

Notice of meeting and agenda

Regulatory Committee

12.30pm, Monday, 5th February, 2024

Dean of Guild Court Room - City Chambers

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 Any items under "Private Business" will not be published, although the decisions will be recorded in the minute.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

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1. Order of Business

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

2. Declaration of Interests

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

3. Deputations

- 3.1 If any.

4. Minutes

- 4.1 Minute of the Regulatory Committee of 4 December 2023 – submitted for approval as a correct record 5 - 10

5. Forward Planning

- 5.1 Regulatory Committee Work Programme 11 - 14
- 5.2 Regulatory Committee Rolling Actions Log

6. Business Bulletin

- 6.1 Regulatory Committee Business Bulletin 15 - 34

7. Executive Decisions

- 7.1 Air Weapons and Licensing (Scotland) Act 2015 - Licensing of Sexual Entertainment Venues – Report by the Executive Director of Place 35 - 554
- 7.2 Public Entertainment Licensing – Sun Tan Centres – Report by the Executive Director of Place 555 - 566
- 7.3 Short Term Lets - Referral from the Planning Committee 567 - 610

8. Routine Decisions

- | | | |
|-----|--|-----------|
| 8.1 | Street Trading and Markets – update after consultation – Report by the Executive Director of Place | 611 - 660 |
| 8.2 | Landlord Registration Update – Report by the Executive Director of Corporate Services, the Executive Director of Place | 661 - 668 |
| 8.3 | Short Term Lets - Recommendations Arising from Fatal Accident Inquiry – Report by the Executive Director of Place | 669 - 676 |

9. Motions

- 9.1 None.

Nick Smith

Service Director, Legal and Assurance

Committee Members

Councillor Neil Ross (Convener), Councillor Jack Caldwell, Councillor Denis Dixon, Councillor Margaret Arma Graham, Councillor Martha Mattos Coelho, Councillor Joanna Mowat, Councillor Susan Rae, Councillor Val Walker and Councillor Norman Work

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 in the Dean of Guild Court Room - City Chambers and 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 4264, email rachel.gentleman@edinburgh.gov.uk / carolanne.eyre@edinburgh.gov.uk.

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Minutes

Regulatory Committee

10.00am, Monday 4 December 2023

Present

Councillors Ross (Convener), Caldwell (except item 11), Dixon, Flannery (substituting for Councillor Caldwell, item 11 only), Graham, Jenkinson (substituting for Councillor Walker), Mattos Coelho, Mowat, Rae and Work.

1. Deputation

Meadows Festival Edinburgh

(in relation to item 11 - Market Operator Licence Fees for the Meadows)

The deputation highlighted the Meadows Festival was a free community event which began in 1975. They explained the costs imposed on some fields which fell into the City Centre ward were not affordable resulting in, for the last two years, the removal of sporting activities from the programme. The deputation requested committee support the motion which would allow the Meadows Festival to reinstate activities that benefitted all in the community.

2. Minutes

Decision

To approve the minute of the Regulatory Committee of 2 October 2023 as a correct record.

(Reference – Minute of 2 October 2023, submitted.)

3. Work Programme

The Work Programme for December 2023 was presented.

Decision

- 1) To ensure the report relating to item 3 - 'Food health and safety business plan' addressed previous outstanding items and points raised on the audit report discussed by the Governance, Risk and Best Value Committee.
- 2) To otherwise note the Work Programme.

(Reference – Work Programme, submitted.)

4. Rolling Actions Log

The Rolling Actions Log for December 2023 was presented.

Decision

- 1) To agree to close the following actions:
 - Action 4 (2) – Business Bulletin – Mortonhall Visit
 - Action 6 (1) – Additional Item – Regulatory Committee Work Programme
 - Action 11 – Houses in Multiple Occupation Best Practice Guide – Update After Consultation
- 2) To circulate to committee members an updated Rolling Actions Log as soon as possible.
- 3) To otherwise note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

5. Regulatory Committee Business Bulletin

The Regulatory Committee Business Bulletin for December 2023 was presented.

Decision

To note the business bulletin.

(Reference – Business Bulletin, submitted.)

6. Short Term Lets Licensing Policy – Temporary Exemptions

Following representations received by applicants and subsequent receipt of Counsel's legal advice, the report proposed to further amend the Short Term Lets Licensing Policy approved by the Regulatory Committee on 29 September 2022. Clarity was given on the Council's approach to temporary exemptions from licensing requirements.

Decision

- 1) To note the report by the Executive Director of Place.
- 2) To agree the minor amendments to the policy, set out at paragraph 4.6 of the report.

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

7. Appointments to Gala Day Working Group

The Regulatory Committee was invited to appoint the membership of the Gala Day Working Group.

Decision

- 1) To appoint the membership of the Gala Day Working Group as set out at Appendix 1 to the report.
- 2) To appoint Councillor Neil Ross as Convener of the Gala Day Working Group.
- moved by Councillor Caldwell, seconded by Councillor Ross

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

8. Licensing Enforcement – Taxis and Private Hire Cars

An update was provided on taxi and Private Hire Car (PHC) enforcement, and clarity was given on complaint categories outwith the Council's remit. An update was also provided on the work of the Enforcement Officers which were financed by £160,000 of additional Council funding for 2022/23 with a focus on engaging with licensed activities outwith normal business hours.

Decision

- 1) To note the report, which provided an update to a previous report to Committee in January 2020.
- 2) To agree to receive an annual performance report covering taxi and private hire car enforcement.
- 3) To note that further work would be required to identify and to secure the funding for the Enforcement Officers beyond the current financial year.

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

9. Regulatory Committee Workplan Objections to Licence Applications

A draft guidance note was provided to assist those who wished to object to, or make representations about, applications for licences under the Housing (Scotland) Act 2006, or the Civic Government (Scotland) Act 1982.

Decision

- 1) To note the report by the Executive Director of Place and the draft guide.
- 2) To agree to publish the guide on the Council website.
- 3) To discharge the relevant item from the Work Programme agreed by the Regulatory Committee on 7 August 2023.

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

10. Motion by Councillor McKenzie – Landlord Registration

The following adjusted motion by Councillor McKenzie was submitted in terms of Standing Order 17:

“Committee Notes:

- 1) A temporary cap on rent increases during private tenancies is due to be lifted on 31 March 2024.
- 2) Anxiety among some tenants that this will be followed by unreasonable rent increases.
- 3) Many tenants do not possess contact details for their landlords and that this information is not always available on the Scottish Landlord Register.

- 4) Recent requests for information from landlordregistration@edinburgh.gov.uk have elicited automated replies stating predicted response times of between 2 weeks and 1 month.
- 5) The absence of information on engaging with the Council offline in relation to landlord registration.

Committee Agrees:

- 6) The Council should strive to provide appropriate information to tenants timeously and accessibly in response to requests.
- 7) A report to the next Regulatory Committee on landlord registration will provide:
 - 7.1) An update on current response times for information requests, with proposals to reduce these if required.
 - 7.2) A breakdown of the information that tenants can reasonably expect when making enquiries on landlord registration.
 - 7.3) Proposals to improve accessibility for tenants seeking information relating to landlord registration.”

- moved by Councillor McKenzie, seconded by Councillor Rae

Decision

To approve the motion by Councillor McKenzie.

11. Motion by Councillor Ross – Market Operator Licence Fees for The Meadows

The following motion by Councillor Ross was submitted in terms of Standing Order 17:

“Committee notes:

- 1) The Council’s objective for full cost recovery across Licensing operations.
- 2) The decision of the Committee, following a review of all licence fees in 2015, to NOT include any part of the Meadows in its higher pricing regime for City Centre Ward 11.
- 3) The Committee agreed to have higher fees for Ward 11 markets and lower fees for everywhere else for two reasons a) to cover the higher costs relative to a market in the city centre and b) to incentivise dispersal of markets away from Ward 11 as, at that time, there was an over concentration within Ward 11.
- 4) Boundaries Scotland changed the boundary of City Centre Ward 11 to include the Meadows west of Middle Meadow Walk with effect from May 2017.
- 5) The unintended negative consequences of the change at 4) above on community-led events.

Committee agrees:

- 6) Where a market licence is sought by a community group for operation within the Meadows area only, that the appropriate market operators fee will be that for a market out with the City Centre (Ward 11).”

Decision

To approve the motion by Councillor Ross.

12. Motion by Councillor Ross – Sexual Entertainment Venues Licensing Scheme

The Convener ruled the following item of business, notice of which had been given at the start of the meeting, urgent to allow the Sub-Committee to give early consideration to the matter.

The following motion by Councillor Ross was submitted in terms of Standing Order 17:

- “1) Committee notes that the consultation on the Sexual Entertainment Venues Licensing Scheme has closed and a follow up report was due to be considered at this meeting.
- 2) The Committee further notes that there has been a large volume of consultation responses and that consideration of those responses has necessitated further legal advice being sought.
- 3) Additional time is therefore required to ensure that the terms of that advice are fully considered and therefore this has meant presentation of the report has been delayed to the next meeting.
- 4) Committee therefore agrees that the relevant date in the Sexual Entertainment Venue licence resolution be amended to 31 March 2024, therefore removing any uncertainty for the venues and performers whilst this further work takes place.”

Decision

To approve the motion by Councillor Ross.

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Work Programme

Regulatory Committee

5 February 2024

Item	Key decisions	Frequency	Director and Lead Officer	Expected Date
1	Age Limitations and Emissions Standards for Taxis and Private Hire Cars – Report by the Executive Director of Place	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	May 2024
2	Houses in Multiple Occupation – Raising HMO Standards – Report by the Executive Director of Place	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	February 2025
3	Food health and safety business plan – Report by the Executive Director of Place	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	May 2024
4	Trusted Trader Scheme – Report by the Executive Director	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	May 2024

Item	Key decisions	Frequency	Director and Lead Officer	Expected Date
	of Place			
5	Licence Income from Fees – Report by the Executive Director of Place	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	August 2024
6	STL Licensing: Review after 12 months of operation of policy		Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	October 2024
7	Taxi Fares Review – Report by the Executive Director of Place	Every 18 months	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	December 2024
8	Demand for Taxis – Report by the Executive Director of Place	Every three years	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	Spring 2026
9	Short Term Let Enforcement in Edinburgh – Report by the Executive Director of Place	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	October 2024

10	Licensing Enforcement Performance Report – Taxis and Private Hire Cars	Annually	Executive Director of Place Lead Officer: Andrew Mitchell andrew.mitchell@edinburgh.gov.uk	May 2024
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Regulatory Committee Upcoming Reports

Appendix 1

Report Title	Directorate	Lead Officer
May 2024		
Age Limitations and Emissions Standards for Taxis and Private Hire Cars	Place	Andrew Mitchell
Food health and safety business plan	Place	Andrew Mitchell
Trusted Trader Scheme	Place	Andrew Mitchell
Licensing Enforcement Performance Report – Taxis and Private Hire Cars	Place	Andrew Mitchell
Short Term Lets Register - Publication of Applicants' Names	Place	Andrew Mitchell
August 2024		
Licence Income from Fees	Place	Andrew Mitchell

Business Bulletin


Regulatory Committee

12.30pm, Monday, 5 February 2024

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



Regulatory Committee

Convener:	Members:	Contact:
<p>Convener Councillor Neil Ross</p> 	<p>Councillor Jack Caldwell Councillor Denis Dixon Councillor Margaret Graham Councillor Martha Mattos-Coelho Councillor Joanna Mowat Councillor Susan Rae Councillor Val Walker Councillor Norman Work</p>	<p>Rachel Gentleman Carolanne Eyre Committee Services</p>

Recent News	Background	Contact												
LICENSING														
<p>Short-Term Lets (STL) Applications</p> <table border="1" data-bbox="159 443 871 1095"> <tr> <td>Total no. applications</td> <td>3,787*</td> </tr> <tr> <td>Of those applications:</td> <td></td> </tr> <tr> <td> <ul style="list-style-type: none"> • Home Letting & Home Sharing - 563 • Home Letting - 544 • Home Sharing - 552 • Secondary Letting – 1907 • Licence type to be confirmed - 221. </td> <td></td> </tr> <tr> <td>No. applications granted</td> <td>700*</td> </tr> <tr> <td>No. applications withdrawn</td> <td>52</td> </tr> <tr> <td>No. applications refused</td> <td>0</td> </tr> </table> <p>* As of 30 January 2024</p> <p>The Licensing Service has provided all existing operators of STL accommodation with a provisional licence number, in accordance with legislative requirements. This will allow existing hosts (those who were operating prior to 1 October 2022) to list their property for bookings and to trade using online platforms whilst their application is considered</p>	Total no. applications	3,787*	Of those applications:		<ul style="list-style-type: none"> • Home Letting & Home Sharing - 563 • Home Letting - 544 • Home Sharing - 552 • Secondary Letting – 1907 • Licence type to be confirmed - 221. 		No. applications granted	700*	No. applications withdrawn	52	No. applications refused	0	<p>The Regulatory Committee approved a Short Term Lets Licensing Policy on 29 September 2023.</p> <p>On 1 October 2022, a licensing scheme for short term lets opened in Edinburgh. Existing operators had until 1 October 2023 to apply for a STL licence if they wished to continue to operate.</p>	<p>Andrew Mitchell Head of Regulatory Services 0131 529 4208</p>
Total no. applications	3,787*													
Of those applications:														
<ul style="list-style-type: none"> • Home Letting & Home Sharing - 563 • Home Letting - 544 • Home Sharing - 552 • Secondary Letting – 1907 • Licence type to be confirmed - 221. 														
No. applications granted	700*													
No. applications withdrawn	52													
No. applications refused	0													
<p>Licensing performance</p> <p>The current workload within the service is sitting at just over 8,000 applications at various stages of processing. The service continues to be extremely busy, however, by prioritising new applicants it is able to support new businesses to operate as quickly as possible (as renewal applicants can continue to trade following submission of an application).</p> <p>Temporary licences are a large part of the weekly workload, with on average 400 temporary applications being actively worked on at any given time. Appendix 1 provides details of overall workload</p>		<p>Catherine Scanlin Licensing Manager 0131 529 4208</p>												

<p>in Civic that temporary licensing brings with it. This figure showcases the number of events that happen in Edinburgh and shows that on average a quarter of the service's work is on temporary licences every month.</p> <p>Recruitment continues and interviews are scheduled for the second half of January to fill vacancies and to secure additional support from temporary workers.</p>		
<p>HMO agent meeting</p> <p>On 13 December 2023, officers met Houses of Multiple Occupation (HMO) agents who operate in Edinburgh to provide an update on areas which may affect the operation of HMOs over the next year, including:</p> <ul style="list-style-type: none"> • Operation of the Licensing Service; • Enforcement activity; • New HMO Best Practice Guide; • Upcoming amendments to the Repairing Standard which come into effect in 2024; and • Short term lets. <p>The meeting also gave agents the opportunity to raise any queries and discuss any relevant topics with Council officers. Councillor Neil Ross, Convener of the Regulatory Committee, also attended to observe the discussion.</p> <p>The meeting was a useful forum for the agents and officers to share information, and further meetings are planned in 2024.</p>	<p>Council officers have agreed to meet with trade sectors across the licensing spectrum on a regular basis, in order to keep the trade informed of any developments which may have an effect on their operation in the city. The meetings provide a forum to discuss any prevalent issues and to improve communication with licence holders.</p>	<p>Catherine Scanlin Licensing Manager 0131 529 4208</p>
<p>Short term lets</p> <p>Committee asked officers to investigate why flat numbers for properties in tenements are not appearing on the short term lets licensing register.</p> <p>Applications are entered on the register using the initial information provided by the applicant. If full information has not yet been received, it may not be possible to fully identify the flat number. As applications progress through the system this is resolved as part of the checks carried out on the application.</p>		<p>Catherine Scanlin Licensing Manager 0131 529 4208</p>

<p>Gala days</p> <p>Initial consultation sessions were held on 13 November 2023 with Gala Committees, and during January 2024 with operators of equipment/inflatables. A further meeting will be held with the Gala Committees at the end of January 2024 and a report (including recommendations) will be presented to Committee in May 2024.</p>	<p>On 4 December 2023 Committee asked officers to consult with stakeholders with respect to certain Public Entertainment Licence application fees, in particular for licences for gala days and community events including provision of amusement devices.</p>	<p>Catherine Scanlin Licensing Manager 0131 529 4208</p>
<p>Hire Car Trade Group (HCTG)</p> <p>The HCTG met on 15 December 2023 and discussed:</p> <ul style="list-style-type: none"> • Licensing update; • Age of vehicles and emissions; • Driver training; • Licensing Hub update; • Enforcement and compliance; • Short Term Working Group; and • George Street consultation. <p>The meeting was well-attended, resulting in detailed discussions and frank views were expressed by the trade representatives. Trade representatives highlighted that the trade in general was under a great deal of pressure.</p> <p>Future dates for meetings in 2024 have now been provisionally identified as:</p> <ul style="list-style-type: none"> • 23 February • 26 April • 28 June • 30 August • 25 October. 	<p>The HCTG was established to provide taxi and private hire trade representatives with an opportunity to meet regularly with Council officers. Council officers provide an update on ongoing workstreams, consultations and areas of common interest, and the trade can share any concerns that they may have.</p>	<p>Catherine Scanlin Licensing Manager 0131 529 4208</p>

Age and emissions

There are currently 1,164 licensed taxis and 2,552 licensed PHCs.

The number of taxi licences is currently below the 1,316 limit. Interim demand surveys were previously carried-out every six months and reported to Committee. It is not intended to resume interim surveys until the number limit of issued licences is approached.

In 2023, 216 applications were received asking for vehicles to be made an exemption to policy:

Month	Continued	Grant	Refuse	Withdrawn	Grand Total
Jan	1	16	1	0	18
Feb	3	5	1	0	9
March	0	15	1	0	14
April	0	19	0	1	22
May	0	10	0	0	10
June	4	13	4	0	21
July	2	12	0	0	14
Aug	1	16	0	2	19
Sept	0	31	0	1	32
Oct	1	16	0	1	18
Nov	2	15	1	0	18
Dec	0	21	0	0	21
Total	14	189	8	5	216

85% of taxis and PHCs now comply with the Age and Emissions Policy.

The policy is next due to be considered by Committee in May 2024. In the meantime, officers will continue to effect the extension of the age limit for certain vehicles (as agreed in May 2023).

On [16 March 2018](#), Committee agreed an Age and Emissions policy for taxis and PHCs, which took effect from 7 May 2018. The policy was designed to:

- Introduce an age limitation in respect of taxis and PHCs; and
- Incrementally increase the minimum emissions standards for the engines in these vehicles, which will improve emissions standards

The policy was last amended on 1 May 2023.

[Catherine Scanlin](#)

Licensing Manager

0131 529 4208

Applications granted using delegated powers

Following consultation with the Convener of the Licensing Sub Committee and feedback from members, officers have used delegated powers to grant the applications listed in Appendix 2. These are being reported to Committee for information purposes only.

Historically these applications would be sent to Committee for determination. However, in the absence of objections, representations or being contentious, the current scheme of delegation allows officers to grant.

[Catherine Scanlin](#)

Licensing Manager

0131 529 4208

TRADING STANDARDS		
<p>Consumer Duty</p> <p>Section 21 of the Consumer Scotland Act 2020 Act imposes a ‘Consumer Duty’ on public bodies, which must take into account the impact that strategic decisions may have on consumers in Scotland, and the desirability of reducing harm to consumers in Scotland when considering how to exercise their functions. ‘Consumers’ in this case will include small businesses.</p> <p>This is not yet in force, as the implementing legislation has not yet been laid, but this is now expected in April 2024.</p>	<p>A new consumer body, Consumer Scotland, was created by virtue of the Consumer Scotland Act 2020.</p>	<p>Tom Veitch</p> <p>Trading Standards and Enforcement Manager</p> <p>0131 469 3871</p>
<p>Licensing Enforcement: Taxis and Private Hire Cars (PHCs)</p> <p>The initial breakdown of these complaint outcomes by category is attached at Appendix 3.</p> <p>521 driver and vehicle compliance checks have been carried out since 1 October 2023, including working in partnership with Police Scotland, with an overall compliance rate of 97%. 51 of these compliance checks were carried out specifically in relation to wheelchair access, with all 51 vehicles checked being fully compliant.</p>	<p>As requested by Committee on 4 December 2023, outcomes of complaints made in relation to taxi and private hire car licensing have been recorded since 1 October 2023.</p>	<p>Tom Veitch</p> <p>Trading Standards and Licensing Enforcement Manager</p> <p>0131 469 3871</p>
<p>Draft Climate Ready Edinburgh Plan 2024-2030 for consultation</p> <p>The Council’s Policy and Sustainability Committee approved the draft Climate Ready Edinburgh Plan for consultation on 15 December. The Plan details how the city must adapt to deal with the shocks and stresses caused by climate change. Climate change will have impacts on the staging of events, business and service provision, private sector housing and the health and safety of tenants, private travel hire and other related sectors in the city.</p> <p>The Plan includes actions on adapting the city’s build environment, housing stock, transport and travel infrastructure and working with all types of business across the city to raise awareness of and build resilience.</p>		<p>Fiona McLeod</p> <p>Senior Climate Change and Sustainability Officer</p>

The Council declared a Climate Emergency in 2019 and a Nature Emergency in 2023. A key ambition of Edinburgh’s 2030 Climate Strategy was the development of the Climate Ready Edinburgh Plan to continue the process of adapting the city to the impacts of climate change. The Edinburgh Adapts Partnership has led this work on behalf of the city.

The draft Plan has 8 priority themes:

- Planning and the built environment
- Water management and resilience
- Coastal adaptation
- Sustainable transport
- Safeguarding and enhancing our natural environment
- Strong, healthy community and economy
- Building understanding of climate risk
- Governance and risk

A 12-week citywide public consultation on the draft Climate Ready Edinburgh Plan 2023-2030 has been launched. During this period, a number of engagement exercises will be held, including workshops targeting the city’s public, private and third sectors and internal partner workshops to ensure that the actions in the plan assigned to them are correct and align with their organisational priorities.

A final version of the plan will be brought to Policy and Sustainability Committee for approval following the consultation period. The consultation launched on 15th January and responses can be submitted using the following link:

<https://consultationhub.edinburgh.gov.uk/bi/climate-ready-edinburgh> from this date.

Contact for further information
climatechange@edinburgh.gov.uk

Wards Affected: All

Appendix 1

Temporary Licences 1 April to 31 August

Licence Type	Year				
	2023	2022	2021	2020	2019
Cinema Licence	1	0	2	0	1
Late Hours Catering Exemption Licence	2	3	6	0	9
Late Hours Catering Licence	4	0	0	0	3
Market Operators	77	77	65	16	105
Outdoor Area Permits	28	307	306	160	0
Occasional Licences	2477	2404	2425	952	1,972
Premises Extended Hours Applications	36	44	26	1	268
Public Charitable Collection Licence	35	21	8	2	61
Public Entertainment Licences	110	97	60	7	86
Street trader licences	6	12	3	0	359
Street Trader Employee Licence	3	4	3	0	149
Fireworks Dispensation	1	1	1	0	1
Hypnotism Licence	2	1	0	0	0

Indoor Sports Licence	0	1	0	0	0
Short Term Lets Licences	15	0	0	0	0
Second Hand Dealers Licence	4	0	0	0	4
Totals	2847	3015	2932	1143	3083

Temporary Licences 1 October to 31 December

Licence Type	Year	
	2023	2022
Cinema Licence	1	0
Late Hours Catering Exemption Licence	0	4
Late Hours Catering Licence	1	0
Market Operators	36	32
Outdoor Area Permits	0	55
Occasional Licences	939	1139
Premises Extended Hours Applications	34	54
Public Charitable Collection Licence	19	18
Public Entertainment Licences	32	40

Street trader licences	5	11
Street Trader Employee Licence	0	0
Fireworks Dispensation	0	0
Hypnotism Licence	0	0
Indoor Sports Licence	1	0
Short Term Let Licence	13	0
Second Hand Dealers Licence	1	1
Totals	1082	1354

Appendix 2

Zone	Type	Dates	Hours of Operation	Information	£ Cost	2023 App No.
West Princes St Gardens	PEL - capacity 1000	18 Nov 23 to 15 Dec 23	1000-2200		£1,973	508407
	PEL – capacity 1000	16 Dec 23 – 6 Jan 4 excluding 30-31 Dec	1000-2200		£1,973	510735
	MOL	18 Nov 23 to 15 Dec 23	10am to 10pm daily	10 units at £104 each	£1,040	508405
	MOL	16 Dec 23 – 06 Jan 24	1000-2200 daily except 30 & 31 Dec: 1000-2330 & 1000-0100 respectively	10 units at £104 each	£1,040	510734
	Funfair addition to PEL	18 Nov 23 to 15 Dec 23	10am to 10pm daily	Amusement devices 6 - 20	£2,960	508406
	Funfair addition to PEL	16 Dec 23 – 6 Jan 24	1000-2200 daily except 30 & 31 Dec: 1000-2330 & 1000-0100 respectively	Amusement devices 6 - 20	£2,960	510739

East Princes St Gardens	PEL - Capacity 5000	17 Nov 23 to 14 Dec 23	1000-2200		£ 3,957	508394
	PEL – Capacity 5000	15 Dec 23 – 6 Jan 24	1000-2200 except 31 Dec: 1000-0100		£3,957	510747
	MOL	17 Nov 23 to 15 Dec 23	1000-2200	28 Days - 75 units at £104 each	£5,000 (max charge for MOL)	508398
	MOL	16 Dec 23 – 6 Jan 24	1000-2200 except 31 Dec: 1000-0100	28 Days - 75 units at £104 each	£5,000 (max charge for MOL)	510751
	Funfair addition to Pel	17 Nov 23 to 14 Dec 23	10am to 10pm daily	Amusement devices 2 - 5 (Wheel, Helter, Techno, Star Flyer, Train)	£1,202	508399
	Funfair addition to PEL	15 Dec 23 – 6 Jan 24	1000-2200 except 31 Dec: 1000-0100	Amusement devices 2 - 5 (Wheel, Helter, Techno, Star Flyer, Train)	£1,202	510754

George Street Ice Rink Area – Block 1	PEL - Capacity 600	17 Nov 23 to 14 Dec 23	1000-2200		£1,973	508410
	PEL – Capacity 600	15 Dec 23 – 6 Jan 24	1000-2200		£1,973	510759
	MOL	17 Nov 23 to 14 Dec 23	1000-2200	£104 – fee per stall for up to 28 days 3 units	£312	508409
	MOL	15 Dec 23 – 6 Jan 24	1000-2200	£104 – fee per stall for up to 28 days 3 units	£312	510764
St Andrew Square	PEL - Capacity 300	18 Nov 23 to 15 Dec 23	1000-2130		£1,973	508412
	PEL – Capacity 300	16 Dec 23 – 6 Jan 24	1000-2200		£1,973	510775

George Street Block 2 & Castle Street North End	MOL	17 Nov 23 to 15 Dec 23	1000-2200	£104 – fee per stall for up to 28 day - 40 Units	£4,160	508413
	MOL	16 Dec 23 - 6 Jan 24	1000-2200	£104 – fee per stall for up to 28 day - 40 Units	£4,160	510767
	Funfair addition to Pel	17 Nov 23 to 14 Dec 23	1000-2200	Amusement devices - 2	£1,202	508414
	Funfair addition to Pel	16 Dec 23 – 6 Jan 24	1000-2200	Amusement devices – 2	£1,202	510769
					TOTAL: £51,296	

HOGMANAY

HOGMANAY LICENSES		Dates/Hours	Capacity/Info	Fee	APP ref
Torchlight Procession Permit	Parades & Processions	29-Dec-23 1930-2200	Meadows → George IV Bridge → Johnstone Terrace → Castle Terrace 20,000 participants	N/A	513233

Fireworks Dispensation	Fireworks Dispensation	31-Dec		N/A	513235
Torchlight PEL	PEL	29-Dec-23; 1800-2200	Meadows; 20,000 Capacity	£ 16,625	513236
Torchlight MOL	MOL	29-Dec-23; 1200-2200	3 x vendors	£312	513246
Night Afore Disco Party & Hogmanay CITG	PEL up to 50,000	30 & 31 Dec; 1700-0100 max extent of hours	Bjorn Again & Massaoke 6000 Capacity. (30th) 10,000 in WPSG. 40,000 on the street EPSG open until 00:30 to ticket holders only Addition of Waverly Scottish Music Stage Silent Disco on Market Street	£ 16,625	513249
Night Afore Disco Party & Hogmanay CITG - MOL	MOL with 25 vendors total	30-31 Dec; 1700-0100 max extent of hours	11 x Additional (to existing Christmas ones) Concession Units 11 x (additional to existing Christmas ones) Bar Units 3 x Merchandise stall	£ 2,600	513251
St Andrew Sq Cinema	Cinema	26-30 Dec		£206	514776
			TOTAL:	£36,368	

OCCASIONALS

- 510519 – Castle St - 17-30 Nov
- 510521 – Castle St - 1-14 Dec
- 510522 – Castle St - 15-28 Dec
- 510527 – Castle St - 29 Dec – 6 Jan
- 510423 – George St - 17-30 Nov
- 510513 – George St - 1-14 Dec
- 510515 – George St - 15-28 Dec
- 510517 – George St - 29 Dec – 6 Jan
- 510455 – West PSG - 18 Nov – 1 Dec
- 510457 – West PSG - 2-15 Dec
- 510458 – West PSG - 16-29 Dec
- 512407 – West PSG – 30-31 Dec – **replaced by 517521**
- 512409 – West PSG – 1-6 Jan
- 510421 – East PSG - 17-30 Nov
- 510461 – East PSG - 1-14 Dec
- 510463 – East PSG - 15-28 Dec
- 512410 – East PSG – 29 Dec – 6 Jan - **replaced by 517519**
- 515441 – Street Party – 31 Dec
- 517509 – Greyfriars Kirk – 1 Jan

Appendix 3

Category of Complaint	Not upheld	Partially upheld	Upheld	Total
Driving Manner	10	7	11	28
Aggressive Behaviour	7	4	5	16
Illegal Plying for Hire	11	14	26	51
Overcharging	6	1	0	7
Complaint from a Cyclist	1	0	0	1
Miscellaneous	9	1	7	17
Dress Code	6	0	26	32
Smoking	1	1	11	13
Licensed vehicle involved in accident	2	1	0	3
Poor customer service	0	0	2	2
Vehicle used when not of required standard	7	1	32	40
Inappropriate parking	7	1	20	28
Mobile phone use	2	0	0	2
Fare refused	1	2	0	3
Percentage	28.8%	13.6%	57.6%	
Total	70	33	140	243

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Regulatory Committee

12.30pm, Monday, 5 February 2024

Air Weapons and Licensing (Scotland) Act 2015 - Licensing of Sexual Entertainment Venues

Executive/routine
Wards

Executive
All

1. Recommendations

- 1.1 The Regulatory Committee is asked to:
 - 1.1.1 Note that Committee is 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](#);
 - 1.1.2 Note the advice in this report in respect of what should be considered when the Committee decides a limit for the number of SEVs permitted to operate in Edinburgh;
 - 1.1.3 Decide on the appropriate number of SEVs permitted to operate in Edinburgh;
 - 1.1.4 Decide whether the policy shall include a statement that only a certain area or areas of the city be considered suitable for the operation of a SEV;
 - 1.1.5 Note that no further changes to the draft SEVs Licensing Policy Statement are recommended, subject to the inclusion of a reasoned explanation as to

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Executive Director of Place

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why the appropriate number to be determined was set at a particular level in accordance with paragraph 1.1.3 of the SEV Policy;

- 1.1.6 Note that no further changes to the draft standard licensing conditions for SEV Licences are recommended; and
- 1.1.7 Note that officers will publish the SEVs Licensing Policy Statement as required in terms of the Civic Government (Scotland) Act 1982.

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

2. Executive Summary

- 2.1 This report notes 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, will be relevant, along with other considerations, in determining individual applications.
- 2.2 The report contains 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.

3. Background

- 3.1 On [31 March 2022](#), Committee considered a report on the proposed licensing of SEVs within Edinburgh. Committee agreed to adopt a SEV licensing resolution that would require the licensing of SEVs within Edinburgh, and to adopt a scheme for the licensing of SEVs effective from 1 April 2023. Committee determined the number of SEV premises appropriate for the city to be zero and further agreed to adopt the Licensing Policy Statement and standard licensing conditions appended to the report, all in terms of the Civic Government (Scotland) Act 1982 (the "1982 Act"). Committee will recall that amendments to the Act introducing provision for the licensing of SEV premises were enacted under the [Air Weapons and Licensing \(Scotland\) Act 2015](#) (the "2015 Act").
- 3.2 The decision on the appropriate number agreed on [31 March 2022](#) was subject to a Judicial Review in the Court of Session. The Judicial Review was sought by SEV operators and an SEV employee. The United Sex Workers, a branch of the United Voices of the World trade union, was also granted permission to be added as an additional party.

