 – 1 year
Variation of Licence	other than a capacity increases i.e. change of manager	£118
*any application that involves a vet inspection will be charged the full cost of that inspection <u>in addition to</u> the licence application fee		
Breeding of animals - dogs, cats and rabbits	any person breeding three or more litters of kittens or puppies or six or more litters of kits in any 12 month period must be licensed.	

Engaging in animal rehoming activities	<p>engaging in animal rehoming activities.</p> <p>Under the Regulations “engaging in animal rehoming activities” means supplying an animal to a person in Scotland to be kept as a pet, regardless of the country of origin of the animal, provided that the:</p> <ul style="list-style-type: none"> • animal is not a fish • animal was not bred by the supplier • person being supplied takes receipt of the animal in Scotland from the supplier of the animal or a person delivering the animal on behalf of the supplier
Sale of animals as pets	<p>Under the Regulations any person selling animals as pets in the course of a business, selling animals with the expectation that they will be resold as pets in the course of a business, keeping animals in the course of a business with a view to them being sold as pets, or keeping animals in the course of a business with a view them being resold as pets must be licensed</p>

This page is intentionally left blank

Regulatory Committee

2.00pm, Thursday 31 March 2022

Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2022 – referral from the Governance, Risk and Best Value Committee

Executive/routine Wards Council Commitments	Executive
---	-----------

1. For Decision/Action

- 1.1 The Governance, Risk and Best Value Committee has referred the attached report to the Regulatory Committee for ongoing scrutiny of relevant overdue management actions.

Richard Carr
Interim Executive Director of Corporate Services

Contact: Rachel Gentleman, Committee Officer
Legal and Assurance Division, Corporate Services
E-mail: rachel.gentleman@edinburgh.gov.uk

Referral Report

Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2022 – referral from the Governance, Risk and Best Value Committee

2. Terms of Referral

- 2.1 On 8 March 2022, the Governance, Risk and Best Value Committee considered a report on Internal Audit Overdue Findings and Key Performance Indicators as at 26 January 2022.
- 2.2 The Governance, Risk and Best Value Committee agreed:
 - 2.2.1 To note the status of the overdue Internal Audit findings as at 26 January 2022;
 - 2.2.2 To note the status of IA Key Performance Indicators for audits that were either completed or in progress as at 26 January 2022;
 - 2.2.3 To refer the report to the relevant Council committees for ongoing scrutiny of their relevant overdue management actions;
 - 2.2.4 To refer the report to the Edinburgh Integration Joint Board Audit and Assurance Committee for information in relation to the current Health and Social Care Partnership position.
- 2.3 Following requests for clarification on the specific Internal Audit overdue findings that parent executive committees should focus on, an exercise has been completed that maps the findings included in this report to the specific committee based on their responsibilities detailed in the Council's committee terms of reference.
- 2.4 This exercise has identified an anomaly as there is currently no linear relationship between individual audit reports and committees, as it is possible for scrutiny of the actions in one Internal Audit report to be allocated across a number of Committees. For example, a review of Planning or Licensing could potentially result in operational service delivery actions being allocated to the Planning Committee and/or Regulatory Committee, with actions that relate to the ICT arrangements that these teams use being allocated to the Finance and Resources Committee.
- 2.5 As part of preparations for the new Council following the May 2022 Local Government elections, we will complete further work on this area to determine

whether there is a more effective way of ensuring a more linear allocation of responsibility for executive committee and oversight of overdue IA actions.

- 2.6 In the meantime, the information provided to each committee is based upon the allocation of agreed management actions in line with each committee's current terms of reference. A copy of the full report is also available online, with a link include in the background section of this referred report for reference.

3. Background Reading/ External References

- 3.1 Minute of the Governance, Risk and Best Value Committee – 8 March 2022
- 3.2 [Governance, Risk and Best Value Committee – 8 March 2022 webcast](#)
- 3.3 [Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2023 – full report to GRBV Committee](#)

4. Appendices

Appendix 1 – report by the Chief Internal Auditor

Governance, Risk and Best Value Committee

10:00am, Tuesday, 8 March 2022

Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2022

Item number

Executive/routine

Executive

Wards

Council Commitments

1. Recommendations

- 1.1 It is recommended that the Committee:
- 1.1.1 notes the status of the overdue Internal Audit (IA) findings as at 26 January 2022;
 - 1.1.2 notes the status of IA Key Performance Indicators (KPIs) for audits that are either completed or in progress as at 26 January 2022;
 - 1.1.3 refers this paper to the relevant Council Executive committees for ongoing scrutiny of their relevant overdue management actions; and,
 - 1.1.4 refers this paper to the Edinburgh Integration Joint Board Audit and Assurance Committee for information in relation to the current Health and Social Care Partnership position.

