

Minutes

Regulatory Committee

10.00am, Monday 5 February 2024

Present

Councillors Ross (Convener), Caldwell, Dixon, Graham, Mattos-Coelho, Mowat, Rae, Walker and Work.

1. Deputation

Sex Workers Union (in relation to Item 7.1 – Air Weapons and Licensing (Scotland) Act 2015 - Licensing of Sexual Entertainment Venues)

The deputation called upon the Committee to allow Sexual Entertainment Venues in Edinburgh to continue operating. The opportunities for employment and community provided to workers by these venues was invaluable. Closing venues would result in an increase in workers operating in unsafe locations and potentially become out of work entirely. The deputation also encouraged the Committee to consider the views of workers in making decisions affecting their workplaces. The Committee was urged to consider the written deputation during their consideration of the report.

2. Minutes

Decision

To approve the minute of the Regulatory Committee of 4 December 2023 as a correct record.

(Reference – Minute of 4 December 2023, submitted.)

3. Work Programme

The Work Programme for February 2024 was presented.

Decision

To note the Work Programme.

(Reference – Work Programme, submitted.)

4. Rolling Actions Log

The Rolling Actions Log for February 2024 was presented.

Decision

- 1) To agree to close the following actions:
 - Action 1 – Sexual Entertainment Venues (SEVs): Update Following Judicial Review
 - Action 11 – Licensing Enforcement – Taxis and Private Hire Cars
 - Action 12 – Regulatory Committee Workplan Objections to Licence Applications
 - Action 13 – Motion by Councillor McKenzie – Landlord Registration
- 2) To correct the closure date for action 5 (Additional Item – Regulatory Committee Work Programme) to December 2023.
- 3) To otherwise note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

5. Regulatory Committee Business Bulletin

The Regulatory Committee Business Bulletin for February 2024 was presented.

Decision

- 1) To note the business bulletin.
- 2) To agree that a special meeting of committee would be arranged before the Easter recess to consider the fees structure for Gala Days.

(Reference – Business Bulletin, submitted.)

6. Air Weapons and Licensing (Scotland) Act 2015 – Licensing of Sexual Entertainment Venues

This report noted that Committee is required to determine the appropriate number of SEV premises permitted to operate in Edinburgh and recommends that no further changes should be made to the draft SEV Licensing Policy Statement and standard licensing conditions, other than the inclusion in the Policy Statement of the Committee's decisions on the appropriate number and location or locations and the rationale for those decisions. The Policy, when adopted, would be relevant, along with other considerations, in determining individual applications. The report contained advice to Committee in respect of issues which firstly it *must* consider and secondly issues which it *may* consider when Committee determines the appropriate number and location of SEV premises permitted to operate in the city.

Motion

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- 1) To note that Committee was required to determine an appropriate number of Sexual Entertainment Venues (“SEVs”) for the City of Edinburgh Council area and to agree a SEV licensing policy under the terms of the Civic Government (Scotland) Act 1982.
- 2) To note the advice in the report by the Executive Director of Place in respect of what should be considered when the Committee decides a limit for the number of SEVs permitted to operate in Edinburgh.
- 3) To agree that the appropriate number of SEVs permitted to operate in Edinburgh would be set at three, as this reflected the existing number of SEVs currently operating and struck a proportionate and appropriate balance for our city.
- 4) To that the policy would include a statement that the City Centre Ward 11 as the appropriate location for the operation of a SEV as no other localities were currently considered suitable.
- 5) To note the statutory duty to review the appropriate number of SEVs permitted to operate in Edinburgh from time to time and to direct officers to report to committee any change in the number of venues operating or substantive request that the Council further considered the number.
- 6) To note that no further changes to the draft SEVs Licensing Policy Statement were recommended, subject to the inclusion of a reasoned explanation as to why the appropriate number to be determined was set at a particular level in accordance with paragraph 1.1.3 of the SEV Policy.
- 7) To note that no further changes to the draft standard licensing conditions for SEV Licences were recommended.
- 8) To note that officers would publish the SEVs Licensing Policy Statement as required in terms of the Civic Government (Scotland) Act 1982.