- 3.3 As reported to Committee on [31 March 2022](#), the Court found in favour of the petitioners' key point of the effect of adopting the zero cap. In particular, the Court of Session found, in an Opinion (judgment) dated 10 February 2023, that the Council had no discretion to consider applications for a SEV licence where the Council had determined the number of SEVs appropriate for Edinburgh to be nil where the Council has considered, that in deciding on a nil figure, it still had a discretion to grant an application notwithstanding that nil figure. The Council had failed to understand that this meant that it would have been obliged to refuse any application for a SEV licence which exceeded that number. The Committee's decision in relation to the appropriate number was therefore struck down by the court as it wrongly considered it still had a future discretion to grant a licence in excess of nil when it did not. Committee should note the principle decided by that case, namely that it will have no discretion to grant a licence in excess of the limit which it might set (as revised from time to time) whether nil or greater, when it comes to consider an individual application. Members are advised to familiarise themselves with that judgment, as it is helpful in understanding the legal principles which underpin the lawful setting of an appropriate number. A link to the judgement is included in the Background Reading section of this report.
- 3.4 On [31 March 2023](#), Committee agreed to amend the date of implementation of the resolution in terms of which the Council resolved to adopt a scheme to licence SEVs. The revised date of 31 December 2023 was to allow further consultation to take place on a proposed policy and conditions framework and the appropriate number. Following that consultation, further time was required to consider the consultation responses and therefore the implementation date was further revised to 31 March 2024.
- 3.5 As noted, in considering the development of a policy and licensing conditions framework, Committee engaged in a public consultation exercise on what the limit on the number of SEVs permitted to operate in Edinburgh should be, the terms of the Policy Statement and appropriate conditions in relation to the implementation of a licensing scheme.
- 3.6 Committee also held evidence sessions with invited parties including operators of venues directly affected by the licensing scheme, performers from the venues including their trade union representatives, and other stakeholders such as the Edinburgh Equally Safe Committee ("ESEC"). Invitations were also sent to local Community Councils in whose area current venues operate. A summary of the consultation process is included at Appendix 16.
- 3.7 Appendix 1 sets out the draft policy for the licensing of SEVs and Appendix 2 provides the draft set of standard conditions for the licensing and regulation of SEVs. Following consideration of the consultation responses, in the view of officers, no significant issues were raised beyond the issue of what the appropriate number should be and where any SEVs, if permitted, should be located. While some consultees did raise issues relating to some of the draft conditions it is the view of

officers that the conditions as drafted, should not be changed. Officers reached this view largely for two reasons: firstly some of what was sought would in the view of officers go beyond the statutory powers available to a licensing authority; and secondly whilst additional conditions were sought the evidence put forward in support of them was limited. Therefore, no changes are proposed to either the draft policy or the standard conditions and, given that background, Committee is recommended to adopt them. In that regard Committee may wish to consider a summary of the responses on policy and particular draft conditions and the views and recommendations of officers on those views. That summary is contained in Appendix 16.

- 3.8 As noted, the 1982 Act requires the local authority to have a statement of their policy with respect to the exercise of their functions in relation to the licensing of SEVs. In the judicial review, the court ruled that the SEV policy statement, when issued, should explain and provide reasons for the determination of the appropriate number. Accordingly the Policy Statement, when issued, should also include a reasoned explanation as to why the appropriate number was arrived at.

4. Main report

- 4.1 Committee must decide on the appropriate number of SEVs in Edinburgh and any restrictions on where SEVs may operate in the city in terms of a locality or localities. This report sets out the various considerations which Committee must or may take into account when determining an appropriate number and any restrictions on permitted locations.

Requirement to set an appropriate number of SEVs

- 4.2 Committee has previously made a resolution to introduce a licensing scheme for SEVs. In accordance with paragraph 9(5A) of Schedule 2 to the 1982 Act, the Council must determine an appropriate number of SEVs for its area and for each relevant locality when setting its initial policy. The 1982 Act further states that this number must be reviewed from time to time.
- 4.3 The appropriate limit of SEVs to license in the city is a matter of judgment for members of the Committee, balancing a number of factors. It is of course to be done under and in terms of the 1982 Act as a matter of law. The decision must be based on consideration of the following factors:
- 4.3.1 Having regard to a meaningful consultation, a consideration and assessment of relevant evidence gathered - this includes responses to consultation exercises and evidence sessions with stakeholders.
 - 4.3.2 The Public Sector Equality Duty ("PSED") under section 149 of the Equality Act 2010 (the "2010 Act").
 - 4.3.3 Whether the fixing of a particular appropriate number would constitute unlawful indirect discrimination in terms of section 19 of the 2010 Act.

4.3.4 Relevant European Convention on Human Rights (“ECHR”) issues arising under the Human Rights Act 1998.

- 4.4 There are other matters to be considered. As noted, the policy statement cannot be finalised and will not be issued until the appropriate number is settled upon and reasons given for it. Nevertheless, Committee may consider that the material which informs the terms of the draft Policy Statement and the draft statement should be considered when assessing the appropriate number. This is because in setting an appropriate number Committee should be clear on what legitimate aim or aims the number is related to.
- 4.5 Committee, in reaching a decision, will need to identify the legitimate aim or aims that the number is intended to support and the appropriate number must relate to that aim or aims in a reasonable and proportionate way. In terms of aims, the 1982 Act, when first passed, stated that it made provision for the licensing and regulation of certain activities and for the preservation of public order and safety and the prevention of crime. 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.

The use of “in particular” means that there may be other potentially legitimate aims, but the stress laid on these aims suggests that they have particular weight and prominence in developing policy under the 1982 Act.

- 4.6 The Council is also a “Regulator” under Schedule 1 of the Regulatory Reform (Scotland) Act 2014 (the “2014 Act”) and therefore has a duty, in exercising its regulatory functions, to contribute to achieving sustainable economic growth, except to the extent that it would be inconsistent with the exercise of those functions to do so (Section 4(1)). This does not mean that the Council cannot set an appropriate number as the 1982 Act requires that to be done, nor does it mean that any arguments based on sustainable economic growth can be taken to outweigh other considerations where the Council gives greater weight to those considerations when determining an appropriate number. The duty also applies to imposing conditions on a regulated activity and so could also apply to decision making on SEV licence conditions requirements.
- 4.7 The 2014 Act also introduced, in section 5, the power of Scottish Ministers to issue Codes of Practice for regulators to have regard to when exercising a regulatory function. To date the Scottish Regulators’ Strategic Code of Practice has been

issued. This is directed to a range of functions, including regulation through licensing by local authorities (paragraphs 6 and 8). The Code requires regulators to exercise regulatory functions in accordance with the five principles of better regulation (see paragraph 2). Those principles are that regulation be proportionate, consistent, accountable, transparent and targeted only where needed. It promotes the need for regulators to understand the businesses they regulate (para.6). Committee is referred to this Code as a whole. A link to the Code can be found in the Background Reading section of this report.

- 4.7.1 The Integrated Impact Assessment (IIA) at Appendix 12 is an important document and is provided to help Committee discharge consideration of the PSED as well as informing the Committee on a range of considerations. The IIA is not binding on the Committee. The discharge of the PSED, and in particular on how the PSED is met, cannot be delegated to officers of the Council. It is therefore for Committee to make its own assessment of the approach taken to issues under the PSED. Consideration of the PSED must be at the forefront of the mind of the Committee. Members of the Committee are advised that they must clearly and consciously engage with the PSED when considering matters and when determining the appropriate number at the meeting of the Committee. It is recommended that the Committee takes into account and evaluates the IIA when making a decision. More is said on the role of the PSED later in this report.
- 4.7.2 On the question of indirect discrimination, a number of representations have been made which could be read as suggesting that the fixing of an appropriate number, particularly but not exclusively of nil or another number less than the three currently operating, might also operate as a “policy, practice or criterion” (“PCP”) for the purpose of the law on indirect discrimination in terms of section 19 of the Equality Act 2010. Section 19 is set out in Appendix 17. This is principally on the basis that most SEV performers are female and that in essence a claimed restriction on their ability to work which is claimed to be a consequence of the setting of an appropriate number less than the number of current venues could amount to unlawful indirect discrimination in breach of the 2010 Act if it created an unjustifiable particular disadvantage to performers under section 19(2) of the 2010 Act.
- 4.7.3 In substance it is also suggested by some responses that limiting the number of licensed SEVs to the number of existing venues might be unreasonable or unfair, because, in essence, it may create in effect a monopoly which would not encourage the maintenance and improvement of standards within existing SEV premises and that a number higher than three would be preferable as it could allow other operators to start up, including the opening of a performer-owned and run venue. Setting it at the number of existing venues may not be a form of indirect discrimination, but the Committee is recommended to consider approaching it as a potential issue. It should be noted that the intention would be to inspect and appropriately monitor any

licensed premises and therefore this may address to some extent the concerns about maintenance of standards. If concerns were raised this could be addressed by enforcement action or if required a further review of the policy and licence conditions.

- 4.7.4 In the Judicial Review, the Council accepted that section 19 applied and that setting a nil figure was a PCP but the Council argued that it was premature for the court to consider this point. The Court did not however consider whether that nil figure could still be supported as a form of lawful indirect discrimination. Had the Court had to decide that issue, it would have been for the Council to show that any indirect discrimination was still lawful.

It may, though, be open to argument that the setting of an appropriate number of whatever level is not a PCP such that section 19 does not apply. That matter has not been the subject of a judicial ruling. It is a matter of law whether an appropriate number decision is a PCP. There may therefore be uncertainty over whether the fixing of an appropriate number is a PCP and the Committee may wish to consider that a PCP might arise without making a definite decision on that point. Accordingly, in practical terms, and in recognition of the arguments made by performers, the focus of Committee should be to consider whether there is likely to be a particular disadvantage to performers in the setting of the appropriate number, whether or not a possible appropriate number was greater than the current number of venues and, if there was, to then consider whether the proposed appropriate number could be rationally linked to an identified legitimate aim and whether the number was a proportionate means of achieving that aim or aims.

According to caselaw, the assessment of proportionality requires a consideration of whether there is a “real need” for the measure, that the measure is appropriate and also necessary to achieve the aim or aims. The principle of proportionality requires an objective balance to be struck between the potentially discriminatory effect of the measure and the needs of the body imposing the measure. The more serious the adverse impact, the stronger the justification for it needs to be. As part of this exercise Committee should consider whether an alternative number could be used which would still meet that aim or aims.

- 4.7.5 Committee will also note that the consultation included responses from persons who consider that the setting of anything other than a nil figure, as an appropriate number, would be discriminatory against women and girls. Equally, supporters of this type of entertainment express the view that such an approach and indeed, to a considerable extent, any limitation on numbers would be unfair and similarly discriminatory. In particular, those who have responded who work in the venues, have expressed the view that the setting of an appropriate number could discriminate against them. It will be for Committee to consider and balance what are essentially opposing views and

which may raise conflicting issues under the PSED and indirect discrimination provisions of the 2010 Act. Committee does however need to determine an appropriate number, as the 1982 Act specifically requires a licensing authority to do so and it is therefore not discretionary.

- 4.7.6 Committee will also wish to ensure that a decision on the appropriate number is compliant with the Provision of Services Regulations 2009. These Regulations implement the EU Services Directive. The relevant provisions are found in Appendix 15. The regulations were raised in the Judicial Review, and although the Court did not decide whether the decision on an appropriate number was also in breach of these Regulations, Committee, in setting an appropriate number, should have regard to these Regulations. In particular, Committee needs to be satisfied that any decision on an appropriate number meets the criteria set out in Regulation 15(2) and, in particular, is supported by relevant and sufficient evidence; justified by an overriding reason in the public interest, proportionate, transparent and accessible. The publication of the determination and reasoned SEV policy statement will ensure that the number is made public in advance of an application being made.
- 4.7.7 On the draft conditions, Committee will also wish to satisfy itself that conditions meet the requirements of these Regulations. In particular, conditions must not be dissuasive or unduly complicated or delay the provision of a regulated service. They must be clear and unambiguous. Conditions which are arbitrary cannot be applied, nor must conditions exceed what is necessary to achieve that objective.
- 4.7.8 Turning to other documents that Committee has before it - guidance has been issued by Scottish Ministers entitled "[Air Weapons and Licensing \(Scotland\) Act 2015 – Guidance on the provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres \(2019\)](#)". This is referenced elsewhere in this Report. While this is non-statutory guidance, it being issued before the 2015 Act came into force, Committee may, in the exercise of its discretion, consider it to be something to have regard to in the setting of an appropriate number.
- 4.7.9 In the judicial review the Court did consider it to be relevant and appears to have treated it as if it was statutory guidance. Accordingly it is recommended that Committee has regard to that guidance. In doing so Committee should note para. 21 of the guidance which advises that local authorities, when setting an appropriate number "*will need to consider 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.*" This is addressed further in this Report. The guidance also refers to the Regulatory Reform (Scotland) Act 2014 at para. 27 and the application of it to SEV licensing and the Trafficking and Exploitation Strategy of Scottish Government at para. 23.

4.7.10 On local policies and strategies, in that regard Committee will note that the ESEC response at Appendix 6 references the Business Plan of the Council which they say recognises the *“importance of creating and sustaining women’s and girl’s safety in public places.”* They also reference The Edinburgh Partnership and Community Plan 2018-2028 and the Council’s Equality, Diversity and Inclusion Framework, which in the view of the ESEC recognises that women, and particularly *“Black, Asian and Ethnic Minority Women are at particular risk of harm due to poverty and deprivation, hate crime, discrimination and violence against women.”* They also reference the terms of the agreed motion before Full Council on 4 May 2023, “Edinburgh as a Feminist City”. It will be for Committee to consider any wider local policy and strategy when reaching a decision.

4.7.11 In terms of other strategies, Committee may also wish to consider whether it wishes to have regard to the Scottish Government’s and COSLA’s strategy “Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls”. This strategy is referred to in the consultation response from ESEC in particular. It was also considered by Committee when setting nil as the appropriate number. This strategy was considered by the Court and it concluded it was for Committee to decide how it should be approached. It should be noted that this strategy is also referred to in the guidance at paras. 20 to 22. It should be noted that “Equally Safe” has been issued on three occasions to date, initially in 2014 and updated in 2016 and 2018. The 2018 version was before the Judicial Review court. The most recent “refresh” was issued on 7 December 2023 as “Equally Safe 2023- preventing and eradicating violence against women and girls: strategy”. It can be found here: [Equally Safe 2023](#). Given that the issue of the refresh arose after consultation responses were received, it should be borne in mind that the responses will have referred to the earlier version. The earlier version can be found at [Equally Safe 2018](#).

As this is a strategy document and is not binding on Committee, it is for Committee to decide whether to take it into account and, if so, the weight to be accorded to it. However given the source of the document including the nature of the joint authorship, the reference to it in the guidance on SEV licensing, the central role it plays in some of the representations, and the prior use of it by the Committee when considering the appropriate number, the Committee may consider it to be relevant material and may well wish to have regard to it. If so, it should be read as a whole as a strategy document. The weight it is to be given, across the range of considerations in the specific circumstances before the Committee, which need to be weighed and balanced, is for the Committee.

Assessment of Relevant Evidence

- 4.8 A summary of consultation exercise results is set out at Appendix 4. Police Scotland's response is set out at Appendix 5. The ESEC response is set out at Appendix 6. For completeness it should be noted that the Sex Workers' Union response was made via the online consultation and is therefore included within those appendices. Appendices 7 to 9 provide more detailed commentary from consultation respondents. Appendix 16 provides a summary of main points made in relation to policy and conditions with comments from officers. Committee members have separately been provided with access to full consultation response data for their consideration. This information should be carefully reviewed by Committee members and taken into account when reaching their decision.
- 4.9 Committee will be aware of evidence about the operation of the SEVs currently in the city and has previously heard from Police Scotland and Licensing Standards Officers that these are operating without issues within the premises and their immediate locality. A similar point was made by the representative of the local community council who attended one of the evidence sessions.
- 4.10 Committee members will have noted or will have recalled or in any event be aware from their background knowledge and experience, that some of the evidence that they have heard, including responses to the second consultation (reported to Committee on 31 March 2022), argued 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 Scottish Government's Equally Safe Strategy. Members will note from the most recent consultation that similar views have again been expressed. While the previous consultation is relevant background, members are advised to focus on the current consultation when making their decision on the responses.
- 4.11 The tension between licensing SEVs, including permitting a number to operate, and the concerns noted above, are specifically addressed in the Scottish Government's Guidance on the Provisions for licensing of SEVs 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'.*
- 4.12 By introducing legislation, the Scottish Government has indicated 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 or considerations other than those considered legally relevant be seen to influence the determination of a numbers limit by the Council, a risk of successful legal challenge would arise. Although Committee must therefore exclude purely moral views, opinions or considerations in its decision-making, it should be aware that objections which might be seen by some to have a “moral quality” are nevertheless capable of being seen as reflecting relevant concerns grounded in equality or discrimination issues, or as regards the suitability of location. Some of these may also touch on the issues of safety of those both in and outside the venues. That does not necessarily make them illegitimate concerns, even if they might be viewed by some as having an underlying moral quality.

Public Sector Equality Duty (“PSED”)

4.13 The [Equality Act 2010](#) (s.149) sets out the PSED. The relevant provisions of the PSED in the context of SEV licensing are summarised below with emphasis added in bold:

- (1) *A public authority must, in the exercise of its functions, have **due regard** to the need to—*
- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (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.*
-
- (3) *Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*
- (a) *remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*
 - (b) *take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*
 - (c) *encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*
-
- (5) *Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

age;

disability;

gender reassignment;

pregnancy and maternity;

race;

religion or belief;

sex;

sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) Schedule 18 (exceptions) has effect

4.14 It is important that Committee members, as decision makers, understand how having “due regard” in terms of the duty in section 149(1) has been interpreted by the courts. It has been taken to mean that it is an essential preliminary to any decision and should be exercised in substance, with rigour, and with an open mind. Committee members must therefore approach the PSED in that manner. **It must not be a box-ticking exercise after a decision has been settled on.** It must be integral and be seen to be integral to the decision making process and given prominence within it. Committee must give careful consideration to what having due regard involves as set out at section 149(3) and (5) and, if relevant, (6).

4.15 The relevant protected characteristic in relation to the licensing of SEVs is sex, particularly as the overwhelming majority of affected performers are women. The IIA has not, for example, identified any issue which would make the approach to impact on performers who have gender reassignment (to use the statutory terminology) different to women. Committee members must therefore give conscientious consideration to the duties set out above and relevant evidence pertaining to the impact that a particular limit of SEV licences would have on women in particular. Examples of views both for and against a particular number are summarised in Appendix 7. In addition, officers have prepared a detailed sample of views with particular reference to PSED issues and which are broadly

representative These examples are illustrative but members are advised to consider in the context of the views expressed in consultation (Appendix 11).

- 4.16 Accordingly, the PSED considerations should not be limited to the impact on performers. Many representations have been received from women, or those representing women or young girls, who seek to limit the appropriate number to nil and who draw upon the presence of SEVs in society as a broader issue which links to the broader aims of the PSED in their view. The broader aims of the PSED include questions of how women are viewed in society, tackling prejudice and promoting understanding, equality and discrimination as between men and women, the fostering of good relations and removal of disadvantages. Although the emphasis of the ESEC is on women and girls, the ESEC also expresses views as to how access to this form of entertainment can be harmful to men and boys and their view that the PSED has a role in that regard.
- 4.17 Committee must also have *due regard* to the broader aims of the PSED in coming to its decision. Nor should it be overlooked that these broader aims can also apply to performers who may have a different view on how those aims apply to them. As will be apparent from some of the responses, performers consider their work to promote women in society and allow women to choose performing as a way of tackling disadvantage experienced by them. It will be for Committee to balance those conflicting views.
- 4.18 Where those responding to the consultation have referenced academic or research material in support of their positions, Committee should have regard to it and evaluate what weight it is to be accorded in the assessment of PSED issues. For example, the ESEC submission at Appendix 6 references and provides links to research in relation to what they consider is evidence to show the link between purchase of sex and sexual services by men and the likelihood of such men abusing women through coercion or trickery or that such men do not treat “no” as meaning “no.” They also reference research by Horvath & Kelly from 2007 which they consider shows that SEVs increase demand for prostitution in their localities, as well as research from Sanders & Hardy from 2011 which they consider shows that *“the continuous supply of dancers, rather than the demand for erotic dance, that accounted for the expansion of the sex industry.”* These are only examples and their submission references other research and reviews, and Committee must give consideration to such material from any respondent when addressing the PSED.

ECHR Issues

- 4.19 There are a number of ECHR rights to consider:
- 4.19.1 The right to peaceful enjoyment of possessions of existing operators under Article 1 of the First Protocol of the ECHR.
- 4.19.2 The Article 8 right to respect for private, home and family life of those opposed to such venues, as well as performers.

- 4.19.3 The right not to be discriminated against on grounds of sex under Article 14.
 - 4.19.4 Articles 2, 3 and 4 which are, for example, referenced by those who support greater control.
 - 4.19.5 Article 10 – the right to freedom of expression.
- 4.20 These rights may conflict and will need to be weighed and balanced by Committee members. To further assist Committee members, a contextual commentary on ECHR rights is set out in Appendix 14. The guidance also refers to ECHR issues at paras. 73-77 of it.

Integrated Impact Assessment (“IIA”)

- 4.21 The purpose of an IIA is to ensure that the Council not only complies with the law, but also takes account of equality, human rights and socioeconomic disadvantage implications when making decisions. It ensures that decision makers are fully informed of the potential impacts of their decisions. It allows decision makers to critically assess whether a decision could have wider impacts beyond its intended outcomes. It is also a useful way of helping to inform Committee on PSED issues which is ultimately a matter for Committee. Committee members should therefore carefully consider the IIA set out at Appendix 12.

General considerations

- 4.22 It is for Committee to decide on the appropriate limit of SEV licences in Edinburgh. 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 balanced, rational, proportionate and not overly restrictive. Committee must identify a legitimate aim or aims from the overall scheme of the licensing of SEVs, reflected in relevant evidence, which the number is intended to support. Committee should consider whether there is a sufficiency of evidence available to it that would enable it to justify the limit which is decided upon.
- 4.23 There are currently three SEVs operating in Edinburgh. When the committee last considered the numbers issue there were four premises, but one premises has ceased this type of operation in the intervening time. Setting a limit of three SEVs being permitted to operate in Edinburgh would (subject to additional considerations set out in paragraphs 4.24-4.25 below) allow the Council to regulate the operation of existing premises but also preclude the opening of any additional SEVs. As noted at 3.3 above, whatever limit is set by Committee will dictate the number of SEVs which will be allowed to operate in the city – there will be no discretion to allow additional SEVs to operate unless there is a relevant fresh decision by Committee to revise the limit. An analysis of percentages of consultation responses in favour of various options is included in Appendix 4. It should be noted that a majority of responses are in favour of no limit being set, however the Council has a legal obligation to decide on an appropriate number.

- 4.24 The Council is required to keep the appropriate number of SEV licences under review from time to time as set out in the Act. If, during those periodic reviews, representations were made that the number of SEVs should increase or decrease for whatever reason, those representations would have to be considered on their merits when reaching a fresh determination of the appropriate number of SEVs.
- 4.25 It should be stressed that any applications would be considered on their own merits and take into account all the other discretionary grounds for refusal set out under the Act. Objections could be made from anyone who objects to the operation of any such venue and the relevant committee would require to consider any such objections objectively. 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.

Suitability of areas of the city in which to locate a SEV

- 4.26 From the available evidence, it appears to officers that the only suitable location for a SEV would be the city centre (Ward 11) and that no other locality is considered suitable. Therefore, no change is being suggested to that aspect of the policy. Members are invited to form their own views and make a decision in this regard.
- 4.27 It should be further 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. The background to this recommendation is attached at Appendix 3.

Remaining aspects of the SEV Policy and standard conditions

- 4.28 In the view of officers, no other significant issue was raised in the consultation responses and therefore in relation to the other sections of the SEV policy or conditions, no further changes are proposed, subject to the policy when adopted and issued explaining why the particular appropriate number was selected. Some consultees, including the ESEC and the Sex Workers' Union, did raise changes to the proposed conditions. These have been considered by officers and in that regard reference is made to Appendix 16. The view of officers is that the proposed changes to conditions proposed should not be adopted for the reasons set out in that appendix.

Appeals Process Against Determination of Individual Applications

- 4.29 Committee agreed to adopt a licensing system from 31 December 2023 and the Licensing Sub-Committee will be required to consider applications made for SEV licences from that date. If an application were to be refused, then an applicant would have the opportunity to challenge that decision. In some cases, this will be by raising an appeal in the Sheriff Court. However, challenges on the grounds in paragraph 9(5)(c) and (d) of Schedule 2 of the 1982 Act can only be brought by

Judicial Review. That would include decisions based on the then prevailing appropriate number.

- 4.30 Additionally, it is likely that the two most contentious issues that Committee will consider in relation to applications made for SEVs will relate to determinations made by Committee following on from a decision to set a numbers limitation for SEVs in the city; and identifying the locality in which a SEV can operate.

5. Next Steps

- 5.1 Once Committee agrees to set the limit for the appropriate number of SEV premises permitted to operate in the city, and agrees to the terms of the policy and conditions framework, officers will write to affected premises to communicate this decision and provide information on how to apply for a licence (unless the agreed limit is set at zero).

6. Financial impact

- 6.1 On [29 September 2022](#) the Committee agreed a fee structure for SEVs and no further changes to application fees are proposed as part of this report.

7. Equality and Poverty Impact

- 7.1 An Integrated Impact Assessment has been prepared and is included at Appendix 12 for the Committee to consider in reaching its decision.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

- 9.1 It is recognised that concerns have previously been raised that SEV activity may be commercial sexual exploitation, encourages unhealthy attitudes towards women, and therefore damages society. It is also recognised that the performers working in the venue strongly argue that the venues provide a safe space for them to undertake their chosen work. Any threat to that risks driving the activity underground with attendant safety concerns for those women and would adversely affect them financially if they could not work.
- 9.2 The Scottish Government stated during the passage of the Air Weapons and Licensing (Scotland) Act 2015 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.

- 9.3 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.
- 9.4 All premises which could be affected by a SEV policy were written to and advised of the consultations. The Committee consulted with the trade and other interested parties throughout this process to ensure that all views were taken into account when forming a draft policy statement and licensing conditions framework.
- 9.5 ‘Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls’ was first published in 2014 and was last updated on 7 December 2023. 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 SEVs in the guidance, the Act is a means by which relevant sexual entertainment activities, if licensed, can be controlled and regulated through a range of provisions and related decisions on appropriate number, appropriate localities, policy and conditions and of course on decisions on any applications for a licence that might be made in light of those decisions and conditions.
- 9.6 Following a period of consultation, at the [Regulatory Committee meeting on 3 February 2013](#), 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 SEV licensing scheme and associated policy which is introduced will not apply to such premises.
- 9.7 A full Integrated Impact Assessment has been completed as part of the statutory consultation process and is attached at Appendix 12.

10. Background reading/external references

- 10.1 [Civic Government \(Scotland\) Act 1982](#)
- 10.2 [Sexual Entertainment Venues \(SEVs\): Update Following Judicial Review](#) report to Regulatory Committee on 13 March 2023.
- 10.3 [Air Weapons and Licensing Scotland Act 2015 - Sexual Entertainment Venues Proposed Resolution 2021](#) report to Regulatory Committee on 2 December 2021.
- 10.4 [Air Weapons and Licensing \(Scotland\) Act 2015 – Commencement of Sexual Entertainment Venues licensing provisions](#) report to Regulatory Committee on 11 March 2019.
- 10.5 [Scottish Regulators’ Strategic Code of Practice](#)

- 10.6 [Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls](#)
- 10.7 [Human Trafficking and Exploitation Strategy](#)
- 10.8 [Scottish Government Guidance on the Provisions for Licensing of Sexual Entertainment Venues](#)
- 10.9 [Opinion of Lord Richardson](#) 10 February 2023

11. Appendices

- 11.1 Appendix 1 - Draft SEV Policy.
- 11.2 Appendix 2 - Draft SEV Licence Conditions.
- 11.3 Appendix 3 - Draft Policy: Suitability of areas of the city in which to locate a SEV.
- 11.4 Appendix 4 - Sexual Entertainment Venues Consultation Summary Report.
- 11.5 Appendix 5 - Police Scotland Consultation Response.
- 11.6 Appendix 6 - Equally Safe Edinburgh Committee Consultation Response.
- 11.7 Appendix 7 - Comments on Proposed SEVs Policy - Written Responses.
- 11.8 Appendix 8 - Comments on SEVs Conditions - Written Responses.
- 11.9 Appendix 9 - Any Other Comments – Written Responses.
- 11.10 Appendix 10 – Sample of points made during consultation by those who oppose a limit being set which could prevent SEV premises from operating.
- 11.11 Appendix 11 – PSED evidence.
- 11.12 Appendix 12 - Integrated Impact Assessment.
- 11.13 Appendix 13 – Sexual Entertainment Venues Resolution.
- 11.14 Appendix 14 – ECHR Rights.
- 11.15 Appendix 15 - Provision of Services Regulations 2009.
- 11.16 Appendix 16 – Summary of consultation responses re policy and conditions with officer comments.
- 11.17 Appendix 17 - Section 19 Equality Act 2010.
- 11.18 Appendix 18 - Full Consultation Responses (Private)

Sexual Entertainment Venues Licensing Policy

The City of Edinburgh Council 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 1st April 2023. 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 4 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 **[TO BE UPDATED AFTER COMMITTEE MEETING]**
- 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 MEETING]**. 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 be 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

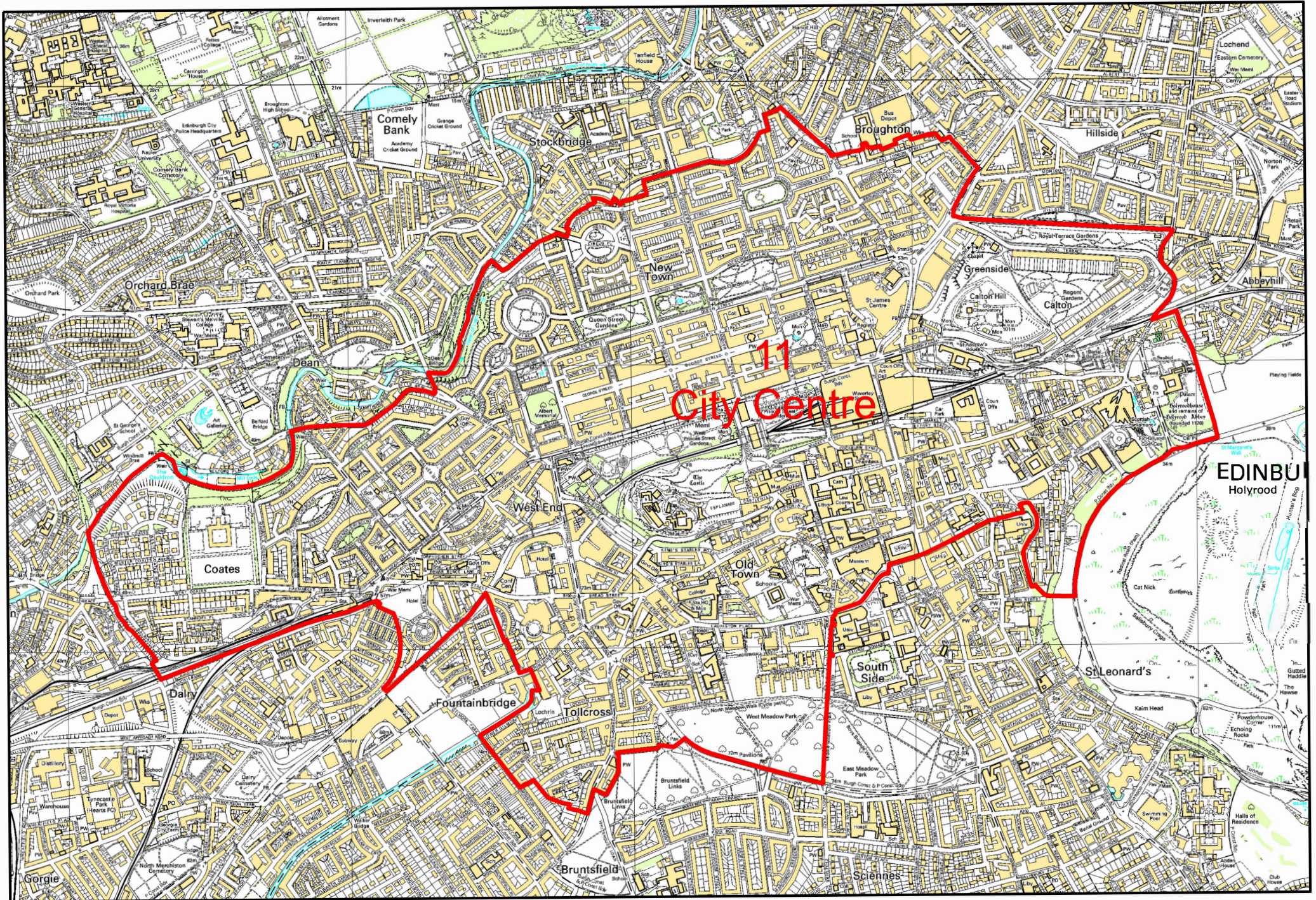
- 7.1 [Air Weapons & Licensing \(Scotland\) Act 2015 – Sexual Entertainment Venues– Update After Initial Consultation – Regulatory Committee – 21 October 2019](#)

- 7.2 [Civic Government \(Scotland\) Act 1982 – Sections 45A-45C](#)
- 7.3 [Provisions for Licensing of Sexual Entertainment Venues: Guidance – Scottish Government](#)
- 7.4 [Air Weapons and Licensing \(Scotland\) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions – Update](#)

Review

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

Appendix 1 - (of Appendix 1) - Map of City Centre - Ward 11



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.