Lesley Newdall

Chief Internal Auditor

Legal and Assurance Division, Corporate Services Directorate

E-mail: lesley.newdall@edinburgh.gov.uk | Tel: 0131 469 3216



Internal Audit: Overdue Findings and Key Performance Indicators as at 26 January 2022

2. Executive Summary

Progress with Closure of Open and overdue Internal Audit findings

- 2.1 The overall progress status for closure of overdue IA findings is currently red (adverse trend with action required) as at 26 January 2022, based on the average position across the last three months.
- 2.2 Whilst the total number of open and overdue IA findings and associated management actions is decreasing (which is mainly attributable to delayed completion of the 2021/22 IA annual plan), increasing trends in the proportion of open IA findings that are overdue (KPI 3 in Appendix 1); the proportion of high rated overdue findings (KPI 7); and the proportion of findings that are less than 90 days overdue (KPI 8) are evident across the last three months, together with an increase in the number of overdue management actions (KPI 14).
- 2.3 These increasing trends in the last month are partially offset by improvement in the proportion of IA findings that are between three and six months overdue (KPI 10).
- 2.4 These outcomes confirm that further sustained focus is required on closure of overdue findings, with action required to ensure that open findings that are not overdue are closed by their originally agreed implementation dates.
- 2.5 Increased focus on closure of agreed management actions is evident following the secondment of two IA team members into the Place Directorate and Health and Social Care Partnership in October 2021. This is evident from increased levels of discussion and engagement on both open and overdue actions, and an increase in the volume of actions proposed for closure. However, as a number of the actions are historic and also complex to resolve, the full impact should be more apparent in the position at the end of February, with further progress evident by March 2022. Both secondments are currently scheduled to complete by 31 March 2022.
- 2.6 A reallocation of open and overdue findings and associated management actions has been performed across directorates and services to ensure alignment with the Council's refreshed organisational structure. This has resulted in an increased number of findings and actions for the Place Directorate.

- 2.7 Further detail on the monthly trends in open and overdue findings is included at Appendix 1.

Current position as at 26 January 2022

- 2.8 A total of 91 open IA findings remain to be addressed across the Council as 26 January 2022. This excludes open and overdue Internal Audit findings for the Edinburgh Integration Joint Board and the Lothian Pension Fund.
- 2.9 Of the 91 currently open IA findings:
- 2.9.1 a total of 42 (46%) are open, but not yet overdue;
 - 2.9.2 49 (54%) are currently reported as overdue as they have missed the final agreed implementation dates. This reflects an increase of 3% in comparison to the November 2021 position (51%).
 - 2.9.3 69% of the overdue findings are more than six months overdue, which remains aligned with the November 2021 position (69%), with 18% aged between six months and one year, and 51% more than one year overdue.
 - 2.9.4 evidence in relation to 5 of the 49 overdue findings is currently being reviewed by IA to confirm that it is sufficient to support closure; and,
 - 2.9.5 44 overdue findings still require to be addressed.
- 2.10 The number of overdue management actions associated with open and overdue findings where completion dates have been revised more than once since July 2018 is 39, reflecting a decrease of 5 when compared to the November 2021 position (44). This excludes the two completion date extensions applied to reflect ongoing Covid-19 impacts across the Council.

Annual Plan Delivery and Key Performance Indicators

- 2.11 IA Key Performance Indicators (KPIs) to support effective delivery of the 2021/22 IA annual plan confirm that action is required to ensure that services have greater awareness of the KPIs that apply to the audit process (these are included as an Appendix with each terms of reference) and engage proactively with IA to ensure that any potential impacts that could cause delays are identified and effectively managed. Four IA training sessions were delivered during December that covered these areas.
- 2.12 The KPIs also highlight areas where IA has not achieved their delivery timeframes. Some delays have been experienced, and these are mainly attributable to the time required to establish backfill support for IA secondments into Directorates, and unplanned sickness absence within the team.

3. Background

Open and Overdue IA Findings and Agreed Management Actions

- 3.1 Overdue findings arising from IA reports are reported monthly to the Corporate Leadership Team (CLT) and quarterly to the GRBV Committee.
- 3.2 This report specifically excludes open and overdue findings that relate to the Edinburgh Integration Joint Board (EIJB) and the Lothian Pension Fund (LPF). These are reported separately to the EIJB Audit and Assurance Committee and the Pensions Audit Sub-Committee respectively.
- 3.3 Findings raised by IA in audit reports typically include more than one agreed management action to address the risks identified. IA methodology requires all agreed management actions to be closed in order to close the finding.
- 3.4 The IA definition of an overdue finding is any finding where all agreed management actions have not been evidenced as implemented by management and validated as closed by IA by the date agreed by management and IA and recorded in relevant IA reports.
- 3.5 The IA definition of an overdue management action is any agreed management action supporting an open IA finding that is either open or overdue, where the individual action has not been evidenced as implemented by management and validated as closed by IA by the agreed date.
- 3.6 Where management considers that actions are complete and sufficient evidence is available to support IA review and confirm closure, the action is marked as 'implemented' by management on the IA follow-up system. When IA has reviewed the evidence provided, the management action will either be 'closed' or will remain open and returned to the relevant owner with supporting rationale provided to explain what further evidence is required to enable closure.
- 3.7 A 'started' status recorded by management confirms that the agreed management action remains open and that implementation progress ongoing.
- 3.8 A 'pending' status recorded by management confirms that the agreed management action remains open with no implementation progress evident to date.
- 3.9 An operational dashboard has been designed to track progress against the key performance indicators included in the IA Journey Map and Key Performance Indicators document that was designed to monitor progress of both management and Internal Audit with delivery of the Internal Audit annual plan. The dashboard is provided monthly to the Corporate Leadership Team and quarterly to the Committee to highlight any significant delays that could potentially impact on delivery of the annual plan.

Key Performance Indicator Dashboard

- 3.10 The IA key performance indicator dashboard has been reinstated for 2021/22 to support delivery of the annual plan by both services and the IA team; and prevent delays in completion of audits and finalisation of the IA annual opinion.
- 3.11 Reintroduction of the KPIs supported by monthly reporting to the Corporate Leadership Team and quarterly to the Committee will highlight any significant

delays that could potentially impact on delivery of the annual plan, and is aligned with the requirements of both the motion and addendum agreed at Committee in August 2021 requesting that audits will be carried out in line with the timescales set out in the agreed audit plan.

4. Main report

- 4.1 As at 26 January 2022, there are a total of 91 open IA findings across the Council with 49 findings (54%) now overdue.
- 4.2 The movement in open and overdue IA findings during the period 5 November 2021 to 26 January 2022 is as follows:

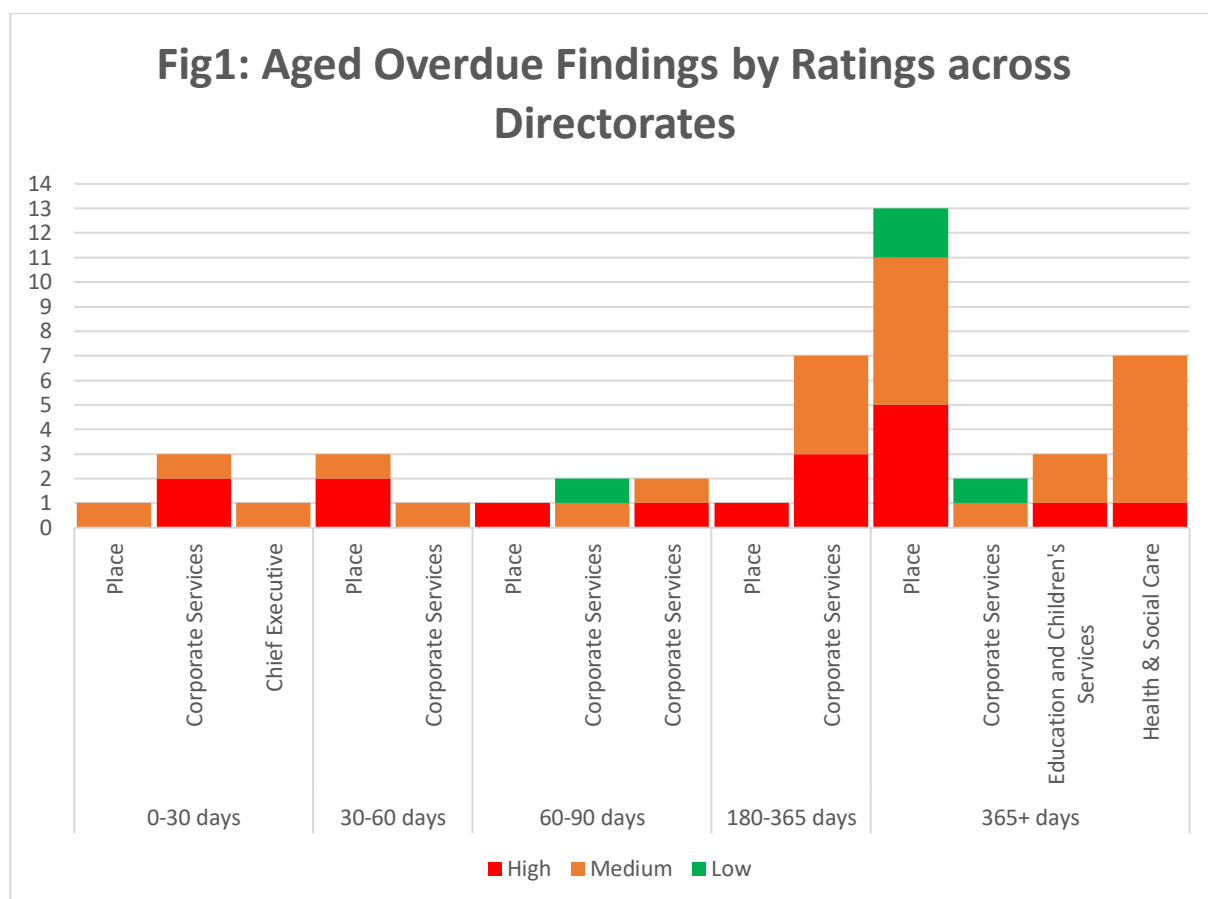
Analysis of changes between 11/08/2021 and 05/11/2021				
	Position at 05/11/21	Added	Closed	Position at 26/01/22
Open	108	0	17	91
Overdue	55	9	15	49

Overdue Findings

- 4.3 The 49 overdue findings comprise 18 High; 27 Medium; and 4 Low rated findings.
- 4.4 However, IA is currently reviewing evidence to support closure of 5 of these findings (2 High; 2 Medium; and 1 Low), leaving a balance of 44 overdue findings (16 High; 25 Medium; and 3 Low) still to be addressed.

Overdue findings ageing analysis

- 4.5 Figure 1 illustrates the ageing profile of all 49 overdue findings by rating across directorates as at 26 January 2022.



4.6 The analysis of the ageing of the 49 overdue findings outlined below highlights that Directorates made good progress last quarter with resolving findings between three and six months overdue, as the proportion of these findings has decreased. However, this is offset by limited improvement in the proportion of findings that are more than six months overdue; and a significant increase in the proportion of findings that are less than three months overdue.

- 13 (27%) are less than 3 months (90 days) overdue, in comparison to 13% as at November 2021;
- 2 (4%) are between 3 and 6 months (90 and 180 days) overdue, in comparison to 18% as at November 2021;
- 9 (18%) are between 6 months and one year (180 and 365 days) overdue, in comparison to 16% as at November 2021; and
- 25 (51%) are more than one year overdue, in comparison to 53% as at November 2021.

Agreed Management Actions Closed Based on Management's Risk Acceptance

4.7 During the period 6 November 2021 to 26 January 2022, three medium rated management actions were closed on the basis that management has retrospectively accepted either the full or residual elements of the risks highlighted by IA in the original audit report.

4.7.1 Council Wide Brexit Impacts Supply Chain Management – Divisional and Directorate Supply Chain Management Risks (medium) – whilst evidence has been provided confirming that work to identify critical suppliers and supply chain risks and implement alternative supplier arrangements (where required) has been completed for the majority of the Education and Children’s Services directorate, the Estates and Operational Support division has been unable to provide evidence to support implementation due to operational constraints. This service area has now transitioned from Education and Children’s Services into the Place Sustainable Development division, who have confirmed that they are comfortable with this approach.

4.7.2 Cyber Security – Pubic Sector Action Plan – Cyber Essentials Accreditation (medium) - management has accepted the risk that whilst vulnerability scanning has now been implemented across all three Council networks, it is not currently possible to confirm that vulnerabilities identified are being effectively addressed by CGI.

Digital Services has not yet been able to provide evidence from CGI of actions taken to address a sample of vulnerabilities identified, and is currently relying on CGI updates included in reports provided to the Security Working Group that vulnerabilities identified are being effectively remediated.

Management is also comfortable that the independent testing performed to achieve Cyber Essentials plus accreditation provides adequate assurance on network security, however this provides only ‘point in time’ assurance and currently covers only the Corporate, and not the Learning and Teaching or Peoples networks.

This remaining point will now be carried forward into the Technology and Vulnerability Management audit included in the 2021/22 IA annual plan that is currently in progress.

4.7.3 First Line Project Governance – Directorate Project Portfolio Governance (medium) – this action included four points and three have been fully completed.

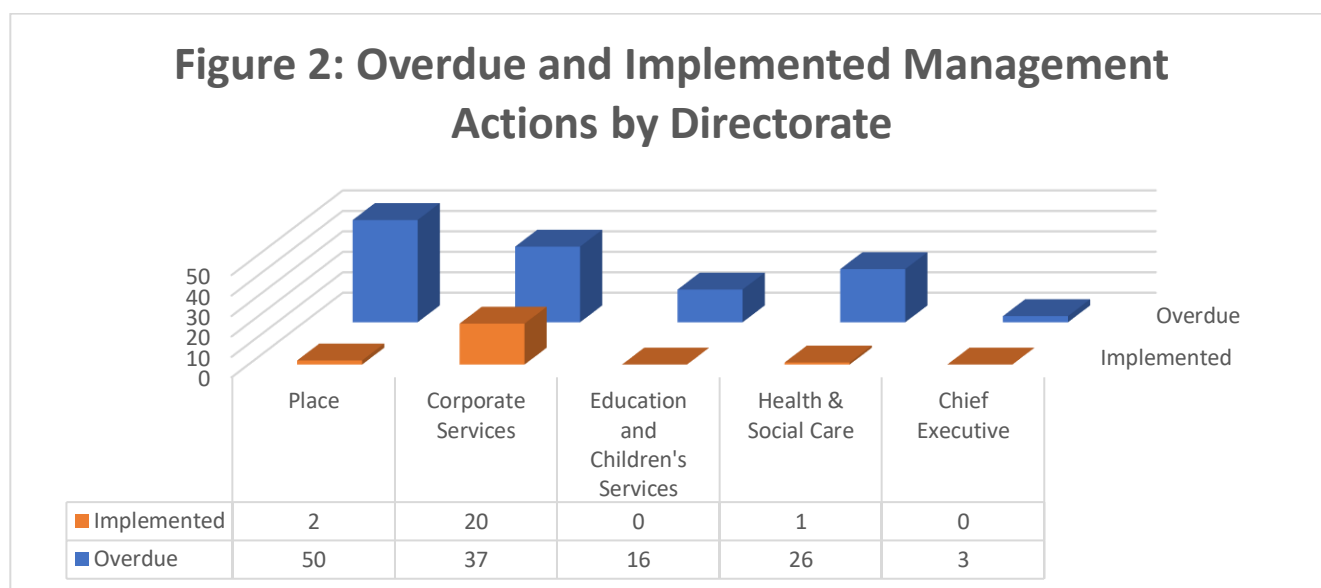
Whilst a tiered governance approach that is proportionate to project values and/or risks will be introduced across Directorates, with high profile projects that do not meet the criteria for inclusion in the major projects portfolio subject to governance at Directorate level; mid-tier projects by Heads of Divisions; and low tier projects by Service Managers level; management has risk accepted the risks associated with not establishing formal governance forums to support ongoing oversight of these projects.

Agreed Management Actions Analysis

4.8 The 91 open IA findings are supported by a total of 218 agreed management actions. Of these, 132 (61%) are overdue as the completion timeframe agreed with

management when the report was finalised has not been achieved. This reflects a 7% decrease from the November 2021 position (54%).

- 4.9 Of the 132 overdue management actions, 23 have a status of 'implemented' and are currently with IA for review to confirm whether they can be closed, leaving a balance of 109 to be addressed.
- 4.10 Appendix 2 provides an analysis of the 132 overdue management actions highlighting their current status as at 26 January 2022 with:
- 23 implemented actions where management believe the action has been completed and it is now with IA for validation;
 - 94 started where the action is open, and implementation is ongoing; and
 - 15 pending where the action is open with no implementation progress evident to date.
 - 31 instances (23%) where the latest implementation date has been missed and not revised; and,
 - 39 instances (30%) where the implementation date has been revised more than once.
- 4.11 Figure 2 illustrates the allocation of the 132 overdue management actions across Directorates, and the 23 that have been passed to IA for review to confirm whether they can be closed.



IA Review of Agreed Management Actions

- 4.12 A total of five findings supported by 23 agreed management actions had been proposed for closure as at 26 January 2022 and are currently with IA for review to confirm whether they can be closed. Of these:
- 4 were proposed for closure in January 2022 and are currently being reviewed;
 - 4 were proposed for closure between 14 and 31 December and are currently being reviewed by IA following return from Christmas leave.

- 6 relate to either the Risk Management audit (completed by Azets) and the GRBV Committee Effectiveness review (completed by the Institute of Internal Auditors), and closure will be confirmed by these external organisations.
- Of the remaining 8, there are 2 where further action is required by IA. One requires final IA management review and, an update to the service is due for the remaining action.

4.13 With these two exceptions, IA has continued to achieve its established KPI for reviewing all implemented management actions within four weeks of the date they are proposed for closure by management. Consequently, this KPI has been assessed as green (refer KPI18 in Appendix 1).

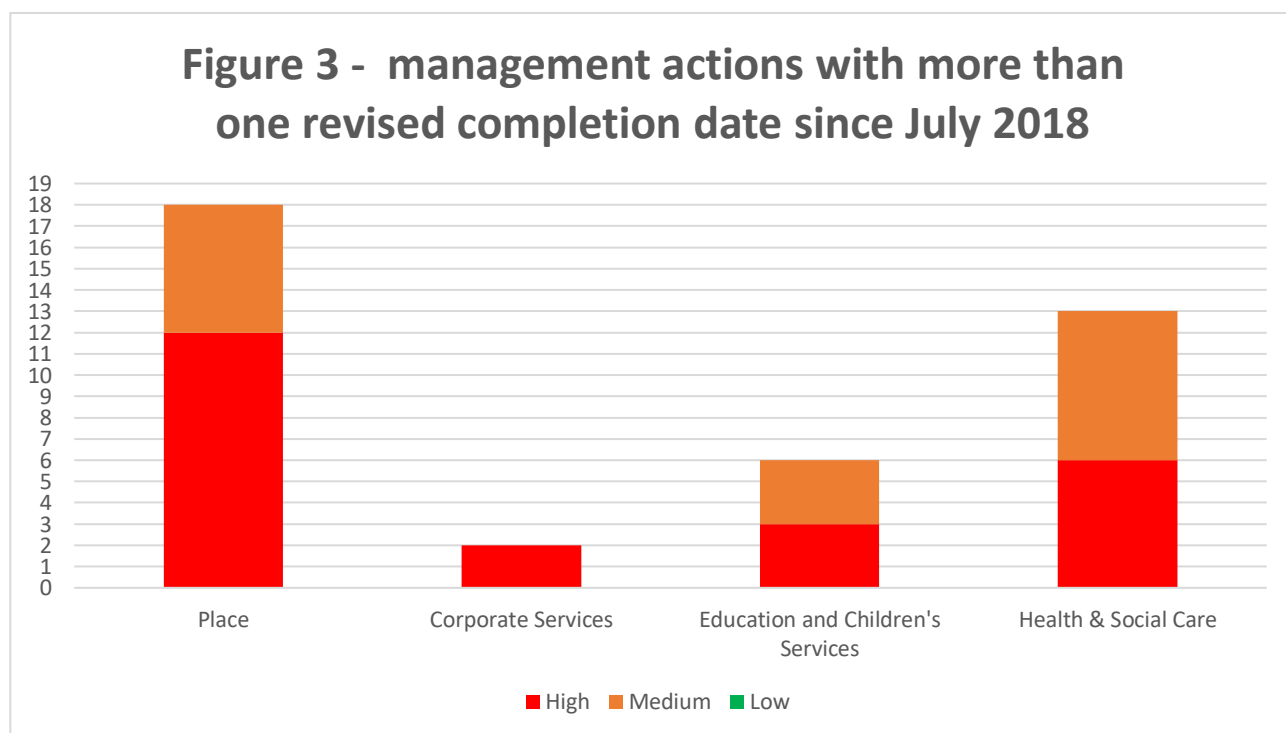
4.14 Where implementation dates longer than four weeks occur, these are supported by feedback to management requesting either additional evidence or a discussion to explain the context of the evidence provided. Where this is not provided by services within a further four weeks, the status of the action is reverted to 'started' until the further information requested is provided.

More Than One Revised Implementation Date

4.15 Figure 3 illustrates that there are currently 39 open management actions (including those that are overdue) across directorates where completion dates have been revised between two and six times since July 2018. This number excludes the two automatic extensions applied by IA to reflect the impact of Covid-19.

4.16 This reflects a decrease of 9 in comparison to the position at November 2021 (48).

4.17 Of these 39 management actions, 23 are associated with High rated findings, and 16 Medium, with the majority of date revisions in the Place directorate.



Key Performance Themes Identified from the IA Dashboard

- 4.18 The dashboard included at Appendix 3 reflects the current status for the 2 completed audits and the 20 audits in progress where terms of reference detailing the scope of the planned reviews have been issued. This highlights that:
- 4.18.1 Services are consistently taking longer than the 5-day KPI for feedback on draft IA terms of reference, with feedback received within the 5 days for only 7 of the 22 audits.
 - 4.18.2 Executive Directors are generally providing feedback on draft terms of reference within the agreed 5-day response times. For Council wide audits responses are not consistently received from all Executive Directors.
 - 4.18.3 Delays with final agreement on terms of reference often result in audit work commencing before the final terms of reference has been agreed and issued to ensure ongoing plan delivery.
 - 4.18.4 Internal Audit reporting delays for the Planning and Performance Framework and Health and Safety audits were highlighted in the report presented to Committee in September.
 - 4.18.5 There have been significant delays in agreeing management responses for the Planning and Performance Framework Design; Implementation of Asbestos Recommendations; and Parking and Traffic Regulations draft audit reports. IA engaging with management to finalise these responses is ongoing. It is acknowledged that some of these delays have been attributable to handovers within the IA team following the secondment of IA team members into directorates, and unplanned sickness absence within the IA team.
 - 4.18.6 Completion of the Council Tax and Business Rates and Management and Allocation of Covid-19 grant funding has been delayed reflecting service capacity challenges caused by the introduction of new Scottish Government Covid business grants.

5. Next Steps

- 5.1 IA will continue to monitor the open and overdue findings position and delivery against key performance indicators, providing monthly updates to the CLT and quarterly updates to the GRBV Committee.

6. Financial impact

- 6.1 There are no direct financial impacts arising from this report, although failure to close findings and address the associated risks in a timely manner may have some inherent financial impact.

7. Stakeholder/Community Impact

- 7.1 If agreed management actions supporting closure of Internal Audit findings are not implemented, the Council will be exposed to the service delivery risks set out in the relevant Internal Audit reports. Internal Audit findings are raised as a result of control gaps or deficiencies identified during reviews therefore overdue items inherently impact upon effective risk management, compliance and governance.

8. Background reading/external references

- 8.1 [Internal Audit Overdue Findings and Key Performance Indicators as at 11 August 2021 – Paper 8.1](#)
- 8.2 [Capacity to Deliver the 2021/22 IA Annual Plan – Paper 8.3](#)
- 8.3 [Internal Audit Journey Map and Key Performance Indicators - Paper 7.6 Appendix 3](#)

9. Appendices

- 9.1 Appendix 1 – Monthly Trend Analysis of IA Overdue Findings and Management Actions
- 9.2 Appendix 2 – Internal Audit Overdue Management Actions as at 26 January 2022
- 9.3 Appendix 3 – Internal Audit Key Performance Indicators as at 26 January 2021

Appendix 1 - Monthly Trend Analysis of IA Overdue Findings and Management Actions

Key Performance Indicator (KPI)		07/07/2021		11/08/2021		23/09/2021		05/11/2021		06/12/2021		26/01/2022		Trend	
IA Findings															
1	Open findings	85	100%	96	100%	113	100%	108	100%	104	100%	91	100%	Not applicable	
2	Not yet due	32	38%	45	47%	64	57%	53	49%	53	51%	42	46%	Not applicable	
3	Overdue findings	53	62%	51	53%	49	43%	55	51%	51	49%	49	54%		
4	Overdue - IA reviewing	8	15%	3	6%	9	18%	5	9%	6	12%	5	10%		
5	High Overdue	18	34%	17	33%	16	33%	17	31%	16	31%	18	37%		
6	Medium Overdue	29	55%	28	55%	29	59%	31	56%	29	57%	27	55%		
7	Low Overdue	6	11%	6	12%	4	8%	7	13%	6	12%	4	8%		
8	<90 days overdue	9	17%	9	18%	6	12%	7	13%	8	16%	13	27%		
9	90-180 days overdue	3	6%	2	4%	6	12%	10	18%	5	10%	2	4%		
10	180-365 days overdue	15	28%	13	25%	11	22%	9	16%	12	24%	9	18%		
11	>365 days overdue	26	49%	27	53%	26	53%	29	53%	26	51%	25	51%		

Management Actions		07/07/2021		11/08/2021		23/09/2021		05/11/2021		06/12/2021		26/01/2022		Trend	
12	Open actions	218	100%	233	100%	277	100%	259	100%	245	100%	218	100%	Not applicable	
13	Not yet due	83	38%	103	44%	154	56%	118	46%	117	48%	86	39%	Not applicable	
14	Overdue actions	135	62%	130	56%	123	44%	141	54%	128	52%	132	61%		
15	Overdue - IA reviewing	28	21%	17	13%	35	28%	28	20%	18	14%	23	17%		
16	Latest date missed	43	32%	70	54%	52	42%	34	24%	35	27%	31	23%		
17	Date revised > once	51	38%	48	37%	46	37%	44	31%	45	35%	39	30%		
18	IA 4 week response time	N/A		N/A		N/A		N/A		N/A					

Trend Analysis - key

	Adverse trend - action required
	Stable with limited change
	Positive trend with progress evident

No trend analysis is performed on open findings and findings not yet due as these numbers will naturally increase when new IA reports are finalised.

Appendix 2 - Internal Audit Overdue Management Actions as at 6 December 2021

Glossary of Terms

1. Executive Committee – This is the relevant Executive Committee that should have oversight of completion of agreed management actions
2. Project Name – This is the name of the audit report.
3. Issue Type – This is the priority of the audit finding, categorised as Critical; High; Medium; or Low
3. Issue Title - this is the title of the issue in the Original IA Report
4. Owner – The Executive Director responsible for implementation of the action.
5. Recommendation Title - this is the title of the recommendation in the original IA report
6. Agreed Management action – This is the action agreed between Internal Audit and Management to address the finding.
7. Status – This is the current status of the management action. These are categorised as:
 - Pending (the action is open and there has been no progress towards implementation),
 - Started (the action is open, and work is ongoing to implement the management action), and
 - Implemented (the service area believes the action has been Implemented and this is with Internal Audit for validation).
8. Estimated date – the original agreed implementation date.
9. Revised date – the current revised date. **Red** formatting in the dates field indicates the last revised date is overdue.
10. Number of revisions – the number of times the date has been revised since July 2018. **Amber** formatting in this field highlights where the date has been revised more than once.
11. Contributor – Officers involved in implementation of an agreed management action.

Ref	Executive Committee	Project Name	Issue Type	Issue Title	Owner	Recommendation Title	Agreed Management Action	Status	Esitimated Impement Date	No of Revisions	Revised Impl Date	Contributor
27	Regulatory Committee	HMO Licensing	High	PL1803 Issue 2 - Collection and processing of HMO licence fees	Paul Lawrence, Executive Director of Place	PL1803 Issue 2.1 BACs payment reference	It should be noted that measure are in place to ensure that no application is progressed without the required fee being reconciled. This reflects the statutory process and the need to ensure that the Council treats applications for a renewal lawfully unless the reconciliation process can evidence a payment has not been made. There is no evidence from directorate monitoring the level of income from HMOs licence applications which would demonstrate that fees are not being collected. Any unmatched fee not identified will in effect contribute to the Council's general revenue account and therefore there is no financial loss to the Council. The Internal Audit recommendation outlined above is not accepted as it not believed to be achievable. Therefore Licencing; Customer; and Finance will investigate potential solutions re the BACS issue, (including any potential scope for a technology solution) to address this risk. These options will be reviewed with Internal Audit and a longer term solution identified and implemented. It has been agreed with Internal Audit that (once the solution has been identified) another audit finding will be raised that will monitor implementation of the solution to confirm that it is operating effectively. In the meantime, a statement will be added to the Licencing pages on the Council's external website and application forms advising customers of what reference must be used to successfully make a BACs payment.	Started	30/03/20	1	05/01/21	Alison Coburn Andrew Mitchell David Givan George Gaunt Grace McCabe Isla Burton Matthew MacArthur Peter Watton Ross Murray
28	Regulatory Committee	HMO Licensing	Medium	PL1803 Issue 3 - Operational Performance and Reporting	Paul Lawrence, Executive Director of Place	PL1803 Issue 3.6 HMO Key Performance Indicators and Performance Reporting	The Regulatory Committee were previously advised that HMO performance data would be excluded whilst the Licencing introduced the significant change of moving towards a three-year licensing system. Performance reports therefore only included Civic and Taxi data in the period 2015-2018. Licencing will be reporting to Regulatory Committee on the first cycle of three-year licencing for HMO's prior to the setting of Licensing Fees for 2020/21 in early 2020. The Directorate will include within that report relevant performance data and make recommendations for approval for performance targets ongoing performance targets.	Started	31/01/20	0	01/09/20	Alison Coburn Andrew Mitchell David Givan George Gaunt Grace McCabe Isla Burton Matthew MacArthur Peter Watton Ross Murray
45	Regulatory Committee	Payments and Charges	Medium	CW1803 Payments and Charges Issue 4: Processing and recording Licensing Fees	Paul Lawrence, Executive Director of Place	CW1803 Rec. 4.1 - Procedures supporting processing and recording licencing fees	The Licensing Service processes approximately 21,000 applications per annum and the Internal Audit sample reviewed represents approximately 1% of the overall number of applications.Internal procedures will be reviewed to ensure that that they adequately cover the issues raised and all staff will receive refresher training to reinforce the importance of consistent application of the procedures.Longer term upgrades to the APP Civica Licensing system should also offer enhanced capability with mandatory sections for each licence type processed.	Started	20/12/19	0	01/08/20	Alison Coburn Andrew Mitchell David Givan Gavin Brown George Gaunt Matthew MacArthur Nicky Brown Peter Watton Ross Murray Sandra Harrison
63	Regulatory Committee	Registration and Bereavement Services	Medium	PL2003 Issue 1: Refresh and application of Policies and Procedures	Paul Lawrence, Executive Director of Place	PL2003 Recommendation 1.4: Review of Bereavement Services Operating and Administration Procedures	A review of 26 current Standard Operating and Administration Procedures is underway and is expected to by complete within 6 months. Once complete all Standard Operating and Administration Procedures will be reviewed on a three-year basis.	Pending	31/12/21	0	31/03/22	Alison Coburn Gareth Barwell Jane Matheson Matthew MacArthur Rik Corrigan Robbie Beattie Ross Murray

Appendix 3 - Internal Audit Key Performance Indicators as at 26 January 2022

Directorate	Audit Title	Audit Progress	Terms of Reference Service Response <= 5 days post issue	Terms of Reference Director Response <= 5 days post issue	Close out meeting <= 5 days after fieldwork completed	Report issued by IA <= 10 days post close out meeting	Date		Workshop <= 5 days after report issued	Mgt responses agreed <= 5 days post workshop	Final Draft to Directors <= 5 days post management response	Director approval <= 3 days from receipt	Final report issued by IA <= 5 days post director approval	Team Central updated by IA <= 5 days of final report	Comments
Corporate Services	Elections in Covid Environment - design review	Complete	3	2	1	10	0	0	2	n/a	n/a	7			Final report issued 31.5.21
Corporate Services	Design of the Scottish Local Government Living Wage Requirements	Complete	17	1	8	9	4	1	1	2	5	1			Final report issued on 28.10.21.
Corporate Services	Council Tax and Business Rates	Fieldwork	7	5	0	0	0	0	0	0	0	0			Fieldwork extended reflecting current resourcing impacts on the Customer team
Corporate Services	Cyber Security - technology vulnerability management	Planning	7	0	0	0	0	0	0	0	0	0			
Corporate Services	CGI performance reporting	Planning	7	0	0	0	0	0	0	0	0	0			
Corporate Services	Capital Budget Setting and Management	Planning	3	3	0	0	0	0	0	0	0	0			
Corporate Services	Payment Card Industry Data Security Standard Compliance	Planning	12	6	0	0	0	0	0	0	0	0			Delayed response on ToR was due to Christmas leave
Corporate Services	Employee Lifecycle Data and Compensation and Benefits Processes	Reporting	13	2	0	0	0	0	0	0	0	0			Fieldwork ongoing - awaiting information from HR
Corporate Services	Planning and Performance Framework design review	Reporting	26	2	3	35	15	13	9	0	0	0			Ongoing Engagement with Head of Service and Exec Direct on management responses.
Corporate Services	Digital and Smart City Strategy	Reporting	49	80	-2	5	14	0	0	0	0	0			Currently finalising management responses with the service.
Council Wide	Fraud and Serious Organised Crime	Fieldwork	74	64	0	0	0	0	0	0	0	0			Not all areas responded on draft ToR. Fieldwork delayed due to sickness absence in key team.
Council Wide	Implementation of Whistleblowing and Child Protection Recommendations	Fieldwork	7	4	0	0	0	0	0	0	0	0			In fieldwork
Council Wide	Employee wellbeing	Planning	2	0	0	0	0	0	0	0	0	0			
Council Wide	Complaints Management	Planning	6	5	0	0	0	0	0	0	0	0			
Council Wide	Management and Allocation of Covid-19 grant funding	Planning	7	34	0	0	0	0	0	0	0	0			Fieldwork completion will be delayed reflecting pressures on Customer with Business Grants
Council Wide	Health and Safety - Implementation of asbestos recommendations	Reporting	6	6	34	17	4	0	0	0	0	0			No response received from Exec Direct Place on ToR. Ongoing engagement with services on mgt responses.
Education & Childrens Svs	Criminal Justice	Fieldwork	12	1	0	0	0	0	0	0	0	0			In fieldwork
Education & Childrens Svs	Early Years Education and Alignment with End Poverty Delivery Plan	Planning	No response	0	0	0	0	0	0	0	0	0			Reminder sent 17/1/22 for ToR issued 7 December
Place	Planning - householder applications and use of Uniform system	Fieldwork	5	14	0	0	0	0	0	0	0	0			
Place	The Management of Development Funding	Fieldwork	10	16	0	0	0	0	0	0	0	0			Final ToR issued on 13.01.22. Delays with receipt of information from service due to sickness absence.
Place	Housing Property Services Repairs Management	Planning	Not yet due	0	0	0	0	0	0	0	0	0			Responses on Terms of Reference due 28/1/22
Place	Parking and Traffic Regulations	Reporting	4	2	3	24	2	0	0	0	0	0			Ongoing engagement with service re management responses

This page is intentionally left blank