- moved by Councillor Ross, seconded by Councillor Rae

Amendment 1

- 1) To note that Committee was required to determine an appropriate number of Sexual Entertainment Venues (“SEVs”) for the City of Edinburgh Council area and to agree a SEV licensing policy under the terms of the Civic Government (Scotland) Act 1982.
- 2) To note the advice in the report by the Executive Director of Place in respect of what should be considered when the Committee decides a limit for the number of SEVs permitted to operate in Edinburgh.
- 3) To note amendments made by the 2015 Act introduced a requirement, in section 45C of the 1982 Act, that when determining a statement of licensing

policy the local authority should consider the impact of the licensing of sexual entertainment venues in their area, having regard, in particular, to how it will affect the objectives of:

- (i) preventing public nuisance, crime and disorder
 - (ii) securing public safety;
 - (iii) protecting young people and children from harm; and
 - (iv) reducing violence against women.
- 4) To note that the City of Edinburgh Council had several policies and strategic initiatives, including the Equally Safe Strategy, which were intended to improve the safety and wellbeing of women and girls. Following consultation and balancing respective interests, the Committee had determined that setting a zero policy would be a proportionate way to advance legitimate aims regarding the particular objectives in the Act (set out above) and Council policies and strategic initiatives regarding the safety and wellbeing of women and girls. Therefore the appropriate number of SEVs within the entirety of the City of Edinburgh should be zero.
- 5) To note that significant parts of Ward 11 City Centre have similar characteristics to other wards that are considered not to be suitable locations for SEVs.
- 6) To note that guidance stated: “in considering whether the grant, renewal or variation of licence would be inappropriate given the vicinity in which the SEV premises operated, the Committee shall consider the existing character and function of the location within Ward 11. 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.”
- 7) To note that many local authorities provided clear guidance on the minimum distance that a location should be from places listed above, and that the council’s Equally Safe Committee suggested a minimum distance of 750 metres. Therefore to agree that the Equally Safe Committee and the Community Safety Partnership should be given the opportunity to gather information and bring forward a report and recommendations for consideration at a future meeting of this Committee.
- 8) To note that no further changes to the draft SEVs Licensing Policy Statement were recommended, subject to the inclusion of a reasoned explanation as to why the appropriate number to be determined was set at a particular level in accordance with paragraph 1.1.3 of the SEV Policy.
- 9) To note that no further changes to the draft standard licensing conditions for SEV Licences were recommended.
- 10) To note that officers would publish the SEVs Licensing Policy Statement as required in terms of the Civic Government (Scotland) Act 1982.

- moved by Councillor Graham, seconded by Councillor Walker

Amendment 2

- 1) To note that Committee was required to determine an appropriate number of Sexual Entertainment Venues (“SEVs”) for the City of Edinburgh Council area and to agree a SEV licensing policy under the terms of the Civic Government (Scotland) Act 1982.
- 2) To note the advice in the report by the Executive Director of Place in respect of what should be considered when the Committee decides a limit for the number of SEVs permitted to operate in Edinburgh.
- 3) To agree that the cap be set to 3.
- 4) To agree the area of operation of SEVs shall be the status quo.
- 5) To further request that a report be sent to the Policy and Sustainability Committee exploring actions to support women considering other employment opportunities that are currently working within, or prospectively considering working within sexual entertainment venues. This report should include exploration of available services and communication of available support open to women working within SEVs, including through health agencies.

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- 6) To note that no further changes to the draft SEVs Licensing Policy Statement were recommended, subject to the inclusion of a reasoned explanation as to why the appropriate number to be determined was set at a particular level in accordance with paragraph 1.1.3 of the SEV Policy.
- 7) To note that no further changes to the draft standard licensing conditions for SEV Licences were recommended.
- 8) To note that officers would publish the SEVs Licensing Policy Statement as required in terms of the Civic Government (Scotland) Act 1982.
- 9) To agree that should any of the existing premises close, an immediate review of the number of SEVs be held.

- moved by Councillor Mattos-Coelho, seconded Councillor Work

In accordance with Standing Order 22(13), Amendment 2 was adjusted and accepted as an addendum into the motion.

Voting

The voting was as follows:

For the Motion (as adjusted) – 7 votes

For Amendment 1 – 2 votes

(For the Motion (as adjusted): Councillors Caldwell, Dixon, Mattos-Coelho, Mowat, Rae, Ross and Work.

For Amendment 1: Councillors Graham and Walker.)

Decision

To approve the following adjusted motion by Councillor Ross:

- 1) To note that Committee was required to determine an appropriate number of Sexual Entertainment Venues (“SEVs”) for the City of Edinburgh Council area and to agree a SEV licensing policy under the terms of the Civic Government (Scotland) Act 1982.
- 2) To note the advice in the report by the Executive Director of Place in respect of what should be considered when the Committee decides a limit for the number of SEVs permitted to operate in Edinburgh.
- 3) To agree that the appropriate number of SEVs permitted to operate in Edinburgh would be set at three, as this reflected the existing number of SEVs currently operating and struck a proportionate and appropriate balance for our city.