Appendix 3 - Draft Policy: Suitability of areas of the city in which to locate a SEV

- In addition to setting a numbers limitation for the city, Committee will be able to set a specific limit of SEVs in any identified locality within the city. The consultation (Appendix 4) asked respondents whether they agreed that it would be suitable for SEVs to operate in the city centre, rural areas, busy late night economy areas, town centres, residential and industrial areas. Strong support was indicated for SEV suitability in each of these areas. In previous consultation, the majority of respondents had indicated that the only locality which would be acceptable for SEVs to be located would be the city centre.
- 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.
- 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 any 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.
- The consultation responses (Appendix 4) indicated that there would be 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, officers consider that such an area is not suitable for this type of activity. In addition it is submitted 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 with respect to the safety of performers.

Licensing of Sexual Entertainment Venues

-

<https://consultationhub.edinburgh.gov.uk/sfc/licensing-of-sexual-entertainment-venues-june-2023>

This report was created on Thursday 05 October 2023 at 10:28

The activity ran from 10/07/2023 to 03/10/2023

Responses to this survey: **1993**

1: What is your name?

There were 1938 responses to this part of the question.

2: What is your email address?

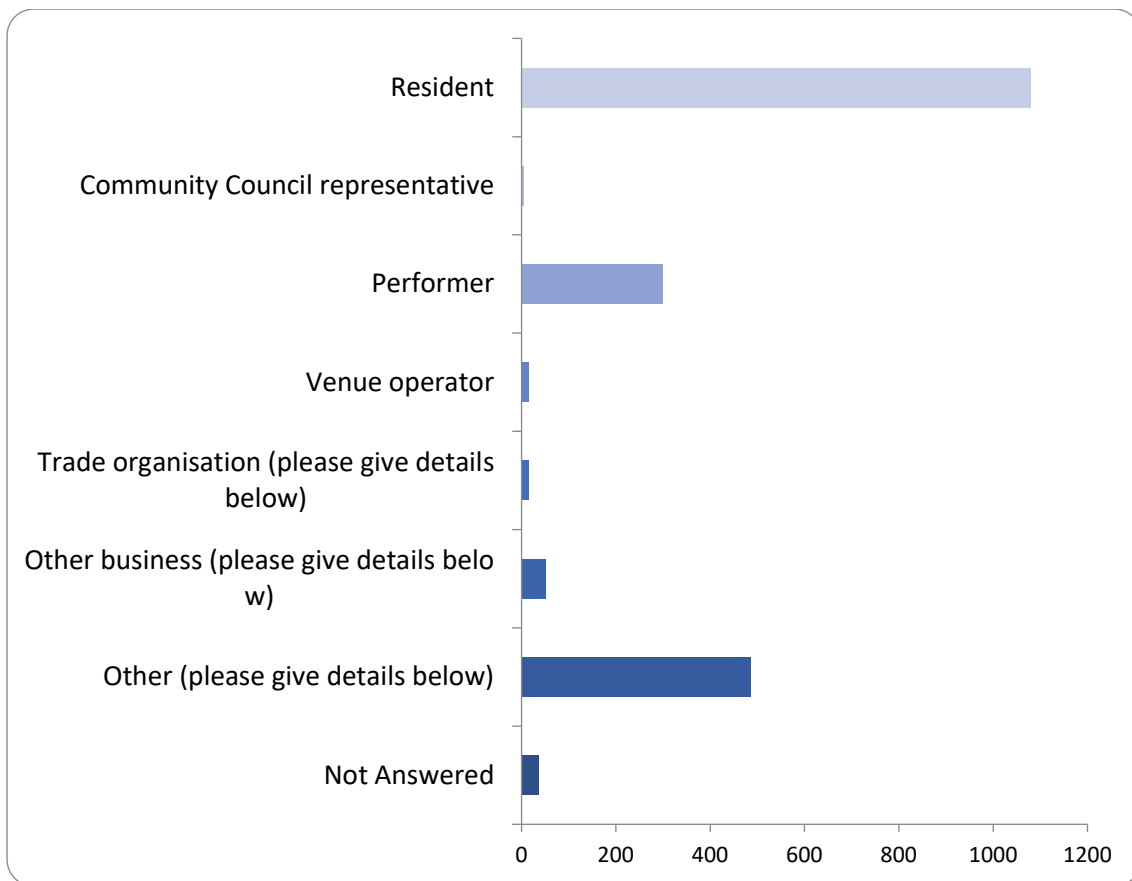
There were 1821 responses to this part of the question.

3: What is your organisation (if relevant)?

There were 555 responses to this part of the question.

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

There were 1956 responses to this part of the question.



Option	Total	Percent
Resident	1081	54.24%
Community Council representative	6	0.30%
Performer	299	15.00%
Venue operator	16	0.80%
Trade organisation (please give details below)	15	0.75%
Other business (please give details below)	52	2.61%
Other (please give details below)	487	24.44%
Not Answered	37	1.86%

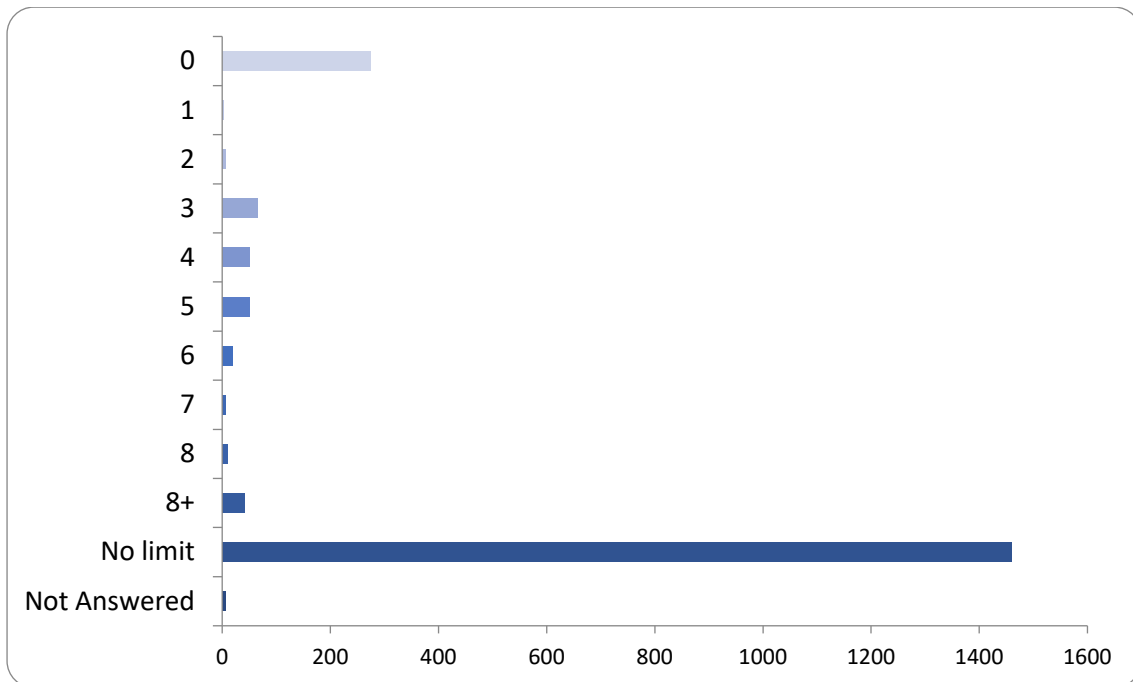
Further details

There were 504 responses to this part of the question.

5: The Council must set an appropriate number of SEV premises within Edinburgh and for any relevant locality. What number do you think the Council should set for the following localities?

The city centre

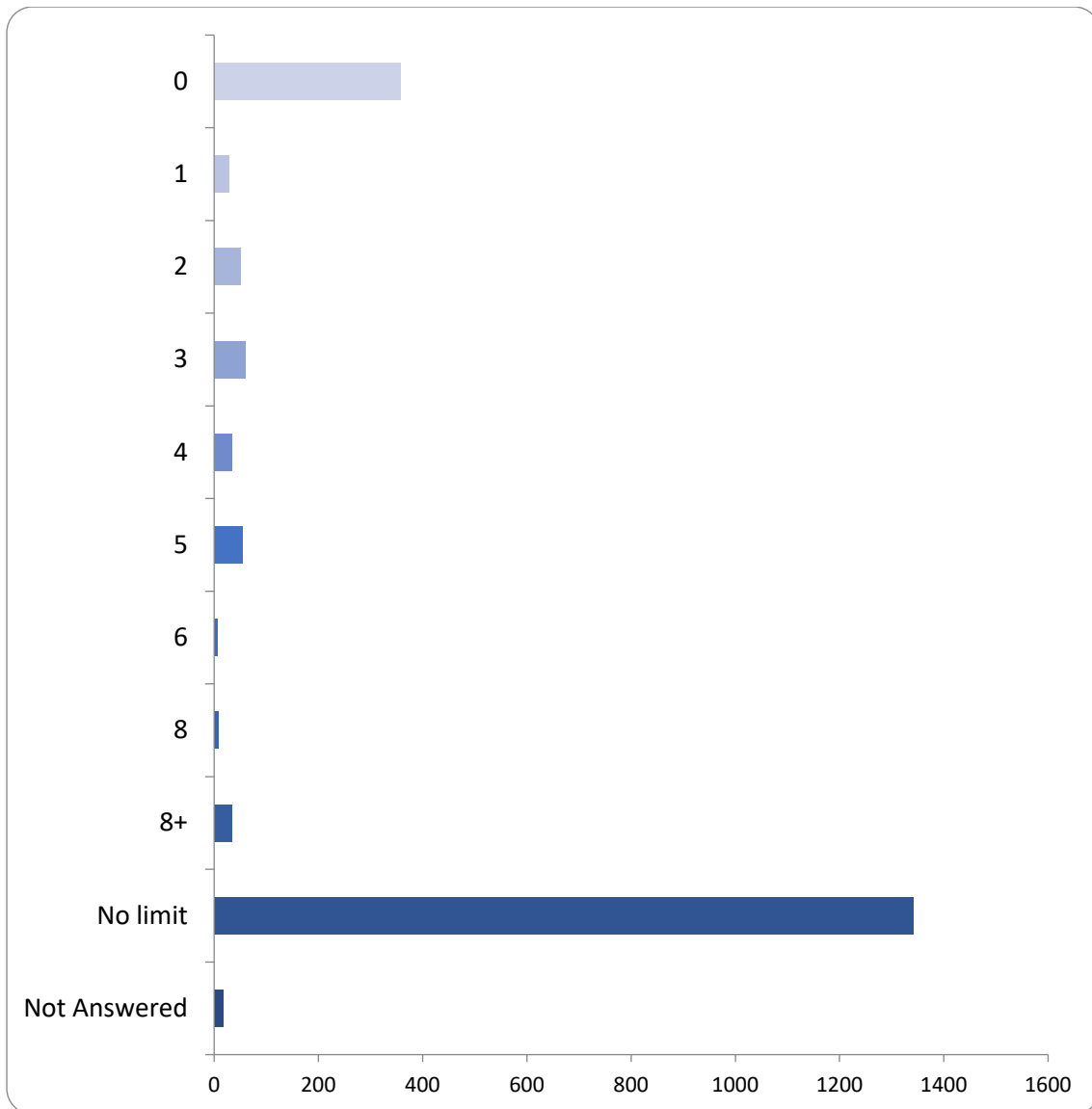
There were 1987 responses to this part of the question.



Option	Total	Percent
0	274	13.75%
1	3	0.15%
2	7	0.35%
3	65	3.26%
4	51	2.56%
5	51	2.56%
6	19	0.95%
7	6	0.30%
8	10	0.50%
8+	41	2.06%
No limit	1460	73.26%
Not Answered	6	0.30%

A rural area

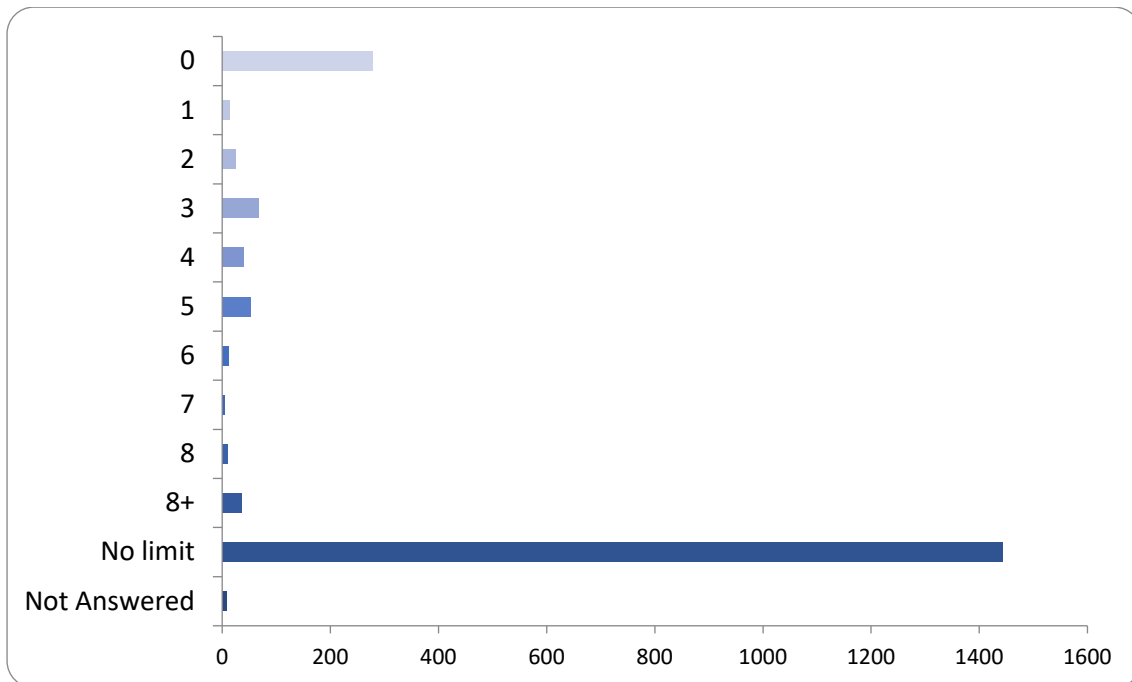
There were 1975 responses to this part of the question.



Option	Total	Percent
0	357	17.91%
1	29	1.46%
2	50	2.51%
3	61	3.06%
4	34	1.71%
5	54	2.71%
6	6	0.30%
7	0	0.00%
8	8	0.40%
8+	35	1.76%
No limit	1341	67.29%
Not Answered	18	0.90%

A busy late night economy area e.g. George Street, Grassmarket

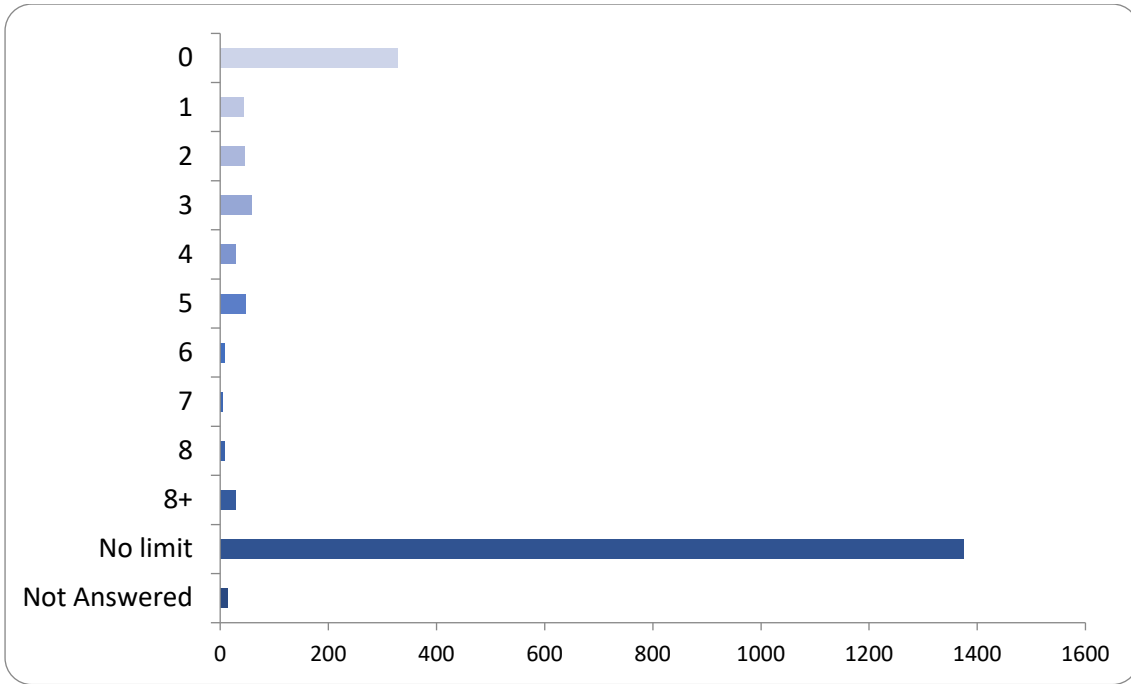
There were 1985 responses to this part of the question.



Option	Total	Percent
0	279	14.00%
1	14	0.70%
2	25	1.25%
3	68	3.41%
4	39	1.96%
5	53	2.66%
6	12	0.60%
7	4	0.20%
8	11	0.55%
8+	36	1.81%
No limit	1444	72.45%
Not Answered	8	0.40%

A town centre/high street e.g. South Queensferry, Portobello, Kirkliston

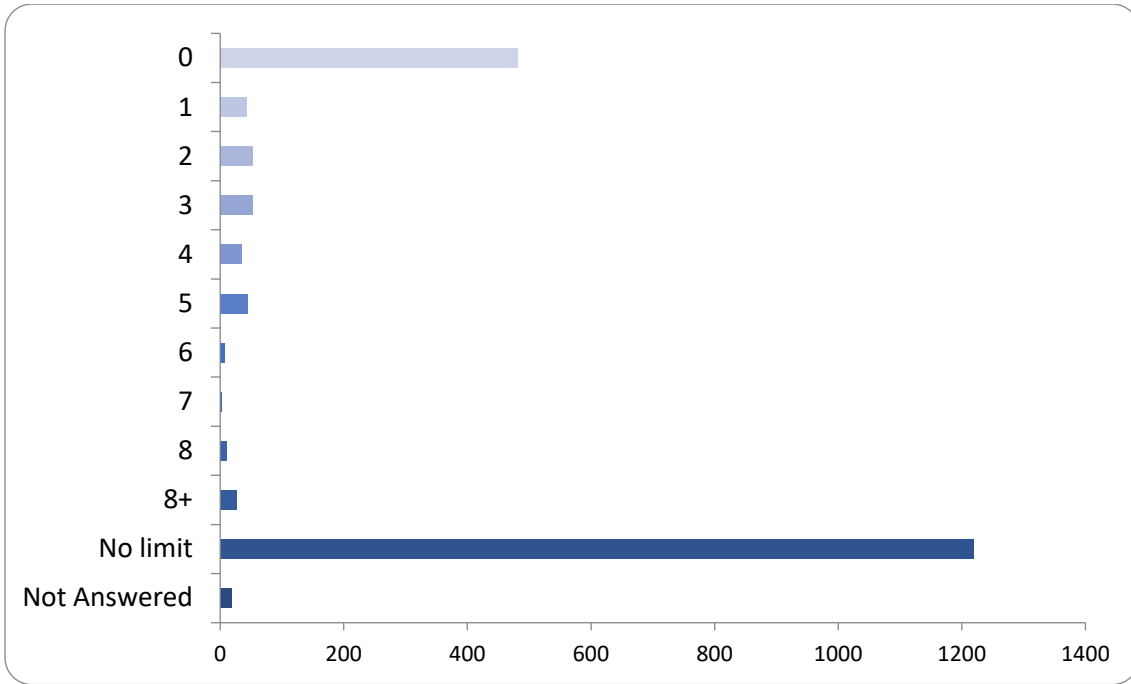
There were 1979 responses to this part of the question.



Option	Total	Percent
0	329	16.51%
1	44	2.21%
2	46	2.31%
3	59	2.96%
4	29	1.46%
5	48	2.41%
6	8	0.40%
7	4	0.20%
8	8	0.40%
8+	29	1.46%
No limit	1375	68.99%
Not Answered	14	0.70%

A residential area

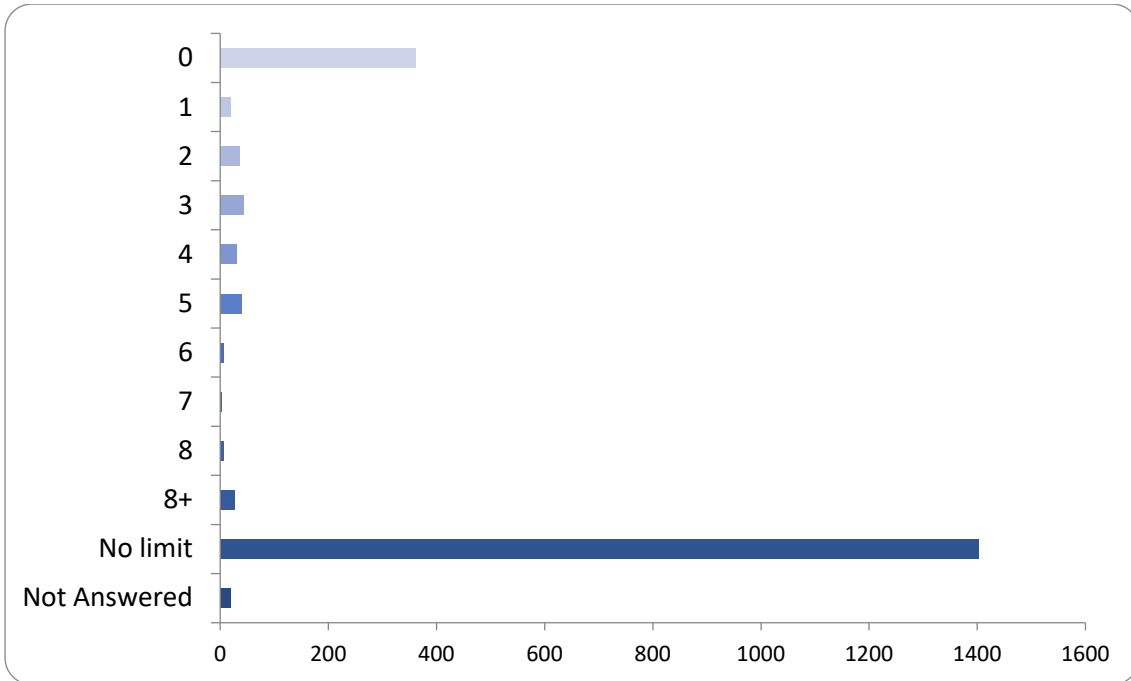
There were 1974 responses to this part of the question.



Option	Total	Percent
0	481	24.13%
1	43	2.16%
2	52	2.61%
3	52	2.61%
4	35	1.76%
5	45	2.26%
6	7	0.35%
7	3	0.15%
8	10	0.50%
8+	27	1.35%
No limit	1219	61.16%
Not Answered	19	0.95%

An industrial or commercial area

There were 1974 responses to this part of the question.

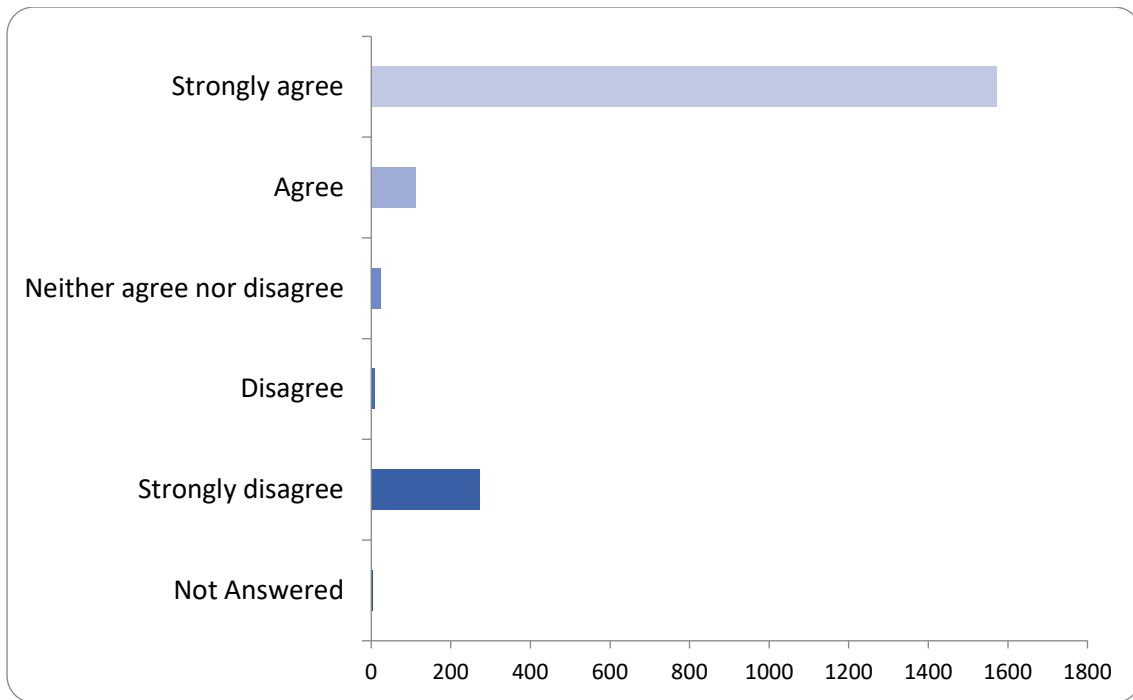


Option	Total	Percent
0	361	18.11%
1	20	1.00%
2	36	1.81%
3	43	2.16%
4	31	1.56%
5	39	1.96%
6	7	0.35%
7	2	0.10%
8	6	0.30%
8+	27	1.35%
No limit	1402	70.35%
Not Answered	19	0.95%

6: 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.

The city centre

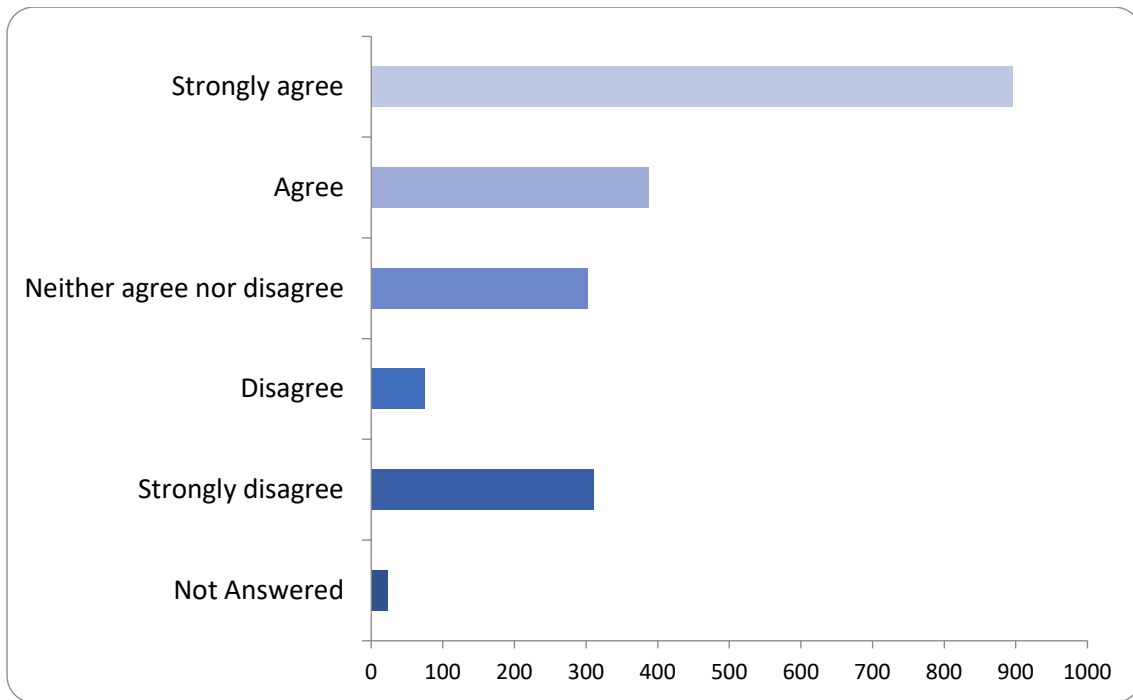
There were 1988 responses to this part of the question.



Option	Total	Percent
Strongly agree	1572	78.88%
Agree	111	5.57%
Neither agree nor disagree	24	1.20%
Disagree	8	0.40%
Strongly disagree	273	13.70%
Not Answered	5	0.25%

A rural area

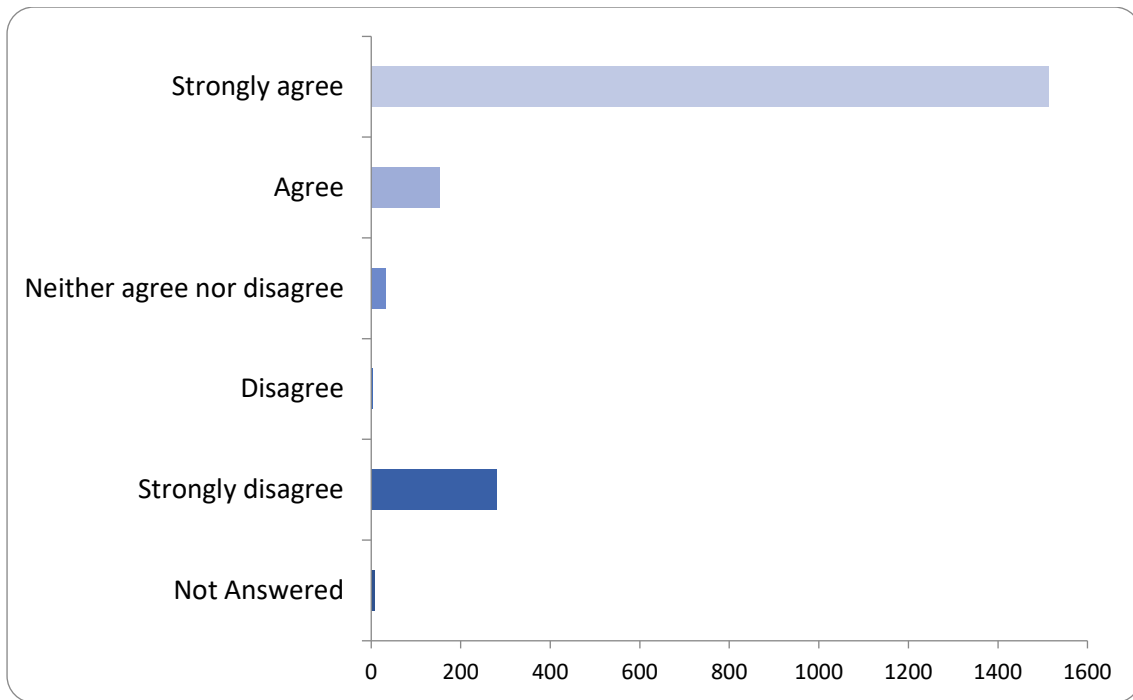
There were 1970 responses to this part of the question.



Option	Total	Percent
Strongly agree	895	44.91%
Agree	387	19.42%
Neither agree nor disagree	302	15.15%
Disagree	75	3.76%
Strongly disagree	311	15.60%
Not Answered	23	1.15%

A busy late night economy area e.g. George Street, Grassmarket

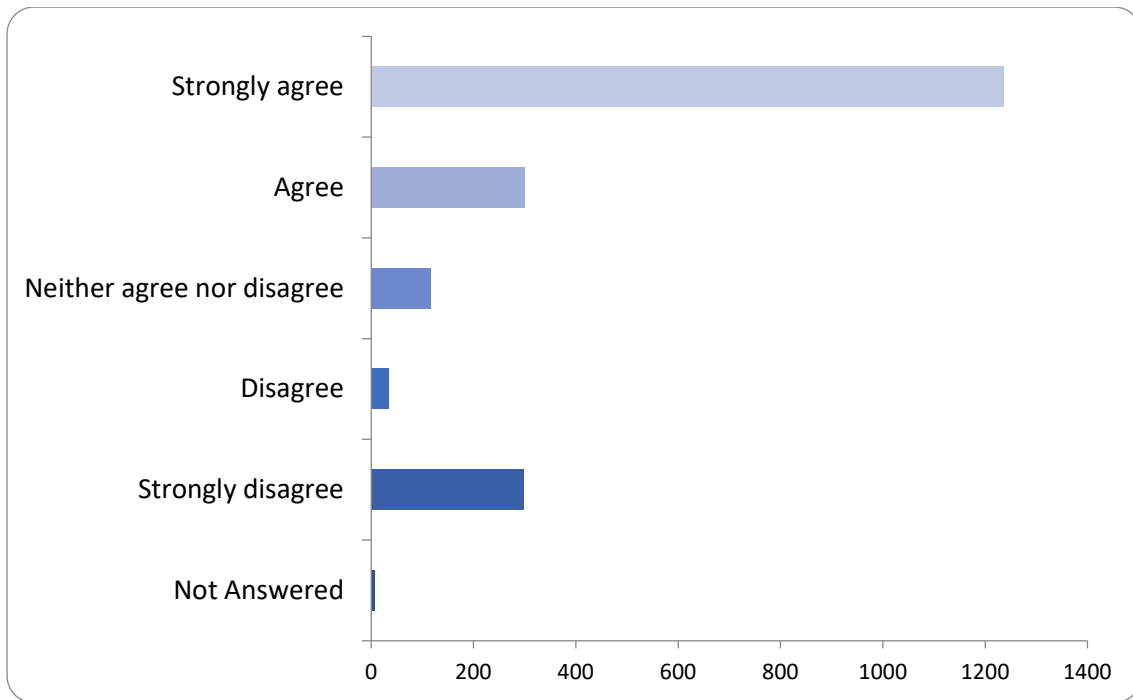
There were 1985 responses to this part of the question.



Option	Total	Percent
Strongly agree	1514	75.97%
Agree	154	7.73%
Neither agree nor disagree	33	1.66%
Disagree	4	0.20%
Strongly disagree	280	14.05%
Not Answered	8	0.40%

A town centre/high street within the city e.g. South Queensferry, Portobello, Kirkliston

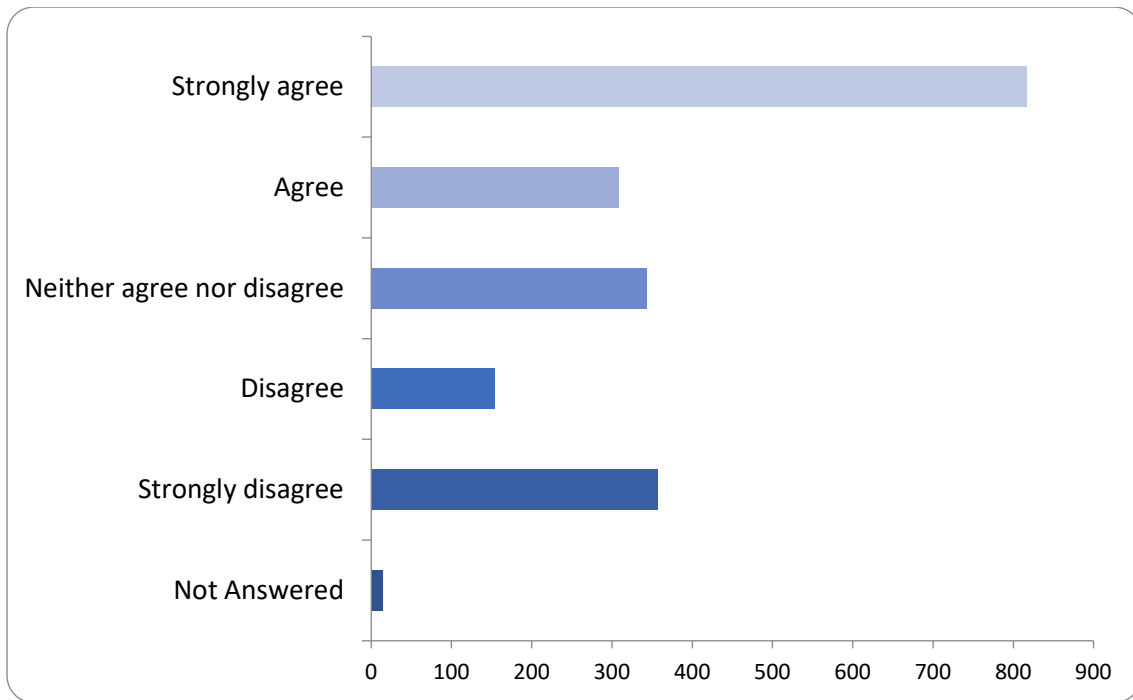
There were 1987 responses to this part of the question.



Option	Total	Percent
Strongly agree	1236	62.02%
Agree	301	15.10%
Neither agree nor disagree	117	5.87%
Disagree	35	1.76%
Strongly disagree	298	14.95%
Not Answered	6	0.30%

A residential area outwith the city centre

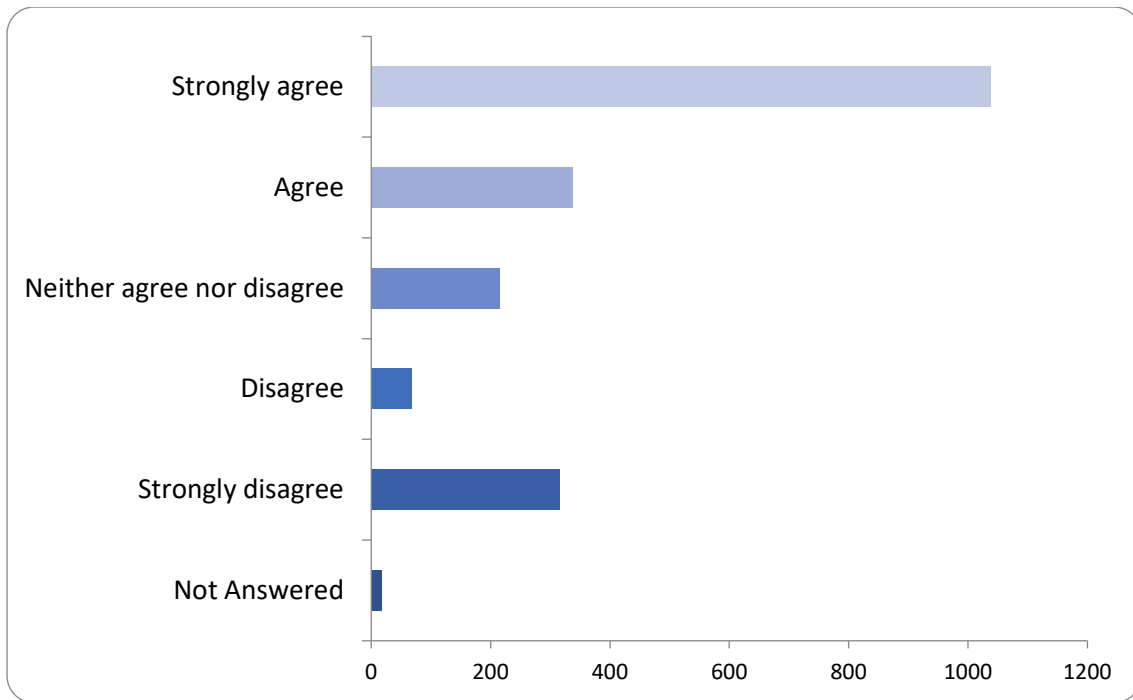
There were 1979 responses to this part of the question.



Option	Total	Percent
Strongly agree	817	40.99%
Agree	308	15.45%
Neither agree nor disagree	343	17.21%
Disagree	154	7.73%
Strongly disagree	357	17.91%
Not Answered	14	0.70%

An industrial or commercial area

There were 1975 responses to this part of the question.



Option	Total	Percent
Strongly agree	1038	52.08%
Agree	338	16.96%
Neither agree nor disagree	215	10.79%
Disagree	68	3.41%
Strongly disagree	316	15.86%
Not Answered	18	0.90%

7: Do you have any comments on any aspect of the existing Sexual Entertainment Policy?

There were 1125 responses to this part of the question.

8: Do you have any comments on the existing set of licence conditions for Sexual Entertainment Venues?

There were 927 responses to this part of the question.

9: Would you like to make any further comment about these proposals?

There were 953 responses to this part of the question.

The remaining questions asked about demographics such as age, sex etc and can be made available on request.



**POLICE
SCOTLAND**
Keeping people safe

Sexual Entertainment Venues (SEV)
Consultation 2023

Edinburgh Police Licensing Department
Response

OFFICIAL

In July 2023 Edinburgh City Council released a consultation on the licensing of Sexual Entertainment Venues (SEV's) in Edinburgh. This follows the Council's Regulatory Committee formally agreeing to introduce a licensing scheme for SEV's in March 2022 following an initial public consultation on the issue.

In response to the initial public consultation, Police Scotland Edinburgh Division submitted a response to the Council outlining its position in relation to various aspects of the scheme, including proposed conditions and licensing policy.

Police Scotland Edinburgh Division were satisfied to see all our requested conditions and policy considerations were introduced as part of the initial policy and conditions proposed for introducing the scheme. We therefore have no further requests or comments to make in addition to those already outlined in the previous response in relation to the proposed policy and licence conditions.

As part of the initial response, Police Scotland provided no opinion on the appropriate number of SEV's that should be licensed in Edinburgh. This position has not changed.

As always, Police Scotland will continue to work with partners to keep the people of Edinburgh safe, including the safety of women and girls in the night time economy.

Appendix 6: Equally Safe Edinburgh Committee consultation response



THE EQUALLY SAFE EDINBURGH COMMITTEE

Response to the Licensing of Sexual Entertainment Venues

July 2023 Consultation by the City of Edinburgh Council

Date: 27 September 2023

Introduction

This document comprises the [Equally Safe Edinburgh Committee's \(ESEC\)](#) response to the Licensing of Sexual Entertainment Venues (SEV) Consultation, publicised by the City of Edinburgh Council in July 2023.

The ESEC is an inter-agency partnership between the City of Edinburgh Council, Police Scotland, NHS Lothian and the voluntary sector. We work to implement "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls" (VAWG) across Edinburgh. Together with the Edinburgh Child Protection Committee and the Edinburgh Adult Support and Protection Committee, we comprise Edinburgh's Public Protection Committees, with an agreed [constitution](#).

The Council must set an appropriate number of SEV premises within Edinburgh and for any relevant locality. What number do you think the Council should set?

We believe that the appropriate number of SEV premises within Edinburgh (all localities) should be nil (0).

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.

We do not believe that SEVs should be operating in any area in Edinburgh.

Do you have any comments on any aspect of the existing Sexual Entertainment Policy?

Whilst our position (as stated above) is that SEVs should not operate at all within Edinburgh, if the licensing of these types of premises continues regardless of our opposition then the ESEC would like to comment on the following sections of the current Sexual Entertainment Venue Policy:

Item 2.3 includes a list of types of entertainment that would typically be considered sexual entertainment. Although item 2.4 expands that the list is not exhaustive, we believe that further

clarification is needed. As a while, we believe that any activities that might involve any element that is akin to sexual entertainment must require a license.

We would further like to see this apply to item 2.5 – there appears to be no explanation or clarity as to why a sexual entertainment license is only required by a venue if sexual entertainment has been provided 4 times prior. This number feels arbitrary and introduces potential complications in the application process: if sexual entertainment can be provided even once without a license, this creates conditions that increase risks of abuse to performers, patrons, the general public in the vicinity and the local community. Further, premises owners might not uphold this condition, or may not remember when/on how many occasions sexual entertainment was provided at their venue. We believe that a sexual entertainment license should be sought every time sexual entertainment is to be provided at any venue.

The ESEC would also like to express concern over the use of vehicles or vessels for the purposes of sexual entertainment. We have good reason to believe that the use of ‘moving’ premises will place performers at unnecessary risk, especially if the vehicles are in motion during the course of the entertainment. Should any patrons at such premises act inappropriately against any of the performers, it will not be possible to escape the situation, and appropriate support might not be available on board.

In section 3.3 (b) we would like to highlight that although we agree that SEVs should not be located near schools/education establishments, places of worship, charities and landmarks/facilities, the provision is extremely vague. We propose that the policy makes a specific statement as to the distance required between any given SEV and an educational establishment, place of worship, charity and landmark, and recommend that this distance is set at a minimum of 750 metres.

Close proximity of SEVs to such premises can have a detrimental impact in ‘normalising’ behaviours that are deemed ‘appropriate’ in a SEV, which would not be appropriate in any other context. This includes the objectification and commodification of women, overtly sexualised behaviour and language, which are then easily visible to children and young people, local communities and tourists visiting the city. Further, charities located around those areas specifically cater to vulnerable women at particularly high risk of exploitation, and the presence of SEVs places them in additional risk of (re)traumatisation and exploitation.

With regard to section 3.3(f), the ESEC carried direct engagement with Edinburgh citizens in the 2022 and 2023 consultations on Women’s Safety in Public Places, asking participants to identify areas where they feel safe and areas where they feel unsafe, and to provide a short explanation as to why.

A total of 13 responses identified the location of the Edinburgh SEVs as unsafe. All 13 responses stated that ‘the behaviour of men’ and ‘antisocial behaviour’ was the key reason. Some respondents chose to provide additional information as to why they felt unsafe in the area:

“Pubic Triangle lap dancing/strip bars. [I’m] aware that men congregate here to objectivise women, attend ‘performances to get fired up but not ‘satisfied’ as they would in a brothel.”

“Sexual harassment guaranteed if walking here at night.”

“People hanging around in this area. Lots of men walking here.”

“Strip clubs and those who hang around them.”

“The lap dancing clubs at night make this place feel very unsafe. Big groups of men on stag nights.”

“Narrow pavements with guard rails mean it is sometimes difficult to get away from uncomfortable, possibly dangerous situations.”

“Walking past the strip clubs is horrible. Getting cat called, groped and followed by drunk men who feel somehow entitled to this behaviour after watching women stripping for them. It’s disgusting, backwards and this should not be happening in Edinburgh!”

“Groups of men often under the influence of alcohol gathering and loitering around sexual entertainment venues. Loud behaviour, calling names and making comments about women passing by. Often these have sexual connotations and make women feel that they are at risk of sexual or other assault.”

The same consultation explored whether women did/would report an incident of public sexual harassment to the police or other support organisations. A staggering 76-80% of respondents stated that they had experienced some form of harassment, abuse or violence in Edinburgh’s public places, and a shocking 95% responded that they would not report this to the police.

This raises a very important concern about section 3.3(f). Although we know that up to 80% of the women who participated in the consultation had experienced harassment, abuse or violence in a public place in Edinburgh, only 5% of it is reported to Police Scotland. These statistics demonstrate that the number of antisocial behaviour incidents or sexual assault/ harassment reports are not an appropriate measure to assess the suitability of a location for a SEV.

Regarding the SEV Application Process, under paragraph 4.2(a) we propose to extend the publication of the advertisement beyond local newspapers. To ensure that as many residents are aware of the plan to open a SEV in a particular area, we recommend that local community pages/resources and website should also be used, such as Edinburgh Live and other online publications available for different community groups and areas. This is to ensure that there is equality in accessing such information-if it is not available on printed media, then citizens who are digitally excluded would not have the opportunity to be informed.

We also need to highlight that section 4.4 of the policy is problematic. It states that the organisations who will receive a copy of any application for an SEV will be:

- 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 are situated.

Edinburgh Rape Crisis is the local representative organisation of Rape Crisis Scotland and Edinburgh Women’s Aid is the local representative of Scottish Women’s Aid. Both are members of the Equally Safe Edinburgh Committee. Zero Tolerance is a national violence against women and girls campaigning organisation who were in fact not informed of their inclusion in this policy. We propose that this section be limited to:

- a. The Equally Safe Edinburgh Committee
- b. Any community council within or neighbouring the locality in which the premises are situated.

We further propose the inclusion of [Not Buying It](#), the [Women's Support Project](#) and [You, My Sister](#) () as consultee organisations with specific expertise in commercial sexual exploitation and in supporting women who are/have been involved in any part of the sex industry.

With regards to paragraph 4.12, we wish to highlight the language regarding 'house fees' for performers. The ESEC believes that although this system is exploitative, the Council can strengthen this aspect of the policy to further protect performers' rights. Specifically, we would recommend:

- That fees, once agreed, are frozen for a period of 14 days.
- Similarly, should fees be changed at short notice, the term 'short notice' needs to be clearly defined. We propose a minimum notice period of 14 days to ensure an adequate amount of time for performers to be made aware of possible changes and to make informed decisions around continuing performances in any specific SEV.
- The same paragraph further states that *'the Council does not expect any fines, arbitrary or otherwise, to be in place for performers, which could result in their loss of income'*. We would like to see this provision strengthened, with clear and concise ways for performers who may have suffered a loss of income as a result of fees or fines to be able to report those to the council in private. We then call on the Council to maintain records of any such reports, and to use them to initiate discussions with SEV license holders and to provide up to three opportunities for no further reports to be made before the issue is then referred to Committee for consideration of whether the applicant is still fit and proper to hold a license.

Last but not least, we would like to highlight an erroneous interpretation of the Equally Safe Strategy in paragraph 6.1. The current policy states that Equally Safe *"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".

We strongly disagree with this interpretation of Equally Safe. We are very disappointed that this specific point was included in our previous response to the SEV policy consultation in 2022 but was not taken into consideration. The strategy is titled: Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls. Its intent is to prevent and eradicate any behaviours it defines as VAWG. Further, the Scottish Government co-own the Equally Safe Strategy together with COSLA, the Convention of Scottish Local Authorities. Therefore, it is erroneous to presume that the Scottish Government's intent is to *'ensure that such activities take place in safe and regulated environments'*. The intent of the Scottish Government is clearly stated in the front page of the Equally Safe Strategy: to Prevent and Eradicate Violence Against Women and Girls. Therefore, we strongly urge the Council to reframe this sentence to better reflect a more accurate interpretation of the intentions of the strategy.

Do you have any comments on the existing set of license conditions for Sexual Entertainment Venues?

The ESEC has the following comments to make on the proposed conditions:

Condition 1: We would like to add to this condition that SEVs should not be used for any purpose other than the purpose for which they are licensed to be used.

Condition 28: We believe that women should only be allowed to be employed in SEVs over the age of 25, and not the age of 18. Although women aged 18 are legally adults, we believe that this is far too young an age for them to become involved in the sex industry. Younger women are considerably more vulnerable to abuse and exploitation than more mature women, and the younger the age at which they become involved in the sex industry, the more this increases their vulnerability to abuse and exploitation in future.

Condition 34: We would like to see more specifics around how license holders will be expected to ensure that performers do not share their personal information with customers and vice versa. We already know from peer-reviewed research that 31% of Scottish sex buyers arrange to buy sex from SEVs (Farley, M; MacLeod, J. et al. (2011): Attitudes and social characteristics of men who buy sex in Scotland. *Psychological Trauma: Theory, Research, Practice and Policy*. Vol 3 (4), pp.369-383). This often happens if women have not earned enough through performing at the SEV and need to ensure that they will have an income by the end of the evening. The only way we see it possible for women not to feel the need to meet customers after their performance in order to sell/exchange sex would be to ensure that they are earning a reasonable salary through their performances at the SEVs. As this is not within the Council's remit, we would need to see further specifics as to exactly how the Council intends to enforce this condition to be reassured that performers will not be placed at risk of stalking, harassment or abuse by customers, or forced to sell sex in order to supplement their income from performing in SEVs.

Condition 42: The policy should include clear instruction as to what sanitary facilities will be made available to performers. Given the nature of the work in SEVs, we believe that at a minimum, performers need to be offered private toilets equipped with a sink and shower, and this should be reflected in the policy. This should also be stated as a minimum requirement in any 'moving' premises as discussed earlier.

Condition 43: The ESEC wishes to see information about women's support organisations included in performers' information packs. This would include information on how to access domestic abuse services, sexual violence services, services for women from ethnic minority backgrounds, parenting support, information on how to access benefits and financial assistance, as well as information on training, further education and employability.

Condition 43.2: This condition contradicts section 4.12 of the proposed policy. The policy states that *"The Council does not expect any fines, arbitrary or otherwise, to be in place for performers, which could result in their loss of income."* On the other hand, condition 43.2 states that performers at SEVs are to be given information on *"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"*. This demonstrates a clear discrepancy in the Council's expectations of SEV license holders: on the one hand it expects that there will be fines imposed on performers but also that they will not. We believe this practice to be exploitative: performers at SEVs have to pay in advance to be allowed to perform at venues- to allow for fines to be imposed on them over and above the fees they already have to pay is an abuse of license holders' powers. If a performer behaves 'inappropriately' (with what

constitutes 'inappropriate' behaviour by performers requiring further explanation) then we do not believe that imposing a fine is the appropriate course of action as it threatens her livelihood and makes her more vulnerable to exploitation, or promotes the need to seek additional income outwith the SEV as discussed earlier. The Council needs to clarify whether it would expect fines to be 'normally' implemented in SEVs against performers and under what conditions these would apply. The ESEC believes that no fines should be imposed on SEV performers as this further exploits them and increases their vulnerability to abuse.

Conditions 46.2 and 46.3: The ESEC is extremely concerned with the wording of these conditions. On the one hand, it is not possible for SEV staff to constantly supervise the behaviour of customers, especially during very busy opening hours, or during private performances. This is impossible to implement even in nighttime economy venues which do not involve sexual entertainment-it would be impossible to implement in a SEV. Additionally, the implication of conditions 46.2 and 46.3 is that *"any customer who behaves inappropriately or is otherwise causing alarm or distress to a performer...will be ejected from the premises"*. The ESEC holds that if any customer behaves in a way that causes discomfort, alarm or distress to performers should be ejected and reported to Police Scotland.

The ways in which SEV customers could behave inappropriately towards performers are covered by Scottish legislation. Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 states that:

(1) A person ("A") commits an offence if—

- (a) A behaves in a threatening or abusive manner,
- (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and
- (c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.

Other ways in which customers could behave inappropriately include by touching or making other unwanted physical contact with performers without the performers' consent, which is a well-known rule of SEVs throughout Scotland and beyond. This behaviour constitutes a sexual offence under the Sexual Offences (Scotland) Act 2009, which states that if a person:

- (a) penetrates sexually, by any means and to any extent, either intending to do so or reckless as to whether there is penetration, the vagina, anus or mouth of B,
- (b) intentionally or recklessly touches B sexually,
- (c) engages in any other form of sexual activity in which A, intentionally or recklessly, has physical contact (whether bodily contact or contact by means of an implement and whether or not through clothing) with B,
- (d) intentionally or recklessly ejaculates semen onto B,
- (e) intentionally or recklessly emits urine or saliva onto B sexually

Then that person commits the offence of sexual assault (Section 3: Sexual assault and other sexual offences).

Lastly, it is an offence under section 115 of the Licensing (Scotland) Act 2005 for any person who, while drunk (a) behaves in a disorderly manner of (b) uses obscene or indecent language to the annoyance of any person.

The ESEC is compelled to highlight the staggering discrepancy between the conduct that is expected of citizens under Scottish legislation and the behaviour that is permitted in SEVs. In SEVs, as per the proposed license, anyone who commits any of the above offenses can only expect to be ejected from the premises. We find it astonishing that the Council places no onus on licence holders to report any of the above crimes to the police (condition 46.3) while simultaneously expecting SEV staff to *“constantly supervise the behaviour of customers”* (condition 46.2). These conditions imply that SEV staff are expected to witness crimes being committed against performers but only be allowed to eject customers from the premises without any direct instruction to report perpetrators to the police, but also that this kind of behaviour is tolerated, and in fact, expected in SEVs. The fact that an instruction of this kind would be written in policy by a local authority is extremely concerning.

As the public protection committee responsible for preventing and eradicating violence against women and girls in Edinburgh, we find these conditions to be unacceptable. Should such inappropriate behaviour take place in a SEV, staff must be instructed not only to intervene but also to contact Police Scotland to report these crime(s). This is not only in line with Scottish legislation, but also complies with priority 4 of Equally Safe: *“Men desist from all forms of violence against women and girls, and perpetrators of such violence receive a robust and effective response”*. The ESEC believes that the policy as a whole, and the particular sections highlighted in our response to question 8, not only do not support the fulfilment of our Equally Safe responsibilities, but show disregard towards the welfare and wellbeing of women, who comprise performers in SEVs.

[Would you like to make any further comments about these proposals?](#)

[Please give us your comments.](#)

The ESEC has a number of comments to make regarding the proposed policy pertaining to its incompatibility with various local and national priorities. Our arguments draw information and expertise from a number of sources, including academic research, professional practice and lived experience of women involved in providing sexual entertainment.

The Women’s Support Project, a specialist organisation supporting women affected by Commercial Sexual Exploitation (CSE) in Scotland, have provided [a briefing on SEV licensing for local authorities](#). In their briefing, they highlight the incompatibility between the existence of SEVs and the rights provided by the European Convention of Human Rights (ECHR) and argue that these rights should apply both to the women employed in SEVs as well as women who form the general public.

Protocol 1, Article 1 of the ECHR states that *“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”*. According to Dr. James Harrison, Director of the Centre for Human Rights in Practice at the University of Warwick: *“Sexual entertainment is not a human right; it is sexual exploitation. Sexual exploitation is a practice by which person(s) receive sexual gratification, or financial gain, or advancement through the abuse of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being”*.

In the case of *Belfast City Council v Miss Behavin’ Ltd* (Northern Ireland) the House of Lords found that there was no breach of Article 10 (freedom of expression) or Article 1, Protocol 1 (right to property) of the European Convention of Human Rights because Belfast City Council had failed to grant a licence for a sex shop on the basis that the appropriate number of sex shops in the relevant

locality was nil. *“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’. The human rights of a minority of individuals i.e., customers, club owners, managers and some performers as protected by Article 1 of Protocol 1 (protection of property), Article 8 (respect for private and family life) and Article 10 (freedom of expression) are what are called qualifying rights in that they can be limited and must be balanced fairly against the rights of those impacted by SEVs. They do not take precedence over the systematic exploitation of the majority i.e., those who are harmed through sexual entertainment and other forms of sexual exploitation. Furthermore, a failure by a local authority 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 latter two are absolute rights which can never be limited in any circumstance”.*

Another concern highlighted by the Equally Safe Edinburgh 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.

To have “due regard”, public authorities are required to consider each part of the PSED. Having due regard to the need to advance equality of opportunity involves:

- looking at the need to remove or minimise disadvantages,
- to take steps to meet the needs of those with protected characteristics
- to encourage those groups to participate in public life and any other activity in which participation by those people is disproportionately low.

Public authorities, when ‘having due regard to the need to foster good relations’, must also have due regard to the need to tackle prejudice and promote understanding. In relation to Sexual Entertainment Venues local authorities should take into account the contribution these venues make to the sexual objectification of women and girls

[‘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 Integrated Impact Assessment (IIA) prior to any decision to license SEVs. An IIA was carried out and

subsequently [uploaded on the City of Edinburgh Council's website](#). However, there are issues with this IIA:

- The date of the meeting was 22 March 2023, only 9 days before the meeting of the Regulatory Committee during which the decision was taken to set the number of SEV licenses to nil. We argue that this IIA should have been completed well ahead of the Regulatory Committee meeting on 31 March 2023 to enable decision-makers to read through and digest the information contained therein.
- The final IIA report published on the City of Edinburgh Council website is out of date, stating that there are 4 SEVs operating in the city, when the actual number is 3. We believe that this compromises the reliability of the IIA and recommend that it be repeated, this time with representatives from the Equally Safe Edinburgh Committee, who were not included in the IIA meeting.
- Further, the IIA is based on information and evidence sessions dating back to 2019, for a consultation exercise and subsequent decision-making process in 2022. Given the dramatic global events between 2019 and the present day, including a global pandemic and a cost of living crisis, the ESEC argues that a new IIA is required for a decision to be made based on accurate and up-to-date information.
- The IIA report also states that there was "a period of extensive research" (p.2), yet all the information contained in the report (from page 4 onwards) only makes reference to data gathered through public consultations and out-of-date evidence sessions. Any research that may have been carried out, including research cited by the ESEC in this response, is not mentioned.

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](#).

The ESEC would also like to highlight that the current consultation also provides an opportunity for local authorities to adopt the discretionary powers now available to them under the Civic Government (Scotland) Act 1982, which requires local authorities to consider how their policy:

1. Prevents public nuisance, crime and disorder
2. Secures public safety
3. Protects children and young people from harm and
4. Reduces violence against women.

The ESEC supports that any number of SEV licenses above nil(0) contradicts any work to prevent and eradicate violence against women and girls, and consequently, the Council's Equally Safe responsibilities.

Women's Safety

Once again, the ESEC is compelled to highlight that although measures such as CCTV should be mandatory in any policy regulating the nighttime economy, these measures in themselves are inadequate in preventing violence against women, or indeed any performer or staff member in any establishment. There is no 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.

During a lived experience event organised in partnership between the ESEC and [You, My Sister](#) in December 2022, "Esther" (not her real name), a survivor of the sex and porn industries, spoke of her experience of how safety measures operate in SEVs: *"Panic buttons in strip clubs and brothels are never used. There will be consequences for you if you do. CCTV is also meaningless as, unless someone is keeping the venue under constant surveillance, which will deter buyers in the sex industry, it can only be used after an incident rather than to prevent or stop one. If rooms are dimly lit or the tape can be conveniently lost, it's of little value. Security staff are often part of the pimping organisation, for instance they often harass and abuse women in strip clubs or outside them. Security wouldn't have helped a woman I knew, who was a lap dancer at Spearmint Rhino on Tottenham Court Road. She was recruited from there by a leading sports promoter to assist at sporting events and provide sexual access for his entire retinue. After this she used to call me in the middle of the night, heavily intoxicated, in strange bedrooms, in pain and unaware of where she was. What was the likelihood of a high rolling customer who brought celebrity sports figures to the club, being barred for doing that?"*

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 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 ESEC agrees with national and international research that concludes that sexual entertainment (as well as all forms of the sex industry) is a key contributor to gender inequality in society, reinforcing the view that women are 'objects' 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 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

study¹ 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’.

Most importantly, the concern that the closure of SEVs will push sexual entertainment and other forms of sexual services ‘underground’ has already been challenged by research findings that the presence of SEVs in localities actually increase the demand for prostitution-not the reverse ([Horvath & Kelly, 2007](#)). In fact, it is *“the continuous supply of dancers, rather than the demand for erotic dance, that accounted for the expansion of the sex industry”* ([Sanders & Hardy, 2011](#)).

Sexual entertainment and violence against women:

Stripping, lap dancing, prostitution, pornography and sex trafficking are forms of sexual exploitation and consequently forms of violence against women and girls according to Equally Safe. They exist within a continuum of violence which normalises the commodification and objectification of women, and subsequently more extreme forms of abuse such as sexual assault and rape.

Men who frequent SEVs demonstrate such attitudes publicly, with online reviews of SEVs such as *“the girls were ugly, annoying, coked up and stinky”*; [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.”*

Further examples of such behaviours were reported in the [Daily Star as recently as January 2023](#), with a tourist stating that *“The men watching were acting like animals and treating the girls like men. Some of them so intoxicated it’s amazing they were let in in the first place”*. In other words, SEVs permit (if not encourage) behaviours which, in any other personal, professional or social context, would be unacceptable at best and illegal at worst.

There are numerous further examples of how SEVs, a ‘soft’ entry into the sex industry, contribute to, or are complicit to violence against women and girls. In a 2021 Employment Appeal Tribunal between A vs Burke and Hare, one of Edinburgh’s SEVs, the Honourable Lord Summers refused to keep the identity of a performer secret in her claim for £1800 of holiday pay. Lord Summers states that, in the claimant’s own words, *“the job is to engage in heavy flirtation with customers, including intimate discussion about one’s private life (almost entirely fabricated by most dancers). This is with a view to paying for a private dance which involved my stripping entirely naked and showing the customer my naked body. The physical contact was limited to being touched by customers briefly without their consent and in breach of the club rules, and my sitting on client’s lap, but the fully nude private dance involved the mimicking of sexual acts such as masturbation and sexual intercourse”* (p.8).

¹ 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

The ruling goes on to state, again in the claimant’s own words, that “her work involved the risk of physical assault. The Claimant stated that customers had threatened to follow her home [...] She stated that when working at Burke and Hare she had on occasions been called a “slut” and a “whore”. The Respondents dispute the Claimant’s assertion that she was verbally abused or threatened” (p.7). Lord Summers concludes that “[the Claimant] had willingly undertaken the risk of abuse and violence when she worked as a stripper” (p.10-11)

The examples above illustrate, in a performer’s own words, the risks involved in working in a SEV, as well as the verbal abuse women are subjected to. In the above ruling, the establishment of course denied this and claimed that the SEV is a safe environment for performers – as was also stated during the [Regulatory Committee meeting on 31 March 2022](#). However, if lived experience is to be taken into account then the ESEC would argue that if we are to reduce, prevent and eradicate violence against women (as per the Equally Safe strategy and the Civic Government (Scotland) Act 1982), then we must listen to the women who have had negative or violent experiences while working in SEVs. Stripping entirely naked and showing one’s own naked body, being touched against one’s will and mimicking masturbation not only describe sexual assault, but also inhuman and degrading treatment – which is prohibited under [Article 3 of the European Convention on Human Rights](#).

The idea that Violence Against Women and Girls (VAWG) exists in a continuum, rather than as isolated incidents, started with Liz Kelly’s seminal work in this area in 1988². Male VAWG exists through a culture of sexism and misogyny that is deeply embedded in society and manifests in every area of life, including women’s poverty, the gender pay gap, women’s underrepresentation in political decision-making, gender stereotyping and numerous other social phenomena. This culture of sexism and misogyny exists at the bottom of a pyramid of escalating violence and abuse, culminating in sexual harassment, abuse and rape, as Figure 1 demonstrates.



The culture of misogyny and sexism enables ‘low level’ behaviours such as catcalling, sexual/rape ‘jokes’ and ‘locker room banter’, which in turn serve to further normalise such attitudes and behaviours. Normalisation leads to behaviours that overtly demean and degrade women, placing the onus of responsibility for violence and abuse directly back on women themselves. This behaviour subsequently enables rape, as the belief that the responsibility for violence and abuse against women and girls lies with women and girls, creates an underlying culture of impunity: women are ‘asking for it’, they ‘have it coming’ and therefore men are not to blame for rape.

Figure 1: The pyramid of discrimination and violence. Image credit: www.11thPrincipleConsent.org

² Kelly, L. (1988): *Surviving Sexual Violence*. UK: Polity Press

The ruling on A vs. Burke and Hare illustrates this example. The Claimant describes in detail the sorts of behaviours she encountered in a SEV-behaviours well above the bottom level of the sexual violence pyramid, such as catcalling, groping and unsolicited touching, which are normalised in that particular setting. Lord Summers's statement that she had willingly undertaken the risk of violence and abuse further demonstrates the belief that it is 'normal' or 'expected' for men to behave in this way.

It is the ESEC's educated view that allowing establishments to operate in the City of Edinburgh where these behaviours are normalised and encouraged is enabling such behaviours to manifest in other areas of life. It is in this way that SEVs, as part of the sex industry, enable violence against women and girls by reinforcing the belief that they deserve to be objectified and treated in a degrading manner, simply because they are women and girls.

The pro "sex work" lobby argues that stripping, lap dancing, camming, prostitution, escorting and other forms of commercial sexual exploitation are just forms of work, and they should be regulated and supported in the same way as any other type of work. However, research has demonstrated that performing in a SEV is damaging primarily to women paid to do so, as well as to wider society.

"Esther", also mentioned previously, described her experience as follows: "[There are harms] inherent in the nature of the work, cannot be removed from it and can have lifelong mental health implications. Simply being objectified or objectifying yourself is harmful. It affects your own view of your self-worth and can have a serious impact on future relationships. Men who get involved with you after you've exited frequently, if they know your background, ask why you won't perform acts you were paid to perform when you're with them, if you really love them.

Having sex in any form or having to express a sexual desire you do not possess constantly, with countless men, is harmful. The human psyche is not designed for this, so you dissociate and end up with a split persona, where you suppress real emotions and express emotions and arousal you don't feel. It's also why substance and alcohol use issues are normal across all forms of the sex industry. Dissociation can become associated with sex even after you exit. Denial and cognitive dissonance, that is, believing things you know are not true, are necessary survival mechanisms trauma bonding is common in the sex industry, as it is with domestic abuse and child sexual abuse".

Research findings also confirm this assertion: Whether they choose to be in sexually objectifying environments or not, women's exposure to sexually objectifying events or environments can directly cause distress and increase women's vulnerability to eating disorders, sexual dysfunction, anxiety and depression. A recent study also found *"strong evidence that exposure to objectifying events in daily life primes a state of self-objectification, making women more conscious of how their body appears to others...just as breathing second-hand smoke is unhealthy for nonsmokers, we found that objectifying events need not be experienced first-hand to induce the potentially harmful process of self-objectification. Witnessing sexual objectification of other women also reliably predicted ... increases in state self-objectification"* (Koval et al. 2019, cited in ["Safe and Equal Bristol report: Sexual Entertainment Venues Policy Review – 14 November 2021"](#)).

Further, the pro "sex work" lobby has for a very lengthy period of time relied on the argument that the Council is failing to listen to performers' views on any proposed SEV licensing policy. This is not the case. The fact that the Council met with SEV performers during the second phase of the SEV licensing consultation has been [reported in the media](#), while additional information about this engagement is also included in the (now out-of-date) [Integrated Impact Assessment](#). If lived experience is to be taken into consideration, as it should be, then the voices of survivors who have

suffered abuse and exploitation in any form of the sex industry need to be heard equally to the voices of those who advocate for the sex industry.

These examples 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, which Equally Safe defines as a cause and consequence of violence against women and girls.

SEVs in Edinburgh

The ESEC believes that sexual entertainment has no place in Edinburgh. This is not only a belief held due to the local authority's and its partners' Equally Safe responsibilities, but also due to its incongruence and direct contradiction to key Council policies and workstreams:

- 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)³ '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, 2012⁴).
- 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 to experience fear and alarm, to the extent that they may avoid frequenting or accessing those areas altogether.
- Most recently, work has commenced on the "Edinburgh as a Feminist City" motion, tabled at the Full Council meeting on 4 May 2023. As agreed, the motion aims "to recognise that more work was needed to create safer and inclusive spaces for women and people of marginalised genders and that it was fundamental that gender equity was central to land use planning, and the management and design of public spaces" and "To believe a gender-neutral

³ Royal Town Planning Institute (2007): *Gender and Spatial Planning*, RTPI Good Practice Note 7; London: Royal Town Planning Institute.

⁴ 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.

approach to city development did not work and that women and people of marginalised genders had diverse needs that were not currently reflected in practice". The existence of SEVs is in direct opposition with the content of this motion and of the outcomes it is trying to achieve. As has already been highlighted by this response, the existence of SEVs makes women feel unsafe, leading them to self-exclude from those areas, and consequently further contributing to gender inequality.

Following the decision to set a nil cap for SEV licenses in Edinburgh, a judicial review overturned the decision on the basis that any license applications must be refused – contrary to the wording of the proposed policy, which stated that applications *may* be refused. A [legal analysis](#) of the decision concluded that:

- The Council was perfectly legally entitled to introduce a ‘nil cap’;
- A nil-cap is a de facto ban;
- A nil cap would not breach the existing operators’ Article 1, Protocol 1 rights (“peaceful enjoyment of possessions”)
- It would be lawful to have regard to a definition of violence against women and girls as set out in the Equally Safe strategy;
- The nil cap did not breach the PSED - rather, it demonstrated due regard to the Equality Act (2010) and
- The United Sex Workers Union was not a “victim” of the Council’s decision.

The analysis concludes that although the decision to set a nil cap was lawful, *“the Committee making the resolution had been materially misled as to the effect of what they were intending to do”*. In other words, the Committee were informed that they ‘may’ refuse a license, when in fact, they **must** refuse a license.

It is also important to highlight that on at least two occasions, Councils have had decisions overturned in court on matters relating to the licensing of SEVs in their local area. In 2017, Sheffield City Council [admitted failure to comply with the PSED](#) when it granted a new SEV license to Spearmint Rhino. The judge stated that *“the Defendant [Sheffield City Council] has wrongly ignored objections based on the potential impact on gender equality, treating them as moral objections and irrelevant”*. Louise Whitfield, who represented the claimant, went on to state that *“[Sheffield City] Council now accepts that they were wrong to ignore the concerns raised about the sexual objectification of women, and to dismiss these as ‘moral objections’.* It is now clear that a local authority considering any such license applications must look long and hard at the adverse impact on gender equality of letting such an enterprise exist at all. Otherwise, it will be acting unlawfully and will be subject to legal challenge”.

Further precedent was set earlier in 2023, when a High Court judge quashed Bournemouth, Christchurch and Poole Council’s decision to have a ‘no cap’ SEV licensing policy. Mr. Justice Choudhury stated that:

1. The council had failed to have *“regard to the ‘sex equality-based (SEB) concerns raised by many consultees”*.
2. There was a breach of the PSED, failure of adequate enquiry and failure to take into account considerations relevant to sex equality-based concerns.
3. The ‘Acquired Rights Policy’ (ie. ‘grandfather rights’) granting an automatic renewal to existing license holders, *“so long as there had been no material change in the character of the locality and unless there were any objections, amounted to an unlawful fetter on the*

defendant's discretion and/or amounted to a 'rubber stamping' of a renewal contrary to the statutory requirement to review the license each year".

Implementing Equally Safe in Edinburgh is not only a requirement of the PSED, but also a clear expectation from the Convention of Scottish Local Authorities (COSLA) and the Scottish Government, who co-own the Equally Safe Strategy. The City of Edinburgh Council is expected to fulfil its commitments under Equally Safe, and setting a nil cap on licenses for SEVs is one necessary step in this process.

Conclusion

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 and eradicate violence and abuse against them. Our argument is not moralistic - it stems from decades of professional experience supporting survivors of the sex industry, witnessing its harms first-hand. It is also supported by local, national and international research highlighting the harms suffered by women in the sex industry, the harms on communities, societies, attitudes and society at large, while there are now also legal precedents for the importance of gender equality to be seriously considered in any decision-making process around licensing SEVs.

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. The standard we walk past is the standard we accept as a society, and we urge the Council to consider what message it wishes to send to women, men and children growing up, and what this will mean for the future of equality in our city.

Appendix 7 – Licence Policy Comments

1.	<p>The existing set up for SEVs provides perfectly legal and morally sound employment for potentially hundreds of people. Having worked in the venues myself, I can confirm that the bars attract tourism from all over the UK and further afield, Edinburgh’s economy would suffer greatly from the absence of the bars.</p> <p>Additionally, I find it to be hypocritical to target adult entertainment venues while still allowing massage parlours/saunas to operate. Dancing is a choice for every single dancer that I’ve ever come into contact with, whereas prostitution is often exploitative, unsafe and unregulated. While working at the venue in Edinburgh, I was able to study and attain my BA(Hons) in accountancy. Three other girls completed their nursing degrees and are now NHS nurses. The industry is vital to women who otherwise would not have the means or flexibility to do these things. It’s 2023 now guys, we should not be telling women what they can and cannot do with their bodies anymore.</p>
2.	<p>We broadly welcome the policy and support the Council's decision to introduce a licensing scheme, and being open to setting the appropriate number of licensed SEVs to zero. We also welcome the proximity to places of worship being part of the considerations of whether to licence a SEV or not.</p> <p>We also appreciate in paragraph 6.1 that the contradiction is pointed out between the definition of violence against women and girls under the Equally Safe strategy and the licensing of SEVs. We would encourage the City of Edinburgh Council to take the lead in Scotland in setting the appropriate number of licensed SEVs allowed to zero, since their practices constitute violence against women and girls.</p>
3.	<p>I strongly believe that the sex industry, in any form, is a pathway that captures vulnerable women and girls within our society. Those with mental health issues, from poverty, unstable home backgrounds, care sector and others, are all over represented in the sex industry and I strongly oppose licensing being approved for SEV’s.</p>
4.	<p>The nil-cap decision should remain. We don't want strip clubs in residential areas; we don't want them in commercial areas; we don't want them in rural areas; we don't want them full stop.</p>
5.	<p>The policy should specify that the appropriate number is zero in all localities.</p>
6.	<p>I agreed with the Councils policy for zero licenses for stripping. I am someone who could be passing by these establishments and, as a woman, they make me feel vulnerable and afraid of sexual harrasment when I should be able to move around the city freely.</p>
7.	<p>I raise concerns that a cap in the number of SEVs is likely to</p> <ul style="list-style-type: none"> -force work underground, resulting in unsafe working conditions -reduce employment rates in the middle of a cost of living crisis, pushing workers into unemployment and poverty or even less desirable work -creates a monopoly where workers lose their bargaining powers with managers/venue owners <p>I believe no cap in the number of SEVs will force current license holders to create favourable working conditions to entice workers and empower other workers to open their own venues. This, I believe, would ultimately reduce violence against women, which the current policy raises as a concern.</p>

8.	<p>It is 2023 ... and absurd that you should be able to set a "cap" on the number of SEV's in a city.</p> <p>Shutting down SEVs ONLY serves to move this type of work underground and make it more dangerous for both the staff and customers. Embrace the different types of people and work you have in this city and don't dictate people's (mainly women's) lives. Ensure safety and security for all those working in SEVs, as well as local residents and customers - to do anything less would be absconding from your duty as a council.</p>
9.	<p>Increasing the cap on the number of strip clubs in Edinburgh makes it safer for the dancers as they have choice in their workplaces which therefore encourages better working conditions in each individual club and reduce exploitation.</p> <p>Closing clubs forces these women into unemployment, ultimately relying on the government or more risky types of sex work which goes unmonitored.</p> <p>If the issue is really the safety of the workers, working standards for these women should be implemented in the club to ensure their rights are recognised in the workplace, rather than displacing people who choose to work in the industry and leaving them with nothing.</p>
10.	<p>I believe it is shocking that Edinburgh City Council ever thought that reducing the number of SEVs allowed to operate in the city to zero was acceptable. Sex workers have the right to work, just like anyone else, and they deserve for venues they can work in not to be limited. Limiting the number of venues increases the power of managers and owners, and reduces the level of autonomy for sex workers who have less room to bargain, negotiate or change places of work to suit them.</p>
11.	<p>The nil cap on SEVs is harmful to sex workers, who should be the first to be consulted on policies that will affect them. The majority of the workers in the clubs are women, and closing down any number of their current workplaces would force those women into unemployment and poverty. It will limit their bargaining power at work with management, directly contravening the council's objective of reducing violence against women. Furthermore, there is no evidence that strip clubs directly correlate with, nor cause, instances of violence, particularly violence against women. If the council were to follow its objective on securing public safety, then their aim should not be to close down the safe and legal workplaces of over 100 workers. There is no evidence that trafficking is a problem within the UK strip club industry. Indeed, it is far more likely to become an issue if the industry is unlicensed and pushed underground as a result of a zero cap.</p>
12.	<p>A proposed "0" cap on the number of SEVs in Edinburgh is neither motivated by evidence nor by the purported moral obligation to reduce violence against women.</p> <p>SEVs permit women to freely ply their trade in the safety of a licensed venue. This trade is not inherently immoral or a threat to public decency or well-being: it is work. SEVs are currently operated by a small group of proprietors and operators who, like most bosses, do not have the best interests of their workers at heart. An unlimited cap would enable workers to organize, own, and operate their own SEVs consistent with the spirit of entrepreneurship which Edinburgh city council proudly touts as one of it's residents' strongest qualities. It will also enable workers to bargain collectively and secure better pay and conditions, the inherent right of any worker.</p>

	<p>This policy was developed without consultation with actual workers, predominantly women, who will be without work and will likely face poverty as a result of a 0 cap. There is no evidence that SEVs contribute to violence against women or generate disorder or crime in their vicinity. At worst, they will be driven into non-compliant SEVs - i.e. unregulated, unsafe, and insecure.</p> <p>Sex work is labour like any other and this policy places the protection of public sensibilities - and the paternalistic protection of women's virtue - over the agency of women to work freely and without restriction. It will harm women in spite of its promise to protect them.</p>
13.	<p>As a local resident in an area of Edinburgh where a number of SEV are present, I do not see any reason why the number of SEVs should be capped or why the existing SEVs should close their doors. As a resident, I always feel safe in my street and surroundings, and having, for example, the security personnel present, gives me a sense of safety as well. There is no evidence that having SEVs present is associated with an increase in violence. In my experience, this is not a public safety issue. Especially in bigger cities, such as Edinburgh, there is always a mix of different businesses, charities, etc. in the vicinity and that is the character of a bigger city. I, therefore, do not see any need to restrict where SEV could be run.</p>
14.	<p>There shouldn't be a cap on how many SEV's there are in ANY area. These venues provide work for people, there's no reason they should be capped. By imposing limits you're forcing Sex workers underground i to unsafe circumstances. Sex work IS work. The clubs should be given help to stay clean and proper and ensure they are living by their licensing rules for sure but you shouldn't be closing them down all together. The bar staff, performers, management, and other people that work there still need jobs and I don't see you providing adequate alternatives for these people so let them work where they work. No one was forced into it. They all go of their own accord and you are taking their choices away from them.</p>
15.	<p>I don't think there should be a cap on SEVs because a high number of workers, mostly women, are dependent on this kind of work, and reducing the number of SEVs in Edinburgh (or eliminating them) would force this work underground and increase the risk of violence to women.</p> <p>Moreover, increasing the number of SEV licenses would reduce the monopoly of existing SEVs, and create a stronger bargaining position for the workers in SEVs, potentially even creating an opportunity for dancers to open their own venues with safer and more empowering working conditions.</p> <p>Sexual entertainment is going to happen one way or another, but by creating safe spaces through more licensed and regulated SEVs, the Edinburgh City Council has the opportunity to protect workers in these environments. Sex workers are part of the the public, and their safety is as important as anyone else. Capping or eliminating SEVs will not increase their safety, or the public's safety, as it will force these activities to occur in unregulated spaces.</p>
16.	<p>I am against on placing a limit on the number of strip clubs in Edinburgh. Increasing the cap on the current number of strip clubs within Edinburgh would allow for workers to collectively open their own strip clubs, outside of the current monopoly.</p> <p>It feels particularly important to me to question the motivation of the proposed gap when there is no evidence that strip clubs directly correlate with, nor cause, instances of violence, particularly violence against women.</p>

Workers' collectively organised and run venues will enable them to improve their own working conditions and lessen the exploitation of their labour by 3rd parties such as managers.

The majority of the workers in the clubs are women, and closing down any number of their current workplaces would force those women into unemployment and poverty. It will limit their bargaining power at work with management, directly contravening the council's objective of reducing violence against women.

If the council were to follow its objective on securing public safety, then their aim should not be to close down the safe and legal workplaces of over 100 workers.

RE: 3.3

A city is, by definition, somewhere that has many different types of businesses and community resources side by side. This means that wherever a business is placed may inadvertently be close to one of the mentioned community resources.

There is no evidence that trafficking is a problem within the UK strip club industry. Indeed, it is far more likely to become an issue if the industry is unlicensed and pushed underground as a result of a zero cap.

RE: 4.4

SWU disagree that these organisations are the only stakeholders in the making of this policy and the decision to open new clubs. Any policy on sexual entertainment venues should be consulted on with those it will impact the most, which includes any current workers within the clubs and their trade union organisations.

Furthermore, a number of these organisations have explicitly defined any form of sex work, including stripping, as violence against women and girls – completely ignoring the agency, and human and work rights of the workers within the strip clubs.

RE: 4.12

Whilst it is a good move by the council to take workers' financial burdens into account, it is worrying that by reporting instances of house fees and fining, workers are potentially encouraging the council to close their workplace down. Workers should be free and empowered to bargain with their workplaces, with the council's support, without fear of losing their livelihoods.

This particular policy should be especially consulted upon with the workers in the clubs, and how both they and the council can work together to improve their working conditions.

RE: 6.1

Defining all instances of sex work including stripping as 'commercial sexual exploitation' and/or violence negates the real and material instances of exploitation

	<p>and violence that can occur to those in the industry. It ensures that workers are unable to speak about genuine instances of violence and exploitation when all and any aspects of their work are seen as violent and exploitative. It is unhelpful and disempowers the workers when they cannot define their own experiences and we urge people to reconsider this definition.</p> <p>Framing sex work under Equally Safe, a strategy specifically aimed for women, also leaves out male and sex workers of various genders who also require support.</p>
17.	<p>My experience as an RN of 40yrs has led me to observe the affect these types of premises have on the safety and human rights of women/girls.</p> <p>The dehumanising of women to sexual objects and the subsequent increase of sexual abuse experienced by women in Scottish society can be exacerbated by allowing these premises to operate anywhere in Scotland.</p> <p>The policy itself should remain at zero establishments in Scotland as a whole.</p>
18.	<p>I disagree that the appropriate number of SEVs for a progressive and heretofore considerably forward thinking and inclusive city such as Edinburgh should be zero. I feel that such venues add real value and revenue and need to be embraced.</p> <p>The list of organisations in s4.4 who must be given a copy of the SEV license application seems to suggest that such venues promote or at least contribute to sexual violence against women. Having worked in the industry for 12 years I have never seen evidence of this and I feel this is a dangerous and stigmatising attitude to portray, and shows a deep lack of knowledge and understanding. Whilst not diminishing the important roles of these organisations, I do not think it appropriate or necessary for them to be a part of the licenseing process.</p>
19.	<p>“Sexual entertainment” has a largely male customer base that further serves to devalue, dehumanise and denigrate women in society. The policy should be to remove these venues because women are not objects they are people, mums, sisters, daughters, nieces, aunts, grandmas. Women are carers, nurses, doctors, waitresses. They require respect and I fear that when men attend these places it devalues women in their minds and contributes to abuse against women. There is no social value therefore to these venues other than capitalism and potential exploitation of women who view selling their bodies for sex as viable sources of income in a society that reinforces that as 80% of prostitutes worldwide are women.</p> <p>I don't have any hope you will listen to anything I've said because the market will decide but I hope you understand, why I had to say it.</p>
20.	<p>I support the Scottish Government's Equally Safe strategy on Violence Against Women and Girls which covers the spectrum of violence against women and girls. Central to this is a recognition of the links between the discrimination, objectification and violence against women and a call to end commercial sexual exploitation.</p> <p>I feel that the policy normalises a culture where women and girls are viewed as sexualised objects. -</p> <p>The presence of SEVs not only normalises negative attitudes towards women, it also reinforces power imbalances and gender inequality between men and women.</p>
21.	<p>The term 'sexual entertainment' is a nauseating euphemism. It is not the council's role to give taxpayer funded approval to places that profit from the exploitation and degradation of women. Customers are disrespectful of surrounding areas and any</p>

	woman in the vicinity also gets harassed. There is no place for such venues in a civilised city like Edinburgh
22.	SEV establishments encourage crime such as drug use, sex trafficking, sexual assault, coercion and harassment of women by predatory males at night. It is disgraceful that the council has allowed such establishments to exist right next to both university accommodation and buildings and a secondary school, close to many vulnerable teenagers and young people. I don't believe any sort of sex trade or tourism is positive for the safety of women in the city.
23.	I strongly object to the existence of all "sexual entertainment venues" due to the fact that I believe that they perpetuate and promote misogynistic attitudes towards women, encourage the already rife violence against women, make women who live or work nearby, or have to pass through these areas, feel unsafe, and perpetuates an economy which encourages phenomena such as modern sexual slavery.
24.	These venues have no place in modern society and should be banned altogether. It is hypocritical to claim that you value women but simultaneously license venues for men to ogle and "buy" their time. There is nothing empowering or feminist about being in the sex entrainment industry.
25.	I do not agree that Sex Entertainment has any place in Edinburgh. It is unsavoury and unacceptable in that it can lead to the exploitation of vulnerable people, sex trafficking, and the objectification of particular sex categories. It is a well-documented fact that voyeristic activities are a gateway to criminal activity, and that the viewing of porn can be a slippery slope which can be very damaging to the viewers ability to interact in a healthy way with others. Consenting adults are quite capable of entertaining each other, in the privacy of their own homes within a hopefully trusting and mutually respectful space.
26.	It is absolutely essential that SEV's are allowed to exist and operate, particularly so that performers (strippers in particular) have access to safe, regulated places of work. A nil-cap policy would effectively force a lot of performers and other venue staff out of work and into unemployment, or force them into unsafe, underground, unregulated work. This would be a disaster for those involved and drastically increase the risk of violence to these women.
27.	If you are closing down places of work for workers, is your action evidence based? Who is it helping? Because it is not helping the workers who will have no jobs under a cost of living crises, and it will not help any women to be destitute and impoverished. Why are SEVs so much of an issue? They are entertainment venues and the government should have no say on how many should exist, considering it cannot take care of the people it would turn unemployed. Unless you offer people a hefty universal basic income to cover their living costs and potential child care needs etc, then don't close places of work where they will get those needs met. You are otherwise simply putting people in terrible and precarious conditions, which might mean they would need to take work under other SEVs that might be less favourable and more abusive, because you limit their options. If you want to help people, listen to what their lived experience. Dancers don't need saving, the world is not affected negatively by them. Just let them work where they prefer to work. No cap on SEVs!
28.	Given the cost of living crisis, putting a cap on strip clubs will inevitably put people out of work and increase the likelihood of people ending out homeless. In addition these spaces add no extra issues that aren't already there from bars resteraunts etc. Also given that the majority of the workers are women this puts an

	<p>already marginalised community against more vulnerability , in particular through setting a cap it increases the likelihood of female workers being exploited because they don't have an alternative to any potential harsh or dangerous working conditions</p> <p>There is no evidence to suggest that strip clubs increase trafficking in the UK but there is a likelihood of women in the UK being exploited if a cap is set on clubs. Defining all sex work as exploitative creates a false narrative for those who work in sex work but also dismisses genuine narratives as they are all put under the same umbrella. It would be a disservice to sex workers who are simply trying to earn a living to set a cap on the opportunities for safe sex work. There would never be a cap placed on bars where people of different backgrounds can be at risk so there should not be a cap placed on strip clubs under the guise of an assumed risk.</p>
29.	<p>I am a dancer who has been in the industry for 10 years. I travel all the way to Edinburgh from Leicester to work because it's such a safe strip club environment. Strip clubs are not offering sexual services, they DO NOT include sexual services and there is an no touching policy. I have more chance being touched inappropriately on a regular night out. We are sole traders, who rely on this income, we have houses, children and bills to pay. If strip clubs are closed down it should be the clubs that neglect to follow rules not clubs that protect dancers the way they do in Edinburgh. Edinburgh is a safe haven for dancers like me who travel from Leicester to work in a safe environment. Lap dancing venues appeal to men and women, they are fun venues that celebrate the female form & the freedom and autonomy of women. I rely on the income from the venues in Edinburgh. The girls that work In Edinburgh are safe and protected.</p>
30.	<p>Closing down and restricting SEV affects women disproportionately. It will affect their employment and financial status. Choosing to work in a SEV allows women flexibility and choice over working times/income, that is not the same in a regular 9-5 job. The reasons for a woman preferring to work in this way could be due to balancing childcare, studies etc. These women's career choices should be supported and not shut down.</p> <p>Shutting these venues down could actually create more issues and make it more dangerous for women to work in the way they want to.</p>

Appendix 8 – Licence Conditions Comments

1.	The current conditions are fair and should remain as they are.
2.	These seem entirely fair and proportionate.
3.	If a licence HAS to be granted (and I don't think it should) the conditions look thorough. Of course they don't consider the long term impact on the commercialisation of women's bodies, and your goal to reduce VAW.
4.	The only good thing about them is that you can set the number at zero. If you can't, then they are of no use at all, and are harmful to the women who get caught up in the industry and the wider community in which they are situated.
5.	The current licence conditions do nothing to protect the rights of the workers. Any further consultations should directly involve the workers and their representative bodies.
6.	The council should take the opinions of the workers that these policies will affect rather than making these decisions for them. Just as with any other employee, they should be consulted directly when the decision being made will have a direct and immediate impact upon their working conditions.
7.	Current state was created without consultation of strip club workers. Any changes should be formulated with and agreed upon by those most affected. The council have a responsibility to protect and support their citizens, not further monopolies or outright ban employment options out of moral panic. In the midst of a cost of living crisis.
8.	Again, the workers of the venues should be consulted directly in regards to anything that affects their personal living situations and income opportunities. This is not the case with the existing cap, and must be considered more carefully going forwards to give these (predominantly) women agency over their lives.
9.	The current licence conditions were created without consulting the people it impacts the most and does nothing to protect them. Any changes or future licences/policies should be created *with* the workers.
10.	There should be a zero sexual 'entertainment' policy, no venues, no 'entertainment' of a sexual type.
11.	The notion of "reasonable conditions" for licencing SEVs is a contradiction in terms and I strongly object to the idea that any condition would mitigate in the welfare of women or the wellbeing of our communities. SEVs should be shut down, as had been previously agreed by the council.
12.	I see little problems with these, so long as there are continued places for the staff to work in a safe environment
13.	SEVs should be managed so that customers or potential customers are not able to loiter outside the venue causing any kind of disruption or noise to neighbours or negative effects on people passing by There is an important safety aspect for workers around getting home after their shift especially during hours of darkness and when people on their way home will have consumed alcohol so I would like to see conditions in place to ensure travel home plans for workers
14.	Any conditions should prioritise the workers' safety.
15.	It is essential, and right, that any conditions/policy changes are only introduced after truly listening and incorporating workers wishes, both by talking to them directly and through their union representatives. The current licensing arrangement has not

	included the voice and needs of workers, and this goes directly against recognising their agency, human rights and safety.
16.	License conditions should ensure the safety of its workers. Restrictions should consider whether you are putting its workers at risk e.g., if they have to travel to remote, isolated locations; if they are forced 'underground' due to strict restrictions that make businesses struggle to keep going removing access to help and adding criminal liability for its workers.
17.	<p>Create a policy for zero strip club license, as originally intended and discussed in depth by the council, and ensure exit support for all women at any time working at venues currently licensed for stripping.</p> <p>No private booths/rooms/areas in any clubs - a blank cheque for extreme sexual contact and abuse.</p> <p>It is the strip industry (not ending it) that drives the underground industry, including directly feeding the supply and demand for prostitution.</p> <p>It is strip clubs that keep women out of safe, and often paid work. Women working as lap dancers could even work in exactly the same venues which will become cafes & bars etc instead of strip clubs. Only then will they be in safe, paid work.</p> <p>A Judge has confirmed the council's absolute right to introduce a zero policy despite currently licensing stripping at 3 venues; several court cases have shown councils must consider the impact on women more widely and that it is unlawful to dismiss harm-based concerns as 'moralistic'.</p> <p>Placing undue reliance on the 1,000s of responses orchestrated by the powerful sex trade lobby risks the council making unlawful decisions that put women both in and outside of the strip industry in even more harm.</p>
18.	The conditions have to be realistic. If they are too prohibitive then the activity will be pushed into unregulated (and unsafe) premises.
19.	<p>The fact that there have to be so many conditions prove the inherent dangers in such places.</p> <p>They exist to arouse men and encourage men to abuse women. They make it even more unsafe for women to be in city centres late at night/early hours.</p> <p>Far from being a harmless outlet for men, they encourage the objectification and abuse of women and girls.</p>
20.	Dancers should be able to report any sexual assault which by patrons to the police without the risk of the club losing its license.
21.	The performers rights and voices must be prioritized at all times and their work and welfare protected.
22.	I am against limiting the hours of operation of any business. Each business should be allowed to decide its own hours. Limiting hours will reduce a businesses ability to support itself and its workers.
23.	They are appropriate currently except the condition to close at 1am. They should be allowed to operate later in line with the rest of Scotland.
24.	The existing set of license conditions for SEVs was made without the extremely valuable consultation and input of SEV workers and does nothing to protect employee rights. Edinburgh city should consider SEV workers as the primary

	<p>stakeholders for any changes to conditions and regulations of SEVs, considering that any changes to condition primarily affect their livelihoods.</p> <p>The best way to ensure the safety and dignity of SEV workers--especially the women that changes to the licence conditions aims to protect--is to give them infrastructural support to enact their own agency, and therefore grant them a voice to name the working conditions that best keep them safe.</p> <p>It is well within Edinburgh City Council's remit to protect the safety of its constituents, which includes those who find work and livelihood through SEV industry. Limiting the number of SEVs goes directly against that remit, since those working in that industry will have their lives upended in the midst of an ongoing cost of living crisis.</p>
25.	<p>Strip clubs should be able to advertise on the front of their premises beyond the name and opening times. Stripclubs deserve to be able to advertise business too. The girls work for commission it's not fair that they should earn less due to less marketing opportunity.</p> <p>There is no reason why strippers or staff cannot stand in the foyer or lobby of their WORK PREMISES, we are people, too. Even if it gets attention of customers, why not, other establishments are allowed to do this. Stop treating sex workers like disgusting secretes that should be hidden and micromanaged. We are people</p>
26.	<p>I agree with all of the above, except that clubs should be allowed to advertise in a respectful and tasteful way. The performers can't make money if there are no customers I also think clubs should be encouraged to provide a base wage for performers as currently there are no clubs in the U.K. who offer this and it's unfair that they should expect performers to work for 8 hours plus without any potential payment if the night is slow. Dancers also have no holiday or sick pay entitlement and I believe this is something that should be provided for them.</p>
27.	<p>No advertisements should be allowed.</p>
28.	<p>The current conditions are fair and should remain as they are.</p>
29.	<p>These seem entirely fair and proportionate.</p>
30.	<p>If a licence HAS to be granted (and I don't think it should) the conditions look thorough. Of course they don't consider the long term impact on the commercialisation of women's bodies, and your goal to reduce VAW.</p>

Appendix 9 – Other Comments

1.	It's important that the women & other staff continue to have a safe place to work where they can conduct their business in a regulated environment. Public safety is key & the most important thing to take into consideration. Closing the safe workplaces is doing nothing other than forcing the workers into a very precarious underground environment.
2.	Workers safety should be your number one priority on this matter. The performers gave evidence last year, almost begging you not to close their places of work. They emphasised that they feel safe & that closing all establishments in Edinburgh would not force them to stop this line of work but would in fact continue working "underground" for example in hotels & air bnbs with no security, no regulations & behind closed doors where anything could lie in wait. Please do the right thing & continue to allow these women to work without fear.
3.	Living close to the three existing venues I see the effect they have on the neighbourhood with often large groups of men, often drunk, going to or from the venues and causing havoc of varying degrees as they do so. It is often unpleasant and threatening to encounter such groups.
4.	As a woman I do not feel safe where sexual exploitation venues exist and feel girls deserve more than to aspire to work in one of these venues
5.	As stated previously - the sexual objectification of women for commercial gain is a form of violence against women - it is not something that should be celebrated in Edinburgh. It harms the women involved and has negative consequences for the wider population of women and girls.
6.	<p>I would like to say that capping the licenses to less than three going to put people out of work during a cost of living crisis. Many performers are mothers, so by closing of an income stream for families relying on this income will increase the amount of children living in poverty in Edinburgh.</p> <p>Capping the licenses granted to three, which is the current number of venues in Edinburgh, will be handing the power to the current club owners, this will mean less bargaining power for performers when it comes to trying to improve working conditions.</p> <p>I personally think setting the cap to above three will be the best for current performers as it will not be handing the current clubs all the power. The council may also want to note that setting the number of venues to above three does not necessarily mean other SEVs will open.</p> <p>Rather than trying to eradicate the industry, potentially putting performers in vulnerable situations, the council could seize this opportunity, to make the industry better for those currently working in the industry.</p>
7.	The appropriate number of sexual entertainment venues anywhere is zero. This is because their existence is harmful to all women, because it tells men that women's bodies are objects that can be bought for their sexual pleasure. It perpetuates that harmful concept of sex for sale. That women's pleasure is not required for sexual experiences. That women are there for the pleasure of men. SEVs provide a venue for exploitation of women, and even if the workers themselves do not feel oppressed, these venues harm all women. These venues condone disrespect of women and denigration of women. Sexual assault is also rife at these venues.
8.	The removal of dedicated, regulated, secure spaces within the city centre will only increase criminality, endanger the public, put young people at risk and increase violence against women. Regardless of any councillors' personal views, the market

	for sexual entertainment already exists and is not going away, it will only go underground, causing reputational damage to our city and putting lives at real risk. Furthermore, the banning of SEVs will disproportionately affect the safety and employment rights of women given they comprise the majority of workers in SEVs. The proposal to ban SEVs is therefore an equality issue and an example of indirect discrimination on the basis of sex.
9.	I believe that there should not be a limit on the number of SEVs in busy late night areas and city centre areas, but that limits of the number in industrial and rural areas will ultimately benefit the safety of performers who might be in greater danger of assault or other unwanted attention when nearby or travelling to/from the venue.
10.	Please give these women a safe place to work rather than forcing them underground into dangerous & unregulated conditions. We are in the middle of a cost of living crisis, closing the clubs would be adding to the benefit system, not just for the performers but the other staff members. We are all here by choice, both performers & customers. The clubs are well ran & there is very little trouble.
11.	I have been dancing for more than 20 years. I always feel very safe in the clubs. We have cctv everywhere and licensed door staff. If you decide to close the clubs i will not stop the job, i will be forced to continue in potentially dangerous conditions with no regulations, no security, no cctv and behind closed doors. I am terrified but i need this job so i have no chpice. Closing the clubs is not going to stop neither dancers nor customers. I love my job. Plesse do not force us underground.
12.	Im a bartender here and I've worked in many other bars and nightclubs across Edinburgh and I've never felt safer working in this type of club. I depend on this job financially and so do many others. Safety here is the highest priority and the dancers I work with also agree. We have all agreed that this should stay the main priority however with the possible closure of the clubs the girls will be forced into unsafe and hostile conditions. They will not stop this job.
13.	I work here as security, I have worked at various nightclubs & bars over the years & I have to say, this club has very little trouble which has been backed up by the police in their evidence sessions & I feel far safer working here than any other place. The dancers are happy, they all enjoy their jobs & they have told me they do not plan to stop, they would just be forced into underground, unsafe places with no cctv, no regulations & no security. What do you think could happen to them then?! If they asked me to go along as security to an underground party, how do you think I would cope against a group of 20 or so men in an underground venue alone? This would not only be unsafe for the dancers, but security too IF dancers even decided to take security along. Please keep these safe venues open & let the women & staff continue working in a SAFE place, where they CHOOSE to work. Thanks
14.	I've been a dancer for 20 years, I've worked globally and Edinburgh is by far the safest I've felt whilst working in this industry. The club I work at is so well run and we are protected at all times. My biggest concern is the fact that if these legitimate establishments close down you will force hundreds of local women to work underground putting our safety at risk. The exploitation of women will increase and therefore crime rates. We should not be forced out of an industry because there are no establishments to work at, it's unfair and everything we do is completely above board and by choice. No one is forcing our hand in the industry we choose to be here and provide entertainment.
15.	The cap policy is sexist and degrading to women. It considers sex work as something that is never ethical or simply good. It takes away the agency of women who do

	want to continue working in SEVs. It has nothing to do with protecting women, but treating them as if they cannot make decisions for themselves.
16.	<p>Strip clubs not only degrade the women working there, but they degrade every woman on the planet. When one woman takes off her clothes, gives a lap dance, or fakes sexual interest because a man is paying her to do it, (especially if she justifies it) she is sending a message to all men and women that she believes a woman can be reduced to purely a commodity, no matter who she is.</p> <p>Regardless if she feels good about herself for doing it or if thinks she's making a killing in "tips", strip clubs make it acceptable for others to treat women (and for women to treat themselves) as mere objects of sexual pleasure. That is why strip clubs are so popular in the first place. Customers don't have to worry about being rejected for human/sexual interaction (unless they severely break the rules in a strict club), because if the customers have money, they can usually get what they came in for. It is dehumanizing.</p> <p>There are a lot of tips and tricks on being a successful stripper, and it all comes down to manipulating your body and pretending to be someone who attracts a certain type of customer (the type that is willing to buy a woman's attention and sexuality).</p>
17.	<p>The council has a duty to the safety of the public. Do not forget that the workers in these clubs, are part of the public. They deserve safety, legality, and a voice in the policy that will impact them. The best way to preserve and promote the safety of those who work in SEVs is to not only ensure the safety and legality of their workplaces (i.e. allow them to exist), but to speak to them and find out what they need. There is a rare and golden opportunity here to enshrine SE workers rights</p> <p>Any cap on the number of SEV's would perpetuate the current monopoly strip club owners have on strip club venues. This reduces the power of the workers to bargain for better conditions. The current cap of 3 licences is too small. Please increase it, so that workers can have the chance to open their own club, and directly control the conditions of their labour.</p> <p>To shoe-horn all sex work (stripping, lap dances, pole etc) as violence against women is asinine. It not only removes all agency of women, but it rests upon deeply misogynistic cultural religious beliefs around sex. I certainly would hope that the Council would try to support and ensure the safety of all women, and not punish those who do not fall in line with the dominant religious (puritanical) beliefs around sex.</p> <p>Lastly, any policy that will directly impact the workers within a strip club should be directly consulted upon WITH the workers.</p>
18.	<p>To summarise:</p> <ol style="list-style-type: none"> 1. Any policy that directly impacts workers should be directly consulted with those workers. <p>If Edinburgh City Council decide to review their current licensing policy, they must centre the insight and experience of the workers who will have to adhere to it, and involve them within any decision making.</p> <ol style="list-style-type: none"> 2. The council's duty to preserve the safety of the public includes those who work within strip clubs. <p>The best way to protect the safety of the workers within strip clubs is to ensure they not only have a safe and legal workplace to work in, by not reducing the current number of their workplaces any further, but to give those workers a voice in any</p>

	<p>policy making decisions surrounding their work. In reviewing the licensing policy, you have a unique opportunity to enshrine the rights of the worker within it.</p> <p>3. Any cap on the number of SEV's would perpetuate the current monopoly strip club owners have on strip club venues, reducing the power workers' have to bargain for better conditions. You should increase the current cap of 3 licences so workers have the opportunity to set up their own club and directly control the conditions of their labour.</p> <p>4. Honestly, it's reprehensible that ECC are again exploring the potential of limiting the number of workplaces strippers have access to during a cost of living crisis. Not only would limiting the cap even further than 3 licences undoubtedly force some workers into unemployment or into the benefits system, but would also grant more power to management rather than workers.</p>
19.	<p>I've been a dancer for 10 years and it is my livelihood. The clubs in Edinburgh are managed well and the girls are protected. I have worked in one and I felt very safe and respected. The clubs are busy and customers both men and women enjoy going to the entertainment venues. Taking this away would make dancers do private work with no security/cctv and they may not be safe. Keeping the clubs open keeps the women in work and gives them financial opportunities not possible in other lines of work.</p>
20.	<p>According to the Scottish Government & COSLA's Equally Safe Strategy (2018) "Violence against women and girls encompasses...commercial sexual exploitation, including prostitution, lap dancing, stripping". As such, City of Edinburgh Council must set a zero limit to ensure it is not supporting "violence against women" as defined by the Scottish Government and COSLA, and so it is consistent with Scottish Government and COSLA policy.</p>
21.	<p>According to the Equally Safe strategy, lap dancing and stripping are considered forms of commercial sexual exploitation and therefore violence against women and girls - since they take place in SEVs, the appropriate number of SEVs that can be licensed should be zero.</p> <p>While technically outwith the scope of this consultation, it would be naive to suggest that prostitution, pornography and human trafficking as other forms of commercial sexual exploitation are not interlinked with lap dancing and stripping more broadly - indeed, they are considered to be forms of commercial sexual exploitation in the Equally Safe strategy in exactly the same way.</p> <p>The protections given to performers as part of the licensing conditions are welcome. We wonder if further conditions could be legally required of SEVs in cooperating with Police Scotland regarding suspicions of human trafficking of those who work in SEVs/identifying signs of coercion which constitute commercial sexual exploitation of women and girls. In addition, providing further support to exit from working in this industry should that be what a performer wants to do.</p> <p>If the appropriate number of SEVs that can be licensed is set to more than zero, it by definition provides an easier route to coercion of more women and girls to work in this industry. If it is set to zero, it makes it harder to coerce women and girls to work in this industry. These women and girls do not have a voice to speak for themselves so they must be spoken up for.</p>

22.	The licensing of Sexual Entertainment Services is a barbaric and antiquated practice that dehumanises and devalues women and as such it has no place in a modern society.
23.	<p>I am a performer and this is my livelihood. On top of full time employment, I also work as a performer in order to be able to care for dependents. Without this work I would not be able to provide for my dependents and meet the cost of living in this city.</p> <p>The current SEVs, that I have worked in for the past 14 years, provide employment to around 100 performers who need the flexibility and income from this employment for a variety of reasons. To take this away would be devastating. Also, for much of the custom in these bars, this is their source of human contact and companionship as many are widowed, live in isolation or come from disadvantaged backgrounds where they have found a place where they feel care and nurture.</p>
24.	The SEVs currently in operation are causing zero harm to the community and are allowing many people to earn a living in really trying economic times. Stripping these clubs of the right to operate, for no clear reason beyond simply disapproving of them from a moral standpoint, is ridiculous. Sex workers work by choice and this proposed banning of licensed premises is giving power to an uninformed opinion.
25.	I strongly urge Edinburgh City Council to listen to the Sex Workers Union (SWU), to listen to what those who will be most directly impacted by these changes say about these changes. The best way to protect women is to listen to the women who are directly involved with what is happening and to take their statements as they are, which means listening to the women involved with SWU. SWU is comprised of intelligent and articulate workers who deserve to have their voice heard about their work and their livelihoods.
26.	<p>The Council holds a duty to preserve the safety of the public, and this includes people who work in strip clubs. The best way to protect the safety of these workers is to ensure they have a safe and legal workplace to work in. It is not reducing the current number of their workplaces, but giving those workers a voice in any policy-making decisions surrounding their work. In reviewing the licensing policy, ECC has a unique opportunity to enshrine the rights of the worker within it.</p> <p>It is reprehensible that ECC is again exploring the potential of limiting the number of workplaces strippers have access to during a cost-of-living crisis. Not only would limiting the cap even further than 3 licenses force some workers into unemployment or into the benefits system, but grant more power to strip club management rather than the workers.</p>
27.	SEVs contribute to a culture of viewing women as a commodity that can be bought and sold. The areas around SEVs become places where women and girls do not feel safe and therefore do not go unless absolutely necessary. It is unacceptable that the council should sanction a leisure activity which has this effect on 50% of the population.
28.	<p>Any cap on the numerous of strip clubs and SEVs will perpetuate the monopoly of certain strip clubs making it harder for these workers to have autonomy over their working conditions and their rights.</p> <p>Any changes to licensing should only be made following consultation with the</p>

	workers the changes will effect. The local authority has a duty to safeguard all people living in the area including the workers within SEVs.
29.	<p>I strongly oppose license approval.</p> <p>Additionally I would like every single individual who has the power to approve theses licenses to consider if they would want, promote, support any of the women and girls within their own family groups to work in such venues.</p> <p>Would they feel 'proud' of sharing with their own family and friends that their 'daughter', 'wife', 'sister', 'mother' was working in a SEV? If these individuals, who have the power to approve the SEV's have ANY hesitation about that question, then perhaps it is not suitable to facilitate opportunities for vulnerable women and young girls within our society to work there.</p> <p>I again state there should be zero opportunities for women and young girls to be exploited into working at SEV's and 100% oppose granting any license approval.</p>
30.	<p>Any policy that will directly impact the workers within the strip clubs, should be directly consulted upon with those workers. If Edinburgh City Council decide to review their current licensing policy, they must centre the insight and experience of the workers who will have to adhere to it, and involve them within any decision making.</p> <p>The Council have a duty to preserve the safety of the public, which includes those who work within strip clubs. The best way to protect the safety of the workers within strip clubs is to ensure they not only have a safe and legal workplace to work in, by not reducing the current number of their workplaces any further, but to give those workers a voice in any policy making decisions surrounding their work. In reviewing the licensing policy, ECC have a unique opportunity to enshrine the rights of the worker within it.</p> <p>Any cap on the number of SEV's would be to perpetuate the current monopoly strip club owners have on strip club venues, reducing the power workers' have to bargain for better conditions. We strongly encourage Edinburgh Council to increase the current cap of 3 licences, so workers have the opportunity to set up their own club and directly control the conditions of their labour.</p> <p>It is reprehensible that ECC are again exploring the potential of limiting the number of workplaces strippers have access to during a cost of living crisis. Not only would limiting the cap even further than 3 licences undoubtedly force some workers into unemployment or into the benefits system, but grant more power to strip club management rather than the workers.</p>

Appendix 10: Sample of points made during consultation by those who oppose a limit being set which could prevent SEV premises from operating;

- 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;
- 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;
- 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');
- 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;
- The imposition of a zero-limit breaches equalities legislation because it is (amongst other things) indirect sex discrimination. This would result in a continued period of uncertainty for performers in and employees of SEV premises, as a zero-limit would likely result in a further legal challenge by the performers and venues;
- Zero-limit supporters do not support the closure of nightclubs where VAWG overwhelmingly occurs; and
- The introduction of a limit of three SEVs would create a monopoly for existing SEV operators in Edinburgh and would result in a barrier for new entrants to the market.

- 5 A limit of zero would ultimately result in the closure of existing premises and a loss of income for operators, performers and employees of those premises. As a result of the Court's opinion in the Judicial Review, the Council would not have any discretion to consider any SEV application as an exception to policy in the event that the Committee agrees to a zero limit.
- 6 The Committee will 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.
- 7 Both human rights legislation (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.
- 8 During consultation, Committee heard from those who are in favour of a zero limit being introduced for SEVs. In summary, those respondents raised the following issues:
 - i. Sexual Entertainment is a key contributing factor to wider gender inequality in society;
 - ii. The Scottish Government's Equally Safe Strategy which defines sexual entertainment as a form of VAWG;
 - iii. 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;
 - iv. Women being pushed towards the sex industry as a result of the health pandemic; and
 - v. 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.
- 9 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. The licensing authorities in 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.
- 10 Committee is asked to take the considerations set out above into account when reaching a determination on the appropriate number of SEVs within Edinburgh, namely:
 - a) weighing up the representations received in response to the consultation;
 - b) consistency with the licensing objectives; and

c) 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.

Appendix 11 – PSED Sample Comments

<p>1.</p>	<p>The existing set up for SEVs provides perfectly legal and morally sound employment for potentially hundreds of people. Having worked in the venues myself, I can confirm that the bars attract tourism from all over the UK and further afield, Edinburgh's economy would suffer greatly from the absence of the bars. Additionally, I find it to be hypocritical to target adult entertainment venues while still allowing massage parlours/saunas to operate. Dancing is a choice for every single dancer that I've ever come into contact with, whereas prostitution is often exploitative, unsafe and unregulated. While working at the venue in Edinburgh, I was able to study and attain my BA(Hons) in accountancy. Three other girls completed their nursing degrees and are now NHS nurses. The industry is vital to women who otherwise would not have the means or flexibility to do these things. It's 2023 now guys, we should not be telling women what they can and cannot do with their bodies anymore.</p>
<p>2.</p>	<p>I raise concerns that a cap in the number of SEVs is likely to</p> <ul style="list-style-type: none"> -force work underground, resulting in unsafe working conditions -reduce employment rates in the middle of a cost of living crisis, pushing workers into unemployment and poverty or even less desirable work -creates a monopoly where workers lose their bargaining powers with managers/venue owners <p>I believe no cap in the number of SEVs will force current license holders to create favourable working conditions to entice workers and empower other workers to open their own venues. This, I believe, would ultimately reduce violence against women, which the current policy raises as a concern.</p>
<p>3.</p>	<p>It is 2023 ... and absurd that you should be able to set a "cap" on the number of SEV's in a city.</p> <p>Shutting down SEVs ONLY serves to move this type of work underground and make it more dangerous for both the staff and customers. Embrace the different types of people and work you have in this city and don't dictate people's (mainly women's) lives. Ensure safety and security for all those working in SEVs, as well as local residents and customers - to do anything less would be absconding from your duty as a council.</p>
<p>4.</p>	<p>Increasing the cap on the number of strip clubs in Edinburgh makes it safer for the dancers as they have choice in their workplaces which therefore encourages better working conditions in each individual club and reduce exploitation.</p> <p>Closing clubs forces these women into unemployment, ultimately relying on the government or more risky types of sex work which goes unmonitored.</p> <p>If the issue is really the safety of the workers, working standards for these women should be implemented in the club to ensure their rights are recognised in the workplace, rather than displacing people who choose to work in the industry and leaving them with nothing.</p>
<p>5.</p>	<p>The nil cap on SEVs is harmful to sex workers, who should be the first to be consulted on policies that will affect them. The majority of the workers in the clubs are women, and closing down any number of their current workplaces would force those women into unemployment and poverty. It will limit their bargaining power at work with management, directly contravening the council's objective of reducing violence against women. Furthermore, there is no evidence that strip clubs directly correlate with, nor cause, instances of violence, particularly violence against women. If the council were to follow its objective on securing public safety, then their aim should not be to close down the safe and legal workplaces of over 100 workers. There is no evidence that trafficking is a problem within the UK strip club industry. Indeed, it is far</p>

	more likely to become an issue if the industry is unlicensed and pushed underground as a result of a zero cap.
6.	<p>A proposed "0" cap on the number of SEVs in Edinburgh is neither motivated by evidence nor by the purported moral obligation to reduce violence against women. SEVs permit women to freely ply their trade in the safety of a licensed venue. This trade is not inherently immoral or a threat to public decency or well-being: it is work. SEVs are currently operated by a small group of proprietors and operators who, like most bosses, do not have the best interests of their workers at heart. An unlimited cap would enable workers to organize, own, and operate their own SEVs consistent with the spirit of entrepreneurship which Edinburgh city council proudly touts as one of its residents' strongest qualities. It will also enable workers to bargain collectively and secure better pay and conditions, the inherent right of any worker.</p> <p>This policy was developed without consultation with actual workers, predominantly women, who will be without work and will likely face poverty as a result of a 0 cap. There is no evidence that SEVs contribute to violence against women or generate disorder or crime in their vicinity. At worst, they will be driven into non-compliant SEVs - i.e. unregulated, unsafe, and insecure.</p> <p>Sex work is labour like any other and this policy places the protection of public sensibilities - and the paternalistic protection of women's virtue - over the agency of women to work freely and without restriction. It will harm women in spite of its promise to protect them.</p>
7.	<p>I don't think there should be a cap on SEVs because a high number of workers, mostly women, are dependent on this kind of work, and reducing the number of SEVs in Edinburgh (or eliminating them) would force this work underground and increase the risk of violence to women.</p> <p>Moreover, increasing the number of SEV licenses would reduce the monopoly of existing SEVs, and create a stronger bargaining position for the workers in SEVs, potentially even creating an opportunity for dancers to open their own venues with safer and more empowering working conditions.</p> <p>Sexual entertainment is going to happen one way or another, but by creating safe spaces through more licensed and regulated SEVs, the Edinburgh City Council has the opportunity to protect workers in these environments. Sex workers are part of the public, and their safety is as important as anyone else. Capping or eliminating SEVs will not increase their safety, or the public's safety, as it will force these activities to occur in unregulated spaces.</p>
8.	<p>Limiting the number of SEVs could create a monopoly and could limit opportunities for workers, reduce autonomy and increase commute times late at night.</p> <p>There is no evidence to dictate limiting venues would increase safety for women and increasing number of venues has not shown to increase violence against women</p>
9.	<p>Shutting down SEV down not only forces a lot of women who can only work these hours due to childcare or other care commitments and rely on these hours due to their flexibility will have devastating affects and will only force them to work in unsafer work environments such as illegal underground clubs. It is also a complete contradiction to say that in order to empower woman they can't do a certain job and take working opportunities away from them.</p>
10.	<p>Myself and friends have been dancers and we feel safer in these clubs than we do at your normal clubs around Edinburgh and the UK. I go out clubbing in nightclubs regularly where I am constantly sexually harassed and touched up when I go out. At nightclubs the door staff are unable to intercept and often unhelpful when this occurs.</p>

	<p>At SEVs the girls are always a priority and are there by choice. We are very well protected in these clubs. We choose to be there by choice and enjoy the work. The council should be speaking to the girls in the club and asking us about our experience rather than speaking for us. You are taking away a woman's right to choose her place of work.</p> <p>A lot of the women in these clubs are mothers. This work is flexible, and convenient for these women.</p> <p>The decision to close these venues down would have the potential of pushing women into underground sex work. Without the safety of door staff. Is this not what you are fighting against for us? Our safety and protection?</p> <p>This will be the third public consultation and the public have voted twice in our favour why are you continuing to waste taxpayers money?</p> <p>Dream boys also get their licence regularly renewed why are male sexual entertainment events and venues held to a different standard than female sexual entertainment venues?</p> <p>I would like the council to truly consider my right as a woman to make my own choice where to work and to have the choice to work in a safe environment like the SEVs in Edinburgh.</p>
<p>11.</p>	<p>I've been dancing for 6 years and have never felt unsafe or concerned for the safety of myself and my colleagues. I have previously worked private parties during lockdown and they were terrifying. Whilst some were fine you never knew what you were walking into, safety was always a big concern. I once had a booking that was meant to be 6 stags and 3 performers but it turned out to be 25 guys there when we turned up and they wouldn't stop trying to touch and push boundaries. This would never have happened if it had been in a strip club as there are doormen and staff members there to protect us and we also have CCTV. Also the men know that they have to behave as they have to follow the rules of the establishment. On the rare occasion that customers don't behave they are asked to leave immediately. The performers that work in the establishments all choose to work there. We are hard working women, many of us are either studying or work in high level professional jobs. If the Edinburgh clubs shut down it would force myself and many of my colleagues to go underground as the next closest place is Glasgow and as I don't drive I would either need to pay accommodation which is an added expense or get the first bus back home. Also as there are over 100 girls working in Edinburgh, the Glasgow clubs wouldn't be able to accommodate all of us which would mean that girls have no choice but to work underground and do privates. You say you want to protect us but the things you claim to be protecting us from is what you'll be pushing us into. We have the experience and we know what will happen if the clubs are to close down.</p>
<p>12.</p>	<p>There is a clear demand for SEVs in Edinburgh. It is a thriving capital city that draws visitors from all over the globe. SEVs also draw their audience from Edinburgh residents who enjoy the entertainment for numerous reasons. They serve to provide employment and ensure a safe and regulated environment for workers in SEVs. A policy that indicates the appropriate number of SEVs is zero is effectively a ban on SEVs in the city. All this will achieve is to drive workers providing sexual entertainment into underground unregulated environments that are unsafe. It delegitimises a form of work that is entirely valid and one that should be supported. An unsafe and unregulated system of SEVs will only serve to damage the reputation of our city, increase violence against women, endanger young people. The banning of SEVs will disproportionately affect the safety and employment rights of women given they comprise the majority of workers in SEVs. The proposal to ban SEVs is therefore an equality issue and an example of indirect discrimination on the basis of sex.</p>

13.	<p>Stripping is a choice made by women as a way of making a living. Many find it hard to believe, but the majority of women providing this night time entertainment find it to be an enjoyable and lucrative job. Closing down strip clubs would force many women into unemployment and lower standards of living.</p> <p>If the council are truly trying to ensure public safety, then closing down the safe and legal workplaces of 100+ workers is not the right solution. There is no evidence that trafficking is a problem within the UK strip club industry and strip clubs do not directly cause instances of violence against women. If strip clubs are closed, the industry will be forced underground, leading to unlicensed workplaces and more dangerous working environments for women.</p>
14.	<p>I think it helps reduce violence against women to provide safe spaces for women to engage in sexual entertainment. By limiting or trying to control or restrict this industry, you are forcing women into a situation where they may have to do incalls/outcalls which comes with increased risk. Stop trying to control what women can and can't do with their own bodies.</p>
15.	<p>Stripping is a choice made by women as a way of making a living. Many find it hard to believe, but the majority of women providing this night time entertainment find it to be an enjoyable and lucrative job. Closing down strip clubs would force many women into unemployment and lower standards of living.</p> <p>If the council are truly trying to ensure public safety, then closing down the safe and legal workplaces of 100+ workers is not the right solution. There is no evidence that trafficking is a problem within the UK strip club industry and strip clubs do not directly cause instances of violence against women. If strip clubs are closed, the industry will be forced underground, leading to unlicensed workplaces and more dangerous working environments for women.</p>
16.	<p>SEVs are nothing but venues for the sexual exploitation of women by men. I am aware that some of the women who currently work there are strong and capable, and make the argument that they are doing so willingly and content with their 'jobs'.</p> <p>However, stripping and dancing for the sexual gratification of men should not be seen as an acceptable commercial operation in the 21st century. I do not believe that many Edinburgh residents would wish their daughters, sisters or mothers to 'work' in such an environment.</p> <p>There is an undoubted continuum of sexism and misogyny in our society - these clubs clearly contribute to a culture in which the degradation and exploitation of women is seen to be acceptable.</p> <p>And while I have no evidence, my belief is that women may well be trafficked into 'working' in SEVs.</p> <p>I ask Edinburgh Council to take a stand against the sexual exploitation of women in these clubs, and to set once again a limit of zero for the city.</p>
17.	<p>Evidence shows that rates of sexual violence and threat towards women increases in the environment surrounding SEV's.</p> <p>In this day and age we should not be offering women's bodies for sale for the sexual gratification of men. It's an embarrassment to our capital city and teaches a younger generation of women that their inherent value is based on their external appearance and validation by men.</p>
18.	<p>My experience as an RN of 40yrs has led me to observe the affect these types of premises have on the safety and human rights of women/girls.</p> <p>The dehumanising of women to sexual objects and the subsequent increase of sexual abuse experienced by women in Scottish society can be exacerbated by allowing</p>

	<p>these premises to operate anywhere in Scotland. The policy itself should remain at zero establishments in Scotland as a whole.</p>
19.	<p>I disagree that the appropriate number of SEVs for a progressive and heretofore considerably forward thinking and inclusive city such as Edinburgh should be zero. I feel that such venues add real value and revenue and need to be embraced. The list of organisations in s4.4 who must be given a copy of the SEV license application seems to suggest that such venues promote or at least contribute to sexual violence against women. Having worked in the industry for 12 years I have never seen evidence of this and I feel this is a dangerous and stigmatising attitude to portray, and shows a deep lack of knowledge and understanding. Whilst not diminishing the important roles of these organisations, I do not think it appropriate or necessary for them to be a part of the licensing process.</p>
20.	<p>“Sexual entertainment” has a largely male customer base that further serves to devalue, dehumanise and denigrate women in society. The policy should be to remove these venues because women are not objects they are people, mums, sisters, daughters, nieces, aunts, grandmas. Women are carers, nurses, doctors, waitresses. They require respect and I fear that when men attend these places it devalues women in their minds and contributes to abuse against women. There is no social value therefore to these venues other than capitalism and potential exploitation of women who view selling their bodies for sex as viable sources of income in a society that reinforces that as 80% of prostitutes worldwide are women. I don't have any hope you will listen to anything I've said because the market will decide but I hope you understand, why I had to say it.</p>
21.	<p>I support the Scottish Government's Equally Safe strategy on Violence Against Women and Girls which covers the spectrum of violence against women and girls. Central to this is a recognition of the links between the discrimination, objectification and violence against women and a call to end commercial sexual exploitation. I feel that the policy normalises a culture where women and girls are viewed as sexualised objects. - The presence of SEVs not only normalises negative attitudes towards women, it also reinforces power imbalances and gender inequality between men and women.</p>
22.	<p>Opening SEVs such as strip clubs would be an offence to the dignity of women, and their right to be seen as human beings whose sexual services cannot be bought with money. It allows sexual exploitation of women and girls (particularly those impoverished) to occur, it attracts criminals who may be harmful to women and children to the area, and creates a perverse and non family friendly atmosphere. It is my hope that the Council chooses to continue to prevent SEVs from operating in the area.</p>
23.	<p>SEV establishments encourage crime such as drug use, sex trafficking, sexual assault, coercion and harassment of women by predatory males at night. It is disgraceful that the council has allowed such establishments to exist right next to both university accommodation and buildings and a secondary school, close to many vulnerable teenagers and young people. I don't believe any sort of sex trade or tourism is positive for the safety of women in the city.</p>
24.	<p>The existence of sexual entertainment venues contribute to denigration, harassment and violence against woman. To describe the objectification of women as 'entertainment' is dehumanising and the licensing of such premises a prime example of institutionalised misogyny. The council cannot claim to be challenging male violence against women and girls</p>

	<p>whilst supporting such venues. Women are not sexual objects to fulfill men's desires. We are subjects of our own life.</p>
25.	<p>I strongly object to the existence of all “sexual entertainment venues” due to the fact that I believe that they perpetuate and promote misogynistic attitudes towards women, encourage the already rife violence against women, make women who live or work nearby, or have to pass through these areas, feel unsafe, and perpetuates an economy which encourages phenomena such as modern sexual slavery.</p>
26.	<p>We broadly welcome the policy and support the Council's decision to introduce a licensing scheme, and being open to setting the appropriate number of licensed SEVs to zero. We also welcome the proximity to places of worship being part of the considerations of whether to licence a SEV or not.</p> <p>We also appreciate in paragraph 6.1 that the contradiction is pointed out between the definition of violence against women and girls under the Equally Safe strategy and the licensing of SEVs. We would encourage the City of Edinburgh Council to take the lead in Scotland in setting the appropriate number of licensed SEVs allowed to zero, since their practices constitute violence against women and girls.</p>
27.	<p>I strongly believe that the sex industry, in any form, is a pathway that captures vulnerable women and girls within our society. Those with mental health issues, from poverty, unstable home backgrounds, care sector and others, are all over represented in the sex industry and I strongly oppose licensing being approved for SEV's.</p>
28.	<p>I am glad to see that the impact on girls and women is mentioned, particularly the impact on violence against women. However, bearing that in mind, it is incredible you should have a policy that enables women's bodies to be commercialised. The use of SEV diminishes the reality of what licensing entails, selling women's bodies.</p> <p>I am pleased to see you are pursuing the concept of limiting licenseimits but I'd like to see a new attempt to make the licence cap zero again.</p>
29.	<p>I believe that zero is the correct number. By granting any the council is giving a message to all the women of Edinburgh and beyond that women are there to entertain men. It is a classic misogynistic message to half your population</p>
30.	<p>I believe that the limit should be set as zero for all areas in relation to SEV's. Councils are perfectly able to set a zero limit as has been shown in court cases.</p> <p>There is abundant evidence that men who pay for sexual access to women are more likely to rape other women, evidence also exists that women who perform in SEV's can experience trauma as a result of being objectified by men.</p> <p>I am unclear how the council can support any initiative in respect of MVAWG whilst it continues to licence SEV's which are anti equalities - it is not acceptable for men to pay for access to women's bodies.</p>

.4 Integrated Impact Assessment

Summary Report Template

Each of the numbered sections below must be completed

Interim report	<input type="checkbox"/>	Final report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(Tick as appropriate)
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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. The Council is required to determine the appropriate number of SEV premises permitted to operate in Edinburgh and can choose to limit the number of SEVs in Edinburgh to zero or a higher number, whichever it deems appropriate. There are currently three SEV premises operating in the city. If the Council did 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 previously engaged in public consultation throughout the process of agreeing to adopt a scheme to licence sexual entertainment venues and setting a SEV licensing policy and conditions framework in March 2022.

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 received.

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.

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.

On 31 March 2022, Committee considered a report on the proposed licensing of SEVs within Edinburgh. Thereafter, Committee agreed to adopt a SEV licensing resolution that would require the licensing of SEVs within Edinburgh, and to adopt a scheme for the licensing of SEVs effective from 1 April 2023. The Committee thereafter determined the number of SEV premises appropriate for the City of Edinburgh to be zero; and further agreed to adopt the SEV policy statement and standard licensing conditions appended to the report, all in terms of the 1982 Act.

The SEV licensing policy which was approved on 31 March 2022, was the subject of a Judicial Review in the Court of Session. On 10 February 2023, the Court issued its decision, which found against the Council and in favour of the petitioners. The Court decided that the Council had no discretion to grant applications for SEV licences where the Council had determined the number of SEVs appropriate for Edinburgh to be zero. The Court also decided the Council had been wrong to consider that it did have discretion to grant applications for SEVs licences when a zero numbers determination was in place. Therefore, the zero limit determination agreed by the Council on this basis should be struck down.

Accordingly, on 1 May 2023 Committee instructed officers to carry out a statutory consultation process to seek community and business views on;

- What the appropriate number of Sexual Entertainment Venues (SEVs) for Edinburgh should be;
- What the appropriate number of SEVs for each relevant locality within the city should be; and
- The existing SEV policy statement and conditions framework.

As part of that consultation process, officers referred to the information gathered during the initial consultation exercises. Information was also gathered by holding a series of evidence sessions with key stakeholders such as existing SEV operators and performers. In addition, the Committee also held sessions with community councils and relevant organisations such as the Equally Safe Edinburgh Committee 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 previous 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 have previously attended a SEV licensing seminar which had expert speakers on the subject from both England and Scotland.

A draft SEVs policy and draft licensing conditions framework was published, and consultation took place between 10 July – 2 October 2023 with 1993 responses received in total.

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

No

5. Date of final IIA

4 January 2024 – the group also met on 28 November 2023 to discuss this IIA. Some members of the group had also formed part of the group which considered an IIA on the licensing of SEVs as part of the previous consultation process.

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 Team Leader	6 December 2023
Jackie McInnes (Co-facilitator)	Senior Planning Officer	09 March 2022
Catherine Scanlin	Licensing Manager	
Gordon Hunter	Regulatory Team Leader	24 October 2023
Gerry Mays	Principal Solicitor – Licensing	
Mark Upward	Advice Services Manager	November 2018
Anna Darocha (Note taker)	Licensing Officer	

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 – Consultation responses	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 – Consultation responses	<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> <ul style="list-style-type: none"> Customers SEV Performers & Union Reps SEV Operators & Legal Agents Neighbours / Residents / Community Councils
Data on socio-economic disadvantage e.g. low income, low wealth, material deprivation, area deprivation.	Yes – Consultation responses	<p>Information received during the consultation process from SEV operators, SEV performers 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 wide range 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. It was further stated that any loss of income would be exacerbated due to the current cost of living crisis. 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 and harm.</p> <p>SEV performers and SEV performer union representatives stated that a monopoly would be created in Edinburgh if the Committee agreed a limit of three SEV premises being permitted to operate, given</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>the fact there are currently three SEV premises currently open in the city. A limit of three would negatively impact the opportunity for them or any other party to open another SEV premises and would stifle competition and future opportunities.</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 performers to find alternative, safer and more stable means of employment.</p>
Data on equality outcomes	Yes – Consultation responses	<p>Information from trade organisations such as performers union groups have stated that by introducing a licensing scheme which bans SEVs from operating or which prevents new premises opening, 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. Some responses to the consultation referred specifically to the European Convention on Human Rights (ECHR) and the rights given to individuals under the convention. Some responses also referred to the Council’s obligation to have due regard to the Public Sector Equality Duty (PSED) in terms of s.149 of the Equality Act 2010 which is summarised below as:</p> <p><i>“(1) A public authority must, in the exercise of its functions, have due regard to the need to—</i></p> <p><i>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</i></p> <p><i>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</i></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><i>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</i></p> <p><i>(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—</i></p> <p><i>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</i></p> <p><i>(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;</i></p> <p><i>(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</i></p> <p><i>(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—</i></p> <p><i>(a) tackle prejudice, and</i></p> <p><i>(b) promote understanding.</i></p> <p><i>(7) The relevant protected characteristics are—</i></p> <ul style="list-style-type: none"> <i>• ...</i> <i>• sex.</i> <p><i>(8) A reference to conduct that is prohibited by or under this Act includes a reference to—</i></p> <p><i>(a) a breach of an equality clause or rule;</i></p> <p><i>(b) a breach of a non-discrimination rule.</i></p> <p>The Committee must also have regard to the Public Sector Equality Duty in section 149 of the Equality Act 2010 when determining what would be the appropriate</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>number of SEVs and must take into account all responses received. The most relevant protected characteristic in relation to the licensing of SEVs is sex, particularly as the majority of affected individuals are women. Other protected characteristics may also be relevant.</p> <p>It is important to understand that the duty in section 149 is a prominent and should be at the forefront of decision making. There requires to be a rigorous consideration of the PSED based on a proper and conscientious focus on the statutory criteria set out in section 149 which clearly sets out the broad reach of the duty to have due regard in relation issues of the elimination of discrimination, harassment or other conduct prohibited under the Act; the advancement of equality of opportunity between persons who share a protected characteristic and those who do not and the fostering of good relations between such persons . The Act sets out what in particular due regard to includes at section 149(3) and (5)."</p>
Research/literature evidence	Yes – Consultation responses which included links to various academic research papers and studies.	<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 • Examples of the regulation of the sexual entertainment industry in other countries.

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
		The titles and links to the research and literature are included in the responses to the consultation
Public/patient/client experience information	Yes – Consultation responses	<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 contribute towards equality outcomes and act as a form of violence against women. Given that the 3 SEV premises currently open 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 public consultation was published on the Council’s consultation hub webpage which allowed responses to be submitted online. The consultation was highlighted directly to key stakeholders such as SEV operators , performers and unions, in addition to relevant organisations such as the Equally Safe Edinburgh Committee and others. The consultation was also highlighted using social media.</p> <p>A series of evidence sessions were held with key stakeholders such as existing operators and performers, and community councils. In addition, the Committee also heard from the Equally Safe Edinburgh Committee. This provided members with a</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>detailed and robust evidence base from which to inform any decision making</p> <p>Based on feedback from prospective participants, the evidence sessions were conducted in private to protect identities, commercially sensitive information and to encourage participation.</p> <p>Given the sensitive and emotive nature of this subject, the Council have taken a range of measures to encourage participation in the consultation process.</p>
Evidence of demand	Yes – Consultation responses	At present, there are 3 premises which would fall under the definition of a SEV which have operated continuously for a number of years.
Good practice guidelines	Yes – Scottish Government information and guidance, various local authority websites within the UK and existing legislation.	<p>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:</p> <ul style="list-style-type: none"> • Birmingham • Camden • Leeds • Manchester • Sheffield • Westminster <p>The Council has also referred to the Scottish Government’s Guidance on the Provisions for Licensing of Sexual Entertainment Venues.</p> <p>In drafting the SEV Licensing Policy, the Council has also had regard to the Scottish Government’s Equally Safe Strategy, the Public Sector Equality Duty set out in s.149 of the Equality Act 2010 and the European Convention on Human Rights.</p>
Carbon emissions generated/reduced data	N/A	N/A
Environmental data	N/A	N/A

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
Risk from cumulative impacts	N/A	N/A
Other (please specify)	Yes – Scottish local authorities and consultation stakeholders	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. Correspondence to the Council from the Equally Safe Edinburgh Committee and the Sex Workers Union branch of the Bakers, Food and Allied Workers 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>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>

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.

A number of respondents to the consultation identified themselves as SEVs performers and/or employees of SEVs. The Committee also held evidence sessions with SEV performers. The evidence put forward by those working in SEVs stated that they enjoyed working in SEVs, felt safe working in SEVs and many stated that they had worked in the industry for several years.

If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at three (the number of SEVs currently operating in Edinburgh) or higher this would allow individuals to continue their employment, Protocol 1 Article 1 and Article 10 of the ECHR would not be interfered with.

If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at higher than three (the number of SEVs currently operating in Edinburgh) this could have a positive impact on the majority of SEVs workers and any prospective operators, as it would not create a monopoly for the existing SEV operators in Edinburgh. This would mean that there would be more of an onus on the operators to maintain or improve standards for workers within the premises as there could be more competition from other SEV premises. It would also mean any prospective SEV operators have the opportunity to apply for a licence and earn income for themselves and any dependents.

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. For example, near schools, places of worship, women's refuges, residential areas etc.

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.

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 areas of the city where SEVs currently operate.

The responses highlighted that some workers in SEVs may be transgender. The positives and negatives for transgender people would be similar to those listed above for men and women.

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

Consultation highlighted that the owners of SEVs in Edinburgh, that the Committee are aware of, were men and that those involved in the day-to-day management of those premises were both men and women. 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.

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.

Negative

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 (or could exacerbate perceived on-going negative impacts) 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.

Some responses to consultation stated that allowing SEVs to remain open could represent a failure to protect individuals from violence which may breach Article 2 (right to life), Article 3 (right to be free of inhumane and degrading treatment) and Article 4 (right to be free of slavery and servitude) of the ECHR.

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.

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.

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.

Performers who attended the evidence sessions stated that the closure of SEVs could lead them to travelling elsewhere to places like Glasgow and Newcastle to work in SEVs. This could have an adverse effect on their family as they could be away from them for longer or adversely impact those in further education for example. Furthermore, it could lead to them travelling further distances on their own and late at night which could have an adverse effect on their safety.

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.

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 SEV operators, employees and performers rights under Article 1 Protocol 1 (right to property) and Article 10 (right to freedom of expression) of the ECHR.

If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at three (the number of SEVs currently operating in Edinburgh) this could have a negative impact on the majority of SEVs workers who are women, as it would create a monopoly for the existing SEV operators in Edinburgh. This would mean that there could be less of an onus on the operators to maintain or improve standards for workers within the premises as there is limited competition from other SEV premises.

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<p>Environment and Sustainability including climate change emissions and impacts</p> <p>Positive 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>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 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>Affected populations</p> <p>SEVs premises operators/Local businesses</p> <p>Residents</p>
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<p>Economic</p> <p>Positive 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 working and receive an income to support themselves and any dependents. This would not result in socio-economic disadvantage for these populations.</p> <p>If the Committee determined to licence SEVs and set the appropriate number of SEVs in the locality at higher than three (the number of SEVs currently operating in Edinburgh) this could have a positive impact on the majority of SEVs workers and any prospective operators, as it would not create a monopoly for the existing SEV operators in Edinburgh. This would mean that there would be more of an onus on the operators to maintain or improve standards for workers within the premises as there could be more competition from other SEV premises. It would also mean any prospective SEV operators have the opportunity to apply for a licence and earn income for themselves and any dependents.</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>
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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.

Negative

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.

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 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.

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.

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.

Some responses to the consultation noted that even if the Council determined that the appropriate number of SEVs in the city is zero, existing SEV premises would still hold a Premises Licence to sell alcohol under the Licensing (Scotland) Act 2005 and could re-purpose the premises to operate as a bar/restaurant or another hospitality business. However, existing SEV operators stated during evidence sessions that without a SEV licence, the

premises would likely close in the current financial climate and noted that some existing hospitality businesses in the city had been closed or experiencing difficulties due to financial hardships.

If the Committee determined to licence SEVs and set the appropriate number of SEVs in a locality at three (the number of SEVs currently operating in Edinburgh) this could have a negative impact on the majority of SEVs workers who are women, as it would create a monopoly for the existing SEV operators in Edinburgh. This would mean that any prospective operators of SEVs would be unable to open new premises which may result in socio-economic harm to them and any dependents.

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 or 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 5 February 2024.	Chris McKee, Regulatory Team Leader		5 February 2024
Ensure an updated IIA is completed when the SEV licensing policy is next reviewed	Chris McKee, Regulatory Team Leader		TBC

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

At the time of writing, there were no negative impacts for which there are no identified mitigating actions. The group noted that the Committee were yet to make a decision on the appropriate number of SEVs permitted to operate in Edinburgh and that this position could change as a result of the Committee's decision.

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 –

Date –

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/

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 2023

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 **31 December 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).

Appendix 14 – ECHR Rights

As a public authority the Council must act in accordance with the Human Rights Act 1998, particularly section 6(1) of that Act.

This provides -

“Acts of public authorities.

(1)It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(2)Subsection (1) does not apply to an act if—

(a)as the result of one or more provisions of primary legislation, the authority could not have acted differently; or

(b)in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.

(3)In this section “public authority” includes—

(a)a court or tribunal, and

(b)any person certain of whose functions are functions of a public nature,

but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(5)In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

(6) "An act" includes a failure to act but does not include a failure to—

(a) introduce in, or lay before, Parliament a proposal for legislation; or

(b) make any primary legislation or remedial order.

Accordingly in settling a policy, including the determination of an appropriate number, the Committee must act in a manner consistent with the ECHR "Convention Rights" incorporated into Scots law by that Act. The rights which are likely to be relevant include the following -

The right to peaceful enjoyment of possessions under Article 1 of the First Protocol of the ECHR

Article 1 of the First Protocol provides-

The First Protocol

Article 1 Protection of property

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.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

This is most likely to be relevant to the existing operators. This Article protects existing possessions with an economic value. This can include goodwill and existing

income derived from those possessions. It does not include the right to secure future possessions or potential income arising from such.

The setting of an appropriate number is likely to be regarded as a form of interference with existing possessions, particularly where the number is less than the number of existing operators. The caselaw from the European Court of Human Rights -which a Scottish Court would take into account but was not obliged to follow- originally stressed a distinction between deprivation of possessions and lesser measures of control or other forms of interference.

Broadly speaking measures of deprivation of possession would, in general be more difficult to justify than lesser measures. That distinction is arguably of less importance now as the more recent caselaw from the European Court has laid less stress on the form of the measure of interference takes and has placed more emphasis on the overall burden placed on the holder of a possession. The Court has, for example, considered whether a given measure placed an individual and excessive burden on the holder of a possession.

Conditions imposed on possessions such as licensing conditions might also be viewed as forms of control which require justification.

Any interference must be rationally linked to a legitimate aim or aims and must be proportionate to that aim. While the public authority has an area of judgment as to what that balance is, that must include consideration of whether a less restrictive measure would meet that aim.

The Article 8 right to respect for private, home and family life

Article 8 provides-

Article 8

Right to respect for private and family life

1Everyone has the right to respect for his private and family life, his home and his correspondence.

2There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Both those opposed to such venues, as well as performers appear to raise possible issues under Article 8.

In the judicial review the performers relied on Article 8 as did their Union, with particular stress being laid on the impact that a nil figure would place upon the performers, centred around loss of employment and the resultant impact on their lives (including relationships with other performers in that community) and the economic impact on them and their families.

The Council contested whether Article 8 applied in the circumstances of the setting of an appropriate number. Lord Richardson did not need to reach a concluded view on the whole Article 8 issues and accordingly questions remain open. It is also an open question whether the Article 8 rights of women and girls and indeed all those opposed to such venues operating are engaged. Ultimately whether they are engaged would be a matter for the courts.

Again, in the present consultation, some of the responses might be seen as raising Article 8 rights even if not expressed as such. Out of deference to the points made the Committee may wish to consider whether, for the purposes of full and transparent decision making, to approach matters on the basis that Article 8 might be engaged and to consider whether any appropriate number would comply with Article 8.

In that regard, there is no absolute right to protection of Article 8 rights. The right is to one of respect and that is why Article 8(2) permits an interference with Article 8 rights provided that the interference is for an aim or aims which can be said to fall within Article 8 (2) and is necessary, that is proportionate, for the securing of that aim. Again the aim and the interference must have a rational connection and be proportionate.

Articles 2, 3 and 4

These are referenced in the material lodged by the Equally Safe Edinburgh Committee. They provide as follows-

Article 2

Right to life

1Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a)in defence of any person from unlawful violence;

(b)in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c)in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3 provides-

Article 3

Prohibition of torture

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

Article 4 provides-

Article 4

Prohibition of slavery and forced labour

1 No one shall be held in slavery or servitude.

2 No one shall be required to perform forced or compulsory labour.

3 For the purpose of this Article the term "forced or compulsory labour" shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations.

It can be argued that the provisions on licensing of SEVs which are a lawful activity, if a licenced where a licence is required, has in view these Convention rights as a

means by which to protect women and girls from actual or potential violation of these Articles, such, by one example, as by being trafficked into forced work in such venues with possible risk to overall physical and mental wellbeing.

The setting of an appropriate number of nil might on one view be seen as a way of tackling such possible harms.

However Articles 2 to 4 are primarily concerned with action taken by a public authority which in itself violates these Articles, as opposed to the actions of private individuals who cause harm which is covered by these Articles, and accordingly the Committee could consider that the regulation of this activity by an enforceable licensing regime is a proper and appropriate means of preventing, detecting and eliminating abuses which might otherwise occur and that this can include the setting of an appropriate number at higher than nil.

Article 10 –the right to freedom of expression

Article 10 provides-

Article 10

Freedom of expression

1Everyone 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.

2The 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.

Although given caselaw in the similar area of the licensing of sex shops (*Belfast City Council v Miss Behavin' Ltd* [2007] UKHL 19) it is doubtful if Article 10 might apply in this area, again there may be a wish on the part of the Committee to consider whether providing and performing in such venues is protected by Article 10. The Belfast City Council case did not decide if Article 10 did apply, but it did appear to suggest that if it did the level of protection afforded to that right (there to sell pornography) was low. As ever any interference will require to be supported by a legitimate aim or aims and be proportionate.

The right not to be discriminated against in the enjoyment of Convention rights under Article 14

Article 14 provides-

Article 14

Prohibition of discrimination

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.

Article 14 is not a free-standing right. It applies to the enjoyment of any other Convention right that is engaged. Accordingly if another Convention right is engaged, it must be enjoyed absent from any discrimination contrary to Article 14. In the instant case sex is likely to be the most likely ground if Convention rights are engaged but the Committee should also consider whether any other ground might arise. Broadly, similar cases should be treated the same and cases which are dissimilar should be treated differently. In substance this means that discrimination is unlawful if there is no objective and reasonable justification for it or if there is no reasonable relationship of proportionality between the means employed and any identified aim sought to be realised.

General

As will be appreciated rights, if engaged may conflict and will need to be weighed and balanced by Committee members in making a decision. .

For example, the economic interests of existing operators might be a factor which the Committee would wish to take into account when assessing other possible human rights. The Guidance from the Ministers anticipates the need for such a resolution.

Overall there may be arguments over whether support for or against venues and the appropriate number engage Article 9 if this manifested as belief which could be regarded as engaging Article 9. Article 9 is mentioned for completeness as it is likely that if such are relevant beliefs that the ability to express those beliefs and to have them considered and listened to through the consultation process shows respect for those beliefs and that there has been a free exercise of those beliefs.

Article 9 provides-

Article 9

Freedom of thought, conscience and religion

1Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Provision of Services Regulations 2009 (excerpt)

15 Conditions for the granting of authorisation

(1) An authorisation scheme provided for by a competent authority must be based on criteria which preclude the competent authority from exercising its power of assessment in an arbitrary manner.

(2) The criteria must be—

- (a) [...]1
- (b) justified by an overriding reason relating to the public interest,
- (c) proportionate to that public interest objective,
- (d) clear and unambiguous,
- (e) objective,
- (f) made public in advance, and
- (g) transparent and accessible.

(3) The conditions imposed by a competent authority for granting authorisation for a new establishment under an authorisation scheme must not duplicate requirements and controls—

- (a) to which the provider of the service is already subject in the United Kingdom [...]
- and
- (b) that are equivalent or essentially comparable as regards their purpose.

(4) The provider of the service must assist the competent authority by providing any necessary information requested by the competent authority regarding the requirements and controls referred to in paragraph (3); and paragraph (3) does not apply if the provider has not provided that information within a reasonable time of being requested to do so.

(5) Paragraph (5A) applies in the case of an authorisation granted under an authorisation scheme by a competent authority whose functions relate to the whole of the United Kingdom.

(5A) The provider of the service must be able to have access to the service activity, or to exercise that activity, throughout the United Kingdom by virtue of the authorisation.

(5B) Paragraph (5C) applies in the case of an authorisation granted under an authorisation scheme by a competent authority whose functions relate only to part of the United Kingdom (a “territorial authority”).

(5C) The provider of the service must be able to have access to the service activity, or to exercise that activity, throughout the United Kingdom by virtue of the authorisation and authorisations granted or treated as granted under an authorisation scheme by other territorial authorities.

(5D) Paragraphs (5A) and (5C) do not apply where an authorisation for each individual establishment or a limitation of the authorisation to a particular part or area of the United Kingdom is justified by an overriding reason relating to the public interest.

(5E) The references in paragraphs (5A) and (5C) to the provider of the service having access to the service activity, or exercising that activity, include doing those things by means of setting up agencies, subsidiaries, branches or offices.

(7) A competent authority must grant an authorisation under an authorisation scheme as soon as it is established, in the light of an appropriate examination, that the conditions for authorisation have been met.

(8) Except in the case of the granting of an authorisation, any decision of the competent authority relating to an authorisation under an authorisation scheme, including refusal or withdrawal of an authorisation, must be fully reasoned

16 Duration of authorisation

(1) An authorisation granted to the provider of a service by a competent authority under an authorisation scheme must be for an indefinite period, except where—

(a) the authorisation—

(i) is automatically renewed, or

(ii) is subject only to the continued fulfilment of requirements,

(b) the number of available authorisations is limited by an overriding reason relating to the public interest, or

(c) a limited authorisation period can be justified by an overriding reason relating to the public interest.

(2) This does not prevent the setting of a maximum period before the end of which the provider of the service must actually commence the activity after receiving authorisation.

(3) The provider of the service must inform the competent authority of the following changes—

(a) the creation of subsidiaries whose activities fall within the scope of the authorisation scheme;

(b) changes in the provider's situation that result in the conditions for authorisation no longer being met.

(4) This regulation does not prevent revocation or suspension of an authorisation when the conditions for authorisation are no longer met.

18 Authorisation schemes: general requirements

(1) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must—

(a) be clear,

(b) be made public in advance, and

(c) secure that applications for authorisation are dealt with objectively and impartially.

(2) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must not—

(a) be dissuasive, or

(b) unduly complicate or delay the provision of the service.

(3) Authorisation procedures and formalities provided for by a competent authority under an authorisation scheme must be easily accessible.

(4) Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities

Appendix 16

Officer Feedback to Consultation Responses

There has been a significant number of written comments submitted as part of the SEVs consultation process. This included comments from the Edinburgh Equally Safe Committee (ESEC) and the Sex Workers Union (SWU) branch of the Bakers Food and Allied Workers Union, who represent some SEV performers and SEV operators. In addition to making comment on what the appropriate number of SEVs permitted to operate should be, those groups also made a number of points in relation to the policy and conditions framework. In order to assist the Committee officers have summarised the main points raised and provided feedback for the Committee to consider.

ESEC

Point / Issue Raised	Officer Feedback
Any activities that might involve any element that is akin to sexual entertainment must require a licence.	This would go beyond the statutory powers given to the Council as sexual entertainment is defined in the legislation; further information on the statutory definition is set out in paragraph 2.2 of the draft policy
Regarding paragraph 2.5 of the policy, there appears to be no explanation or clarity as to why a sexual entertainment licence is only required by a venue if sexual entertainment has been provided 4 times prior.	The limit referred to here is set out in para 45A(9) of the 1982 Act. The Council has no discretion in this regard.
The ESEC would also like to express concern over the use of vehicles or vessels for the purposes of sexual entertainment. We have good reason to believe that the use of 'moving' premises will place performers at unnecessary risk, especially if the vehicles are in motion during the course of the entertainment. Should any patrons at such premises act inappropriately against any of the performers, it will not be possible to escape the situation, and appropriate support might not be available on board	There is no implication from the draft policy that moving vehicles (or similar) would necessarily be deemed suitable as a SEV. Any issues arising as to the appropriateness of a premises could be considered by the Committee when dealing with an individual application.
In section 3.3 (b) we would like to highlight that although we agree that SEVs should not be located near schools/education establishments, places of worship, charities and landmarks/facilities, the provision is extremely vague. We propose that the policy makes a specific statement as to the distance required between any given SEV and an educational establishment, place of worship, charity and landmark, and recommend that this distance is set at a minimum of 750 metres	There is no evidential basis which officers are aware of which would merit a minimum distance of 750m. No other respondent has made a similar point, including bodies such as Police Scotland. Any issues arising as to the appropriateness of a premises location could be considered by the Committee when dealing with an individual application.

<p>Regarding the SEV Application Process, under paragraph 4.2(a) we propose to extend the publication of the advertisement beyond local newspapers. To ensure that as many residents are aware of the plan to open a SEV in a particular area, we recommend that local community pages/resources and website should also be used, such as Edinburgh Live and other online publications available for different community groups and areas. This is to ensure that there is equality in accessing such information-if it is not available on printed media, then citizens who are digitally excluded would not have the opportunity to be informed</p>	<p>This would go beyond what is set out in the 1982 Act and would therefore be at risk of legal challenge. Sch 2 Para 7 (2) of the 1982 Act states "Notice shall in all cases be given by publishing an advertisement in a newspaper specified by the local authority, being a newspaper circulating in their area [, or by publishing an advertisement on the local authority's website"</p>
<p>We also need to highlight that section 4.4 of the policy is problematic. It states that the organisations who will receive a copy of any application for an SEV will be:</p> <ol style="list-style-type: none"> 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 are situated. <p>Edinburgh Rape Crisis is the local representative organisation of Rape Crisis Scotland and Edinburgh Women’s Aid is the local representative of Scottish Women’s Aid. Both are members of the Equally Safe Edinburgh Committee. Zero Tolerance is a national violence against women and girls campaigning organisation who were in fact not informed of their inclusion in this policy. We propose that this section be limited to:</p> <ol style="list-style-type: none"> a. The Equally Safe Edinburgh Committee b. Any community council within or neighbouring the locality in which the premises are situated. 	<p>Officers recommend against limiting consultation of a SEV application.</p>
<p>Regarding paragraph 4.12, house fees, once agreed should be frozen for a period of 14 days</p>	<p>This is outwith the powers given to the Council.</p>
<p>Paragraph 6.1 of the policy has an erroneous interpretation of the Equally Safe Strategy. The current policy states that Equally Safe “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</p>	<p>This issue is addressed in Scottish Government Guidance paras 17-27 for example para 21(quoted in draft report para 4.7): <i>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</i></p>

<p><i>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”.</i></p> <p>We strongly disagree with this interpretation of Equally Safe. We are very disappointed that this specific point was included in our previous response to the SEV policy consultation in 2022 but was not taken into consideration. The strategy is titled: Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls. Its intent is to prevent and eradicate any behaviours it defines as VAWG. Further, the Scottish Government co-own the Equally Safe Strategy together with COSLA, the Convention of Scottish Local Authorities. Therefore, it is erroneous to presume that the Scottish Government’s intent is to <i>‘ensure that such activities take place in safe and regulated environments’</i>. The intent of the Scottish Government is clearly stated in the front page of the Equally Safe Strategy: to Prevent and Eradicate Violence Against Women and Girls. Therefore, we strongly urge the Council to reframe this sentence to better reflect a more accurate interpretation of the intentions of the strategy</p>	<p><i>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. See also Para 26: 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</i></p>
<p>Regarding proposed licence condition 1, ESEC would like to add to this condition that SEVs should not be used for any purpose other than the purpose for which they are licensed to be used.</p>	<p>This would be outwith the power of the Council as a licensing authority. Paragraph 52 of Scottish Government guidance states, <i>‘The local authority should give careful consideration as to whether the condition proposed is necessary and, with the Brightcrew 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.’</i></p>
<p>Regarding proposed licence condition 28, ESEC believe that women should only be allowed to be employed in SEVs over the age of 25, and not the age of 18. Although women aged 18 are legally adults, we believe that this is far too young an age for them to become involved in the sex industry. Younger women are considerably more vulnerable to abuse and</p>	<p>This would be outwith the power of the Council as a licensing authority. Paragraph 52 of Scottish Government guidance states, <i>‘The local authority should give careful consideration as to whether the condition proposed is necessary and, with the Brightcrew case in mind, whether it is linked to the regulation of sexual entertainment. The local authority should also</i></p>

<p>exploitation than more mature women, and the younger the age at which they become involved in the sex industry, the more this increases their vulnerability to abuse and exploitation in future</p>	<p><i>consider whether, in all the circumstances, the condition is reasonable and proportionate and therefore not susceptible to challenge.'</i></p>
<p>Regarding proposed licence condition 42, ESEC state that: The policy should include clear instruction as to what sanitary facilities will be made available to performers. Given the nature of the work in SEVs, we believe that at a minimum, performers need to be offered private toilets equipped with a sink and shower, and this should be reflected in the policy. This should also be stated as a minimum requirement in any 'moving' premises as discussed earlier</p>	<p>Health and safety at work legislation has general requirements for toilet and washing facilities in the workplace. The condition as drafted is intended to ensure that performers have private sanitary facilities separate to those used by customers.</p>
<p>Regarding proposed licensing condition 43.2, ESEC states that this condition contradicts section 4.12 of the proposed policy. The policy states that <i>"The Council does not expect any fines, arbitrary or otherwise, to be in place for performers, which could result in their loss of income."</i> On the other hand, condition 43.2 states that performers at SEVs are to be given information on <i>"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"</i>. This demonstrates a clear discrepancy in the Council's expectations of SEV license holders: on the one hand it expects that there will be fines imposed on performers but also that they will not. We believe this practice to be exploitative: performers at SEVs have to pay in advance to be allowed to perform at venues- to allow for fines to be imposed on them over and above the fees they already have to pay is an abuse of license holders' powers. If a performer behaves 'inappropriately'(with what constitutes 'inappropriate' behaviour by performers requiring further explanation) then we do not believe that imposing a fine is the appropriate course of action as it threatens her livelihood and makes her more vulnerable to exploitation, or promotes the need to seek additional income outwith the SEV as discussed earlier. The Council needs to clarify whether it would expect fines to be 'normally' implemented in SEVs against performers and under what conditions these would apply. The ESEC believes that no fines</p>	<p>As stated in the report and draft policy, the Council cannot legally prohibit the practice of fining. However, the policy clearly states that the Council's position is that consider them inappropriate and do not expect them to be in place.</p>

<p>should be imposed on SEV performers as this further exploits them and increases their vulnerability to abuse</p>	
<p>Conditions 46.2 and 46.3: The ESEC is extremely concerned with the wording of these conditions. On the one hand, it is not possible for SEV staff to constantly supervise the behaviour of customers, especially during very busy opening hours, or during private performances. This is impossible to implement even in nighttime economy venues which do not involve sexual entertainment-it would be impossible to implement in a SEV. Additionally, the implication of conditions 46.2 and 46.3 is that <i>“any customer who behaves inappropriately or is otherwise causing alarm or distress to a performer...will be ejected from the premises”</i>. The ESEC holds that if any customer behaves in a way that causes discomfort, alarm or distress to performers should be ejected and reported to Police Scotland... Should such inappropriate behaviour take place in a SEV, staff must be instructed not only to intervene but also to contact Police Scotland to report these crime(s)</p>	<p>Behaviour which is inappropriate may not be criminal. Complaints in relation to inappropriate behaviour within the premises could be considered in relation to the fitness of a licence holder and the police would raise a concern if criminality was not being dealt with.</p> <p>There is no discrepancy as the legislation applies to all activity in the premises whether conditioned or not.</p> <p>There is no general duty to report crime and to introduce a duty as a licence condition would possibly need further consultation and careful consideration.</p>

SWU

Point / Issue Raised	Officer Feedback
<p>SWU wishes to be invited to join the list of organizations that are informed when an application for a SEV license is made, as some of our members will work at these venues, and therefore directly impacted by these venues</p>	<p>If Committee agrees, the SWU could be added to the list of those organisations which are informed of a SEV licence application in Edinburgh. This would allow the Committee to consider any matters which SWU wishes to raise in respect of an individual application.</p>
<p>Proposed licensing conditions should be discussed with the workers and unions representing those workers. There is nothing currently in the licensing that protects workers from unfair working conditions. Suggestions such as club owners being unable to increase house fees without formal written notice. Or disallowing fines and ensuring clubs no longer take tips from performers.</p>	<p>As stated in the report and draft policy, the Council cannot legally prohibit the practice of fining. However, the policy clearly states that the Council’s position is that consider them inappropriate and do not expect them to be in place.</p> <p>Paragraph 52 of Scottish Government guidance states, <i>‘The local authority should give careful consideration as to whether the condition proposed is necessary and, with the Brightcrew 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</i></p>

	<i>and proportionate and therefore not susceptible to challenge.'</i>
In many industries whistleblowing is protected, it should be the same in the sex industry. The council should also take note that any complaints about the venues from the dancers should not be used as collateral or reason to shut down dancers' workplaces because they would rather have a place to work than none at all. It is important for the council to note that many dancers feel they have to continue working within exploitative conditions because they worry any complaints will result in their workplace being shut down / license revoked. The current consultation and the way the council has responded to the dancers during this whole process have not reassured these concerns.	Any complaints received by the Council in relation to licensed premises are dealt with on a case-by-case basis and considered on their individual merits. Where complaints are received against a SEV premises, this would not automatically result in a licence being suspended or revoked.

SEV Operators

Points / Issues Raised	Officer Feedback
Bar Frontage advertisement adult entertainment is essential for giving public knowledge and option of entering premises. As a business it's vital to promote and welcome custom.	It is considered that the draft conditions which relate to the external appearance of SEV premises strike an appropriate balance between allowing premises to advertise and limiting any language or images which could be considered inappropriate.

Appendix 17

Section 19 Equality Act 2010

19 Indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- race;
- religion or belief;
- sex;
- sexual orientation.

by virtue of paragraph(s) 6 of Part 1 of Schedule 7A
of the Local Government(Scotland) Act 1973.

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Regulatory Committee

12.30pm, Monday, 5 February 2024

Public Entertainment Licensing – Sun Tan Centres

Executive/routine
Wards

All

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the content of this report and the results of the consultation; and
 - 1.1.2 Agree the revised fee structure for Sun Tan Centres at 4.5.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

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

Public Entertainment Licensing – Sun Tan Centres

2. Executive Summary

- 2.1 After 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. This report provides an update on the results of that consultation and recommends amendments to the fees charged.

3. Background

- 3.1 The Council is a licensing authority under [The Civic Government \(Scotland\) Act 1982 \(the Act\)](#). Sun Tan Centres are included in the Council's Public Entertainment Resolution and, as such, must hold a Public Entertainment Licence under The Act. The current number of licensed premises, and the sunbeds therein, are attached at Appendix 3.
- 3.2 The Act allows the Council to set fees for licences. The key underlying principle is set out in Paragraph 15 of Schedule 1 to the Act, which provides that the licensing authority shall seek to ensure that the total amount of fees received by the authority, is reviewed from time to time, and is sufficient to meet the expenses of the authority in exercising its functions under the Act. In other words, licensing fees must be set on a cost recovery basis.
- 3.3 On 2 October 2023, Committee [agreed](#) that a stakeholder consultation should be carried out with respect to the licence application fees applicable to Sun Tan Centres.

4. Main report

Consultation and responses

- 4.1 On 22 November 2023, the service wrote to stakeholders with an interest in Sun Tan Centres (Appendix 1), including licence holders, trade groups, Police Scotland, the Scottish Fire and Rescue Service and Environmental Health.

4.2 Limited responses were received. The full wording of the responses is included at Appendix 2.

4.3 The responses expressed that the relevant application in Edinburgh was priced higher than the same application in similar Scottish authorities. One response also expressed a desire for safety inspections to check compliance with UV ratings.

Application fees

4.4 The current application fee for a Public Entertainment Licence for a Sun Tan Centre is £318 per bed for one year, whether new or renewal. The rationale for this fee structure is historic. Information gathered indicates that it would be appropriate to revise the structure to take account of developments in modes of operation of Sun Tan Centre businesses, and to promote consistency of approach with other licensed activities.

4.5 As a result, it is proposed that the committee agrees the following fee structure, to take effect from 1 April 2024. The fee structure is based on relative size and reflects use of bands which are used elsewhere in the fee structure. The suggested fees reflect the cost of processing applications, including checking paperwork of certificates provided by the applicant, consultation with statutory and non-statutory consultees and any inspection of the property.

No. sunbeds on premises	Application fee for annual licence
1 – 5	£250
6 – 10	£350
11+	£600

4.6 In addition, the fees would cover any follow-up enforcement activity. The current practice, since the pandemic, is that Environmental Health inspect the premises of new applicants with, where necessary, Public Safety. The intention will be to inspect all premises as part of the next renewal application. Assuming a satisfactory outcome from that inspection, from 1 April 2025 applicants would then be eligible to seek a three year licence for the same fee as a one year licence. This would bring the sector into line with the Council's approach to the majority of licence types. The normal policy position is that an initial grant of a new licence will be for one year unless the applicant can persuade Committee that they should be treated as an exception from that policy position.

Other issues

4.7 One respondent suggested that licensing conditions should be amended to require that sunbeds comply with BS-EN 60335-2-27. It is the responsibility of operators to ensure that the electrical output levels of their sunbeds meet the recommended standard within the industry and ensure that the equipment is maintained in good condition. Environmental Health Officers do not routinely carry out testing of the

output levels of sunbeds but, should a complaint be made, then they may require/arrange for independent testing. It is not considered necessary or proportionate to amend licence conditions to require compliance with BS-EN 60335-2-27 at the present time.

5. Next Steps

- 5.1 If agreed by Committee, officers will arrange to inform the licence holders of the revised fee structure for Sun Tan Centres from 1 April 2024, and the possibility of a three year licence from 1 April 2025,

6. Financial impact

- 6.1 There will be a reduction in annual income, however, as the number of tanning business is low, any loss will be minimal. The proposals will still ensure full cost recovery with any reduction in revenue contained within the Licensing budget, which is generated entirely from Licensing income.

7. Equality and Poverty Impact

- 7.1 Not applicable.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

- 9.1 Engagement took place with relevant stakeholders, including community and trade representatives.
- 9.2 Adopting a revised and updated fee structure will enhance transparency and accountability, and also demonstrate compliance with statutory requirements.

10. Background reading/external references

- 10.1 [Report to Regulatory Committee 2 October 2023.](#)
- 10.2 [Licence application fee list 2023/24.](#)

11. Appendices

- 11.1 Appendix 1 – Letter dated 22 November 2023.
- 11.2 Appendix 2 – Responses to letter.
- 11.3 Appendix 3 – Current numbers of sunbeds in Edinburgh premises.

Tanz Limited	Date	22 November 2023
4D Auchingramont Road Hamilton	Our ref	RS/TV/STL
ML3 6JT		

Dear Tanz Limited

**Sun Tan Centre Licensing
Civic Government (Scotland) Act 1982**

I write to bring to your attention that at its meeting on 2 October the Regulatory Committee of the City of Edinburgh Council was presented with a report on Public Entertainment Licensing (links are include at the end of this letter).

That report included information on industry concerns about the current framework for the licensing of Sun Tan Centres in Edinburgh under the Civic Government (Scotland) Act 1982 ('the Act').

The Regulatory Committee agreed that a stakeholder consultation should be carried out in advance of making any adjustment to the relevant application fees. This would offer an opportunity for licence holders and their representatives to set out their views on how the sector has developed and how the fee structure might be reformed, taking into account the Council's requirements that all fees achieve cost recovery.

The Council would welcome your comments on:

- 1) The existing fee charged per sunbed; and
- 2) Any other aspect of the licensing of Sun Tan Centres.

Andrew Mitchell, Head of Regulatory Services, Directorate of Place

City Chambers, High Street, Edinburgh EH1 3YG
Tel 0131 469 5822 andrew.mitchell@edinburgh.gov.uk

I invite you to make submissions by email to licensing@edinburgh.gov.uk or by post to 'Licensing Service, Level 10' at the address below. Any submission should arrive by **Friday 15 December 2023**.

Yours sincerely



Andrew Mitchell
Head of Regulatory Services

Web Links:

Report on Public Entertainment Licensing

<https://democracy.edinburgh.gov.uk/documents/s61678/7.2%20-%20Public%20Entertainment%20Licensing%20-%20Application%20Fees.pdf>

Existing Fee Structure

<https://ww>

www.edinburgh.gov.uk/downloads/file/23569/civic-licence-fees

Appendix 2

From: Tanz Limited <info@tanztanning.co.uk>
Sent: Friday, November 24, 2023 9:41 AM
To: Licensing <Licensing@edinburgh.gov.uk>
Subject: Concerns about Public Entertainment Licence Fees

Dear Edinburgh Council

I trust this message finds you well. I am writing to express my concerns about the pricing for license fees for sun tan centres within our community. As a business owner in the area, I have been a committed supporter of local initiatives and have always valued the services provided by the council.

However, the substantial rise in license fees over the years has come to my attention and has raised questions about the fairness and reasonableness of the current pricing structure. I understand that councils may need to adjust fees to cover operational costs and support community services. Still, the extent of the fee hikes has left me and other community members feeling burdened and financially strained.

I have thoroughly reviewed the fee schedule and compared it with neighbouring councils. It appears that your council's fees are significantly higher in comparison with other councils as well as renewing licenses in a 3-year cycle as opposed to a yearly structure that your council adopts. While I appreciate the need for revenue generation, I believe it is crucial to strike a balance that ensures the financial sustainability of the council without placing an undue burden on residents and local businesses.

I would like to request more transparency regarding the factors that led to the decision on the pricing of these license fees. Understanding the rationale behind these changes will help me and others in the community appreciate the challenges faced by the council. Additionally, I am curious if there are any plans to reassess or reconsider the current pricing structure in response to community feedback.

High license fees not only affect businesses but also impact the overall economic well-being of the community. I believe it is in the best interest of both the council and its constituents to foster an environment that encourages local businesses to thrive.

Thank you for your attention to this matter. I look forward to hearing from you and appreciate your commitment to the well-being of our community.

Tanz Limited

From: Frank Taylor <frank@indigosun.co.uk>
Sent: Wednesday, November 29, 2023 11:13 AM
To: Licensing <Licensing@edinburgh.gov.uk>
Subject: Sun Tan Centre Licensing

Dear Mr Mitchell,

Renewal of Sunbed Licensing Fees

We operate 98 Tanning Salons, throughout the UK with locations from Inverness in the North, to London in the South. From our Headquarters in Stirling, we employ over 900 staff.

In the Edinburgh City Council area we have four locations, as shown in the attached BAR Chart. I have annualised all the licensing fees to highlight the differences in costs from which it is plain to see that Edinburgh stands out as 10 times more expensive than other Scottish Council Licensing Schemes.

I understand that the purpose of the fee is to recover the costs incurred by the council but as an operator in Scotland and England, I see no great differences in the license conditions and site inspections made to obtain or renew a license. Every year in Edinburgh, we seem to fill in the same forms with the same answers, apart from the 3 yearly Electrical Test Certificate.

The site inspections generally take about 15 minutes with the Council Officer inspecting paperwork and checking the rooms to ensure all relevant posters are displayed, and additional emergency stop buttons fitted. The number of sunbeds within the salon is irrelevant to the time spent on the inspection as most of the checks are done in the background. To streamline the system and make it fairer for salons and allow the council to recover costs I propose, the licensing renewal should take place every three years with

fees around the Scottish average of £200 per annum for each salon. This would mean each salon would pay £600 to renew the license every 3 years, irrespective of the number of the beds.

It should be pointed out that one deficiency in the licensing scheme relates to the UV emission level of sunbeds. At present the safe level governing sunbeds is 0.3 W/M2 which is equivalent to the mid-day mediterranean sun. there are no checks to establish the output level of sunbeds in Edinburgh, which is very concerning. We are subject to simple tests in various other licensed areas to check our sunbed output which eliminates rogue operators who put their customers at risk of burning.

I would ask the council to speak with the Sunbed Association for further information on this point to ensure compliance, as it could be a simple matter of writing to all salons within the area pointing out that you will be checking for compliance with 0.3 over the next 3 months. I am sure that once received, most salons would replace their sunbed lamps to comply.

In conclusion, my recommendations are as follows:

1. Sunbed salon license to be a flat fee similar to other Scottish areas.
2. Salon licenses to be renewed every 3 years.
3. Licensing conditions to be amended to make sunbeds 0.3 compliant. (BS-EN 60335-2-27)

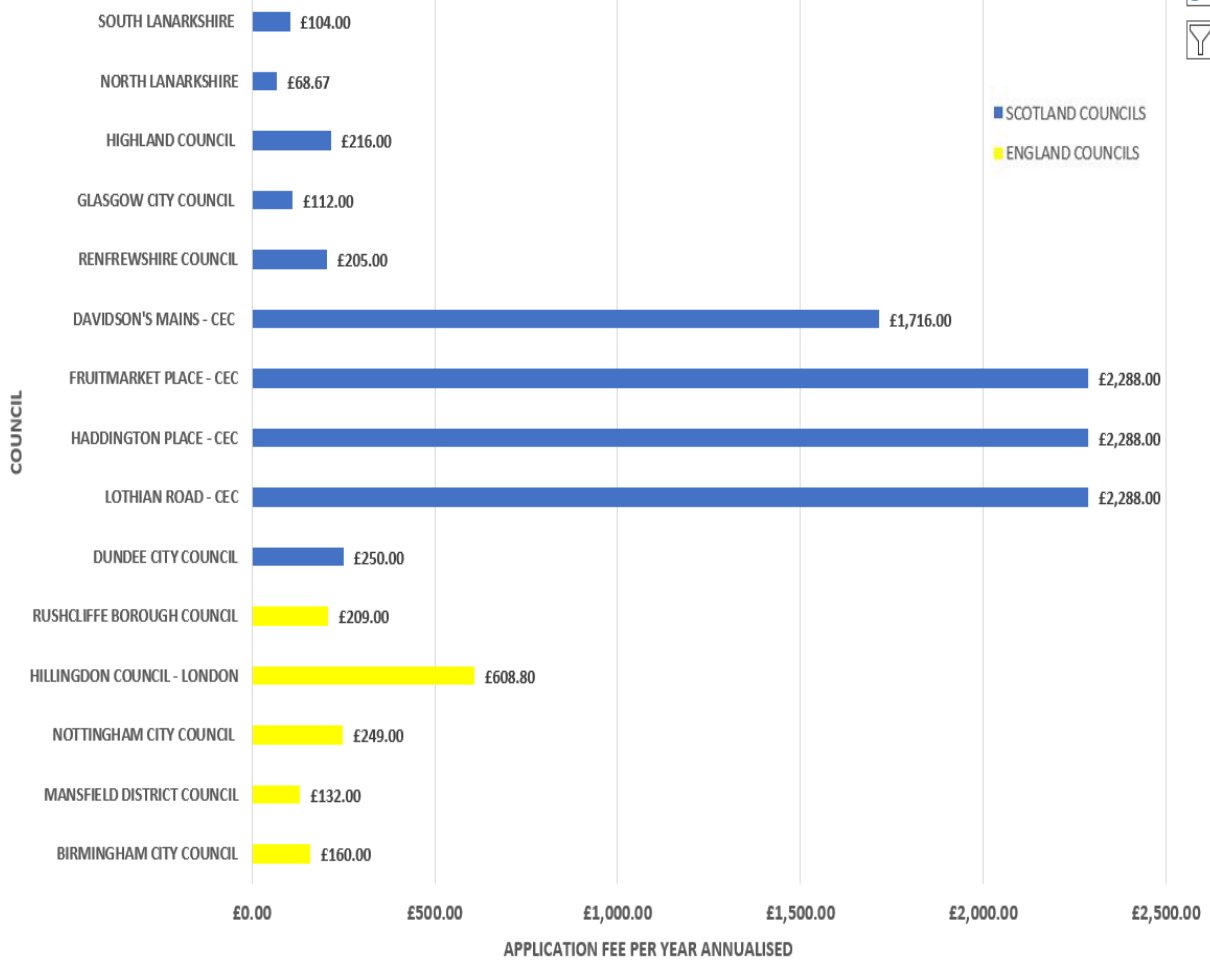
I look forward to hearing the result of the consultation.

Yours faithfully

Frank Taylor

Managing Director

indigosun LICENCED LOCATIONS AND COSTS



Appendix 3

No. sunbeds	Premises
0	1
4	3
5	2
6	1
7	3
8	5
11	1
12	2
Total	18



Regulatory Committee

12.30pm, Monday 5 February 2024

Short-term Lets – referral from Planning Committee

Executive/routine
Wards
Council Commitments

1. For Decision/Action

- 1.1 The Planning Committee has referred a report on Short-term Lets to the Regulatory Committee for consideration.

Dr Deborah Smart

Executive Director of Corporate Services

Contact: Joanna Pawlikowska, Committee Services
Legal and Assurance Division, Corporate Services
E-mail: joanna.pawlikowska@edinburgh.gov.uk

Referral Report

Short-term Lets – referral from Planning Committee

2. Terms of Referral

2.1 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.

2.2 The Planning Committee agreed:

Motion

- 1) To note the information provided in the report by the Executive Director of Place.
 - 2) To note that officers inform Councillors of appeal outcomes and asked that links to the cases were added to the regular reporting in the business bulletin.
 - 3) To ask for an update on how Planning and Licensing officers were working together on STLs in the next business bulletin, and recognised that this was an operational matter but considered that Committee needed to understand the process in order to exercise appropriate scrutiny.
 - 4) To note that a letter was received from ASSC which was circulated to members and asked that officers provided a briefing on the matters raised and a report detailing this to the next Planning Committee.
 - 5) To request that matters arising out of the Short Term Lets working group were detailed in the Business Bulletin and to note that any matters requiring Committee decisions would be brought to the relevant Committee.
 - 6) To approve the amended Guidance for Business (January 2024) which took account of the Court decision.
 - 7) To refer this report to the Regulatory Committee for consideration.
 - 8) To agree that training should be provided for Committee members on Short Term Lets (STLs) and training on appeal outcomes as referenced.
- moved by Councillor Dalgleish, seconded by Councillor Cameron.

Amendment

- 1) To note the report and thank officers for their work in responding to the judicial review judgement of December 2023.

Guidance for Business

- 2) To approve the amended Guidance for Business (January 2024) (Appendix 1 of the report by the Executive Director of Place) which took account of the court decision.

Communication with licensing colleagues

- 3) To agree that good communication between planning and licensing colleagues was essential for effective regulation of STLs, and therefore asked planning officers to ensure that licensing colleagues were notified:
 - a) on the submission of an application for planning consent (both full planning consent and certificate of lawful use applications) for an STL.
 - b) when an application for planning consent for an STL had been determined.
 - c) what the outcome of that determination was.
- 4) To note that officers inform Councillors of appeal outcomes and asks that links to the cases are added to the regular reporting in the business bulletin.
- 5) To request that matters arising out of the Short Term Lets working group are detailed in the Business Bulletin and notes that any matters requiring Committee decisions will be brought to the relevant Committee.

Referral to Regulatory Committee

- 6) To refer the report to Regulatory Committee for consideration, and recommended that the Executive Director of Place provided a covering report for Regulatory Committee which addressed the interplay between planning and licensing of STLs insofar as it fell within the remit of Regulatory Committee, and that this covering report may include, but not be limited to, the following issues:
 - a) good communications between planning and licensing colleagues in respect of STL applications and decisions.
 - b) ensured that licensing colleagues were notified on the validation and determination of STL planning consent applications (both full planning and certificate of lawful use applications).
 - c) whether the Council would consider using discretionary powers of preliminary refusal for a breach of planning control under paragraph 2a of schedule 1 of the Civic Government (Scotland) Act 1982 as amended by the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and, if so, what the implications of using those powers would be; and a suggested timetable for the use of those powers.

Training for Committee Members

7) To agree that training should be provided for committee members on short-term lets (STLs).

- moved by Councillor Booth, seconded by Councillor Staniforth

Voting

For the Motion - 6 votes

For the Amendment - 5 votes

(For the motion – Councillors Beal, Cameron, Dalgleish, Jones, Mowat and Osler.

For the Amendment – Councillors Booth, Gardiner, Mattos-Coelho, McNeese-Mechan and Staniforth.)

Decision

To approve the motion by Councillor Dalgleish.

3. Background Reading/ External References

3.1 Minute of the Planning Committee – 31 January 2024

3.2 [Planning Committee – 31 January 2024 – Webcast](#)

4. Appendices

Appendix 1 – Report by the Executive Director of Place

Planning Committee

2.00pm, Wednesday, 31 January 2024

Short-term Lets

Executive/routine
Wards

All

1. Recommendations

- 1.1 It is recommended that Committee:
 - 1.1.1 Notes the information provided in this report;
 - 1.1.2 Approves the amended Guidance for Business (January 2024) which takes account of the Court decision;
 - 1.1.3 Refers this report to the Regulatory Committee for consideration; and
 - 1.1.4 Agrees that training should be provided for Committee members on Short-Term Lets (STLs).

Paul Lawrence

Executive Director of Place

David Givan, Chief Planning Officer and Head of Building Standards

E-mail: david.givan@edinburgh.gov.uk | Tel: 07525618478

Short-term Lets

2. Executive Summary

- 2.1 This report responds to a request from the Council and sets out the implications of the Judicial Review in respect of short-term lets and planning.
- 2.2 Following a request from Planning Committee, it considers:
- Enforcement;
 - The impacts of appeal and local review outcomes on development decisions and on development plan policies and guidance;
 - The relationship between the licensing and planning regimes and practice; and
 - Whether updates to practice or training are recommended.

3. Background

- 3.1 The Edinburgh Short-term Let Control Area came into force on 5 September 2022.
- 3.2 At Planning Committee on [15 November 2023](#), Committee requested a report within two cycles which provides an update on short-term lets in relation to:
- Enforcement.
 - The impact of appeal and local review outcomes on development decisions.
 - The impact of development plan policies and guidance.
 - The relationship between the licensing and planning regimes and practice.
 - Whether updates to practice or training are recommended.
- 3.3 On 1 December 2023, Lord Braid issued his Opinion on the Judicial Review of the Council's approach to the issue of whether Section 26B (2) of the Town and Country Planning (Scotland) Act 1997 (the "1997 Act") has any retrospective effect. Section 26B (2) states:

“In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwelling house.”

- 3.4 Lord Braid’s Opinion clarifies that Section 26B (2) should be read as applying only to a proposed future change of use after 4 September 2022. Depending on the facts and circumstances, consideration may require to be made as to whether there has been either a non-material change of use prior to 5 September 2022 or non-enforcement for 10 years.
- 3.5 The amendments to the Council’s non-statutory Guidance for Businesses (which were approved in April 2023) were reduced by the Court. This means it can no longer be used in the form approved by Committee in April 2023. The document is not policy but provides guidance on the application of policy. It was solely reduced by the Court because of statements within it that suggested that short-term let uses taken up before the Control Area came into force, are deemed in terms of Section 26B (2) to be material changes of use which require planning permission.
- 3.6 At the Council meeting on 14 December 2023, a [composite amendment](#) was approved that requested a report come to Planning Committee detailing the implications of the Judicial Review and what outcomes this will have on Short-Term Let Planning Policy and the assessment of Short-Term Let Planning Applications, what implication this may have for the Council’s Short Term Let Licensing Scheme, and potential amendments to the ‘Guidance for Businesses’ which comply with the judgement.
- 3.7 Council also agreed that this report should be sent to the Regulatory Committee and the Short Term Lets Working Group for information.
- 3.8 This report fulfils these requirements from the Council and Planning Committee.

4. Main report

Implications of Judicial Review

- 4.1 The judicial review has no impact on the planning policies that are typically used to assess short-term let planning applications. These policies are Edinburgh Local Development Plan Policy Hou 7 - Inappropriate Uses in Residential Areas and Policy 30 of National Planning Framework 4. They are unaltered by the Court.
- 4.2 Uses of dwellinghouses for short-term secondary let purposes that commenced after the Control Area came into force are deemed to be material changes of use and therefore require planning permission. There is no impact on those properties from the Judicial Review.
- 4.3 Where applications are made for pre-control area changes of use from dwellinghouses to short-term lets, it now needs to be considered whether a material change of use has occurred using a fact and degree assessment. Prior to the control area coming into force, each short term let application or enforcement case

was assessed on this basis and it was often concluded for properties being used for short-term secondary let purposes that a material change of use had occurred thereby requiring planning permission. It remains the case that some pre-control area changes of use will be material changes of use that require planning permission. However, there is potential that some such changes of use may, in terms of the fact and degree assessment, be determined as not being material changes of use that require planning permission.

- 4.4 The practical implications of the Judicial Review for the workload of the Planning service are:
- 4.4.1 It is likely to take longer to determine applications due to the fact and degree assessment as each case must be considered on its own merits. In relation to this, many applications have stated the use commenced before 5 September 2022;
 - 4.4.2 Most recent applications are for certificates of lawfulness of existing use. Where these applications are refused, planning permission is required. Therefore, planning permission may then be sought (adding to workloads); and
 - 4.4.3 Given there is lesser certainty about where material changes of use have occurred, there is a potentially a greater likelihood that refusals of both certificates of lawfulness and planning applications will be appealed.
- 4.5 The April 2023 version of the Guidance for Business has been amended to take account of the Court Decision (Appendix 1). As the amendments to the Guidance are solely to address the Judicial Review judgment, it is not considered that further consultation is necessary. It is recommended this amended guidance is approved. In Appendix 1 additions are highlighted in yellow, while deletions are shown in scored out red text.
- 4.6 It is not proposed that the guidance is further changed at this stage. It may be appropriate to review the guidance once City Plan 2030 is adopted to reflect the up-to-date development plan at that stage. It is not proposed to change the process in relation to the fact and degree assessment of whether a material change of use has occurred that was in place prior to the control area coming into force. Changes to guidance that go beyond addressing the court decision would require to be consulted on.
- 4.7 The Judicial Review principally related to STL Planning matters, but it also touched on the interrelationship with the Council's STL licensing policy. The 1 December 2023 Judgment stated that that the licensing form should be amended to better reflect that there may be cases where planning permission is not required. The relationship between licensing and planning is considered further below.

Enforcement

- 4.8 During 2023 there were 264 reports to the Council of possible breaches of planning control in relation to short-term lets. During 2023, 89 enforcement notices were issued requiring the cessation of the unauthorised use.
- 4.9 The planning service is continuing to assess reports of possible breaches and will continue to act where it is in the public interest do so.
- 4.10 Where planning permission is required and is not in force or has not been applied for and not yet decided, the licensing team will be advised of this and can take appropriate action.

Impact of appeal and local review outcomes on development decisions

- 4.11 In respect of STL cases, planning appeals to the Planning and Environmental Appeals Division (DPEA) are made for planning enforcement notices, planning applications that have been refused at Committee and applications for certificates of lawful use that have been refused. Generally, it has been found that the DPEA has supported the Council's decisions. This suggests the Council has been assessing these cases appropriately.

Impact of development plan policies and guidance

- 4.12 Applications for planning permission are decided in accordance with the development plan, principally comprised of the Edinburgh Local Development Plan 2016 ("LDP") and National Planning Framework 4 ("NPF4"), unless outweighed by material considerations. The principal development plan policies relating to short-term lets are LDP policy Hou 7 and NPF4 policy 30. The adoption of NPF4 in February 2023, and its new requirements on housing loss, is having an impact on decisions. Since then, there have been proportionately fewer planning permissions granted than previously where only the issue of amenity was considered.
- 4.13 The Council's next Local Development Plan, City Plan 2030, is under examination at present. It contains proposed policies Hou 8 Inappropriate Uses in Residential Areas (which is similar to current LDP policy Hou7) and new policy Hou7 Loss of Housing. There is potential for the wording of policies to be altered where the report of examination recommends that. Once City Plan is adopted it will replace the LDP and its policies will be used alongside NPF4 in the determination of applications.

Relationship between the licensing and planning regimes and practice

- 4.14 Mandatory condition 13 which is imposed on a license granted under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 requires that where planning permission is needed, licensees either have applied for planning permission or have planning permission in place. This mandatory condition applies to all properties that need planning permission and are being used for short-term let purposes, so includes both those that are deemed to be material changes of use under Section 26B of the 1997 Act and those cases where a material change of use has occurred under Section 26 of the 1997 Act.

4.15 The Council's "City of Edinburgh Council Short Term Lets Licensing Policy" seeks information on the planning status of secondary let properties. The application form has been updated following the second Judicial Review to address the courts comments. Where this information is not provided or is unclear with STL licence applications, the Licensing team will engage with the applicant and discuss the circumstances and seek further information. Thereafter, if there remains an outstanding issue with the planning status of the property the Licensing service would ask the Planning service to confirm the planning status of the property before determining the licence application. The licence will require to be determined within the statutory determination period. The Council approach to enforcement of licensing issues has been approved by the Regulatory Committee at its meeting in October 2023.

Whether updates to practice or training are recommended

4.16 Training has been conducted with planning staff on STLs.

4.17 It is recommended that further training is carried out with Planning and Regulatory Committee members on STLs.

Other matters

4.18 On reviewing the Guidance for Business in order that it can be amended to reflect the court decision, it was noted that it does not accurately reflect legislation for houses of multiple occupation. It is proposed the guidance is also changed to reflect the current legislation. This change is highlighted in Appendix 1.

5. Next Steps

5.1 The Planning service will continue to assess and determine applications and enforcement cases. It will also continue to liaise with the Licensing team and support it in progressing license applications.

5.2 The Short-Term Lets Working group will continue to meet and matters arising from it that require Committee decisions will be reported accordingly.

5.3 Training will be arranged for members of the Planning and Regulatory Committees.

6. Financial impact

6.1 The cost of administering planning applications is largely covered by the fees received. The cost of progressing planning enforcement investigations, planning appeals and local reviews is not. It is expected that there will continue to be pressures on the service due to the large number of short-term let applications, appeals, reviews and enforcement cases that it is progressing. The judicial review decision is likely to exacerbate that pressure due to the issues highlighted at paragraph 4.4. Planning will seek to contain any emerging pressures within existing budget and resources.

7. Equality and Poverty Impact

- 7.1 As the report is not making recommendations which have equality or poverty impacts, there are no impacts on equality arising from this report.

8. Climate and Nature Emergency Implications

- 8.1 As the report is not making recommendations that have climate or nature emergency implications, there are no impacts on these matters arising from this report.

9. Risk, policy, compliance, governance and community impact

- 9.1 Given there has now been two legal judicial reviews in respect of the Council's approach to short-term lets, there is a risk of further legal challenge. This could come about in relation to any decisions that the Council makes.
- 9.2 If a challenge is made, the relevant councillors will be consulted before any decision is made on what action to take.
- 9.3 To reduce the risk of potential challenge the Planning and Licensing teams liaise with the Legal service on matters arising.

10. Background reading/external references

- 10.1 Report to Planning Committee of 19 April 2023 on [Proposed Changes to Short Term Let Guidance in the Non-Statutory Guidance for Businesses](#)
- 10.2 [Opinion of Lord Braid in the Petition of \(First\) Iain Muirhead and \(Second\) Dickins Edinburgh Limited for Judicial Review](#)
- 10.3 The [Town and Country Planning \(Scotland\) Act 1997](#)
- 10.4 [Edinburgh Local Development Plan](#)
- 10.5 [National Planning Framework 4](#)

11. Appendices

- 11.1 Appendix 1 – Proposed amended Guidance for Businesses.

Appendix 1

Proposed amended Guidance for Businesses

Changes from the April 2023 version are shown as follows:

- Additional text highlighted in yellow.
- Deletions shown in scored out red text – ie: ~~text~~

Guidance for Businesses

April 2023

January 2024

Page 579



Guidance for Businesses

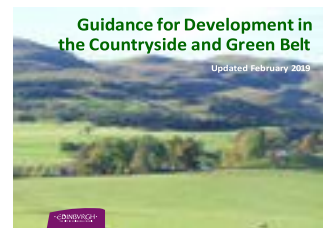


Who is this guidance for?

This guidance is intended to assist businesses in preparing applications to change the use of a property or carry out alterations to a business premises.

Policy Context

This document interprets policies in the *Edinburgh Local Development Plan*. Relevant policies are noted in each section and should be considered alongside this document.



Misc: Student Housing, Radio Telecommunications, Open Space Strategy etc.

This document and other non-statutory guidance can be viewed at: www.edinburgh.gov.uk/planningguidelines

Listed