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- 4) To that the policy would include a statement that the City Centre Ward 11 as the appropriate location for the operation of a SEV as no other localities were currently considered suitable.
- 5) To note the statutory duty to review the appropriate number of SEVs permitted to operate in Edinburgh from time to time and to direct officers to report to committee any change in the number of venues operating or substantive request that the Council further considered the number.
- 6) To note that no further changes to the draft SEVs Licensing Policy Statement were recommended, subject to the inclusion of a reasoned explanation as to why the appropriate number to be determined was set at a particular level in accordance with paragraph 1.1.3 of the SEV Policy.
- 7) To note that no further changes to the draft standard licensing conditions for SEV Licences were recommended.
- 8) To note that officers would publish the SEVs Licensing Policy Statement as required in terms of the Civic Government (Scotland) Act 1982.
- 9) To further request that a report be sent to the Policy and Sustainability Committee exploring actions to support women considering other employment opportunities that are currently working within, or prospectively considering working within sexual entertainment venues. This report should include exploration of available services and communication of available support open to women working within SEVs, including through health agencies.

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

7. Public Entertainment Licensing – Sun Tan Centres

Following receipt of enquiries about the application fees charged for Public Entertainment Licences, Committee agreed to carry-out public consultation to inform a review of the fee structure for applications for Public Entertainment Licences from Sun Tan Centres. An update was provided on the results of that consultation and amendments to the fees charged were proposed.

Decision

- 1) To note the report by the Executive Director of Place and the results of the consultation.
- 2) To agree the revised fee structure for Sun Tan Centres as set out at paragraph 4.5 of the report by the Executive Director of Place.

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

8. Short-term Lets – referral from Planning Committee

On 31 January 2024, the Planning Committee considered a report which responded to a request from the Council, which set out the implications of the Judicial Review in respect of short-term lets and planning. This was referred to the Regulatory Committee for consideration.

Decision

- 1) To note the report by the Executive Director of Place.
- 2) To agree to amend the Short Term Let Licensing policy as follows:
 - d. **For secondary letting only**, Planning permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a STL; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or can demonstrate that planning permission is not required (for example, a certificate of lawfulness).
 - To change 4.10 so that it read as follows: “4.10 On 5 September 2022, the City of Edinburgh Council area became a designated STL control area. Therefore, due to the STL control area, across the entire the City of Edinburgh Council area mandatory condition 13 applies:

‘13. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either— (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or (b) planning permission under the 1997 Act is in force.’”
 - Therefore, to delete 4.11, renumber the remaining paragraphs and note paragraph 4.12 would therefore be new paragraph 4.11 and amend that as follows:

“4.11 For Secondary letting, it is expected that the host or operator must, when they apply for a licence, provide evidence that:

a. they have made an application for planning permission or

b. they already have planning permission, or, alternatively,

c. planning permission is not required (for example, a certificate of lawfulness or other satisfactory explanation of why planning permission is not required).
- 3) To request that matters arising out of the Short Term Lets (STL) working group were detailed in the Business Bulletin and agree that any matters requiring Committee decisions would be brought to the Committee as part of the report

following the 2024 summer review of STL licensing policy, so they were transparent and open to public scrutiny.

(Reference – referral from the Planning Committee, submitted.)

9. Street Trading and Markets – update after consultation

As a result of a public consultation to inform the future of Street Trading and Market Operation in the city, Committee was asked to setup a Member Officer working group to consider the areas in which Street Trading in the city centre could be supported and whether markets out with the city centre would be possible. Committee was also asked to reaffirm certain conditions with respect to the operation of markets, pending the conclusion of the working group.

Decision

- 1) To note the report by the Executive Director of Place.
- 2) To agree to the creation of a member officer working group, as set out in paragraphs 4.5 and 4.6.
- 3) To agree that no changes would be made to the current street trading policy, including not issuing street trading licenses in areas of the High Street, Hunter Square and Playfair Steps, pending the conclusion of the member officer working group.
- 4) To agree to appoint Group Spokespeople to the Working Group.

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

10. Landlord Registration Update

Details were provided of the operation of the Landlord Registration system in Edinburgh, including the roles of Customer and Regulatory Services.

Decision

- 1) To note the information provided in the report by the Executive Director of Place and the Executive Director of Corporate Services in relation to Landlord Registration in Edinburgh.
- 2) To agree to discharge the motion agreed by Regulatory Committee on 4 December 2023.

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

11. Short Term Lets – Recommendations arising from Fatal Accident Inquiry

A Fatal Accident Inquiry in respect of a death which occurred in a holiday cottage in the Angus area of Scotland resulted in all Scottish local authorities being asked to consider the Sheriff's findings, which were presented to committee.

Decision

- 1) To note the report by the Executive Director of Place and the response to the Scottish Courts and Tribunal Service.
- 2) To agree that any further work would be addressed in the review of the Short Term Lets Licensing Policy already agreed for 2024.

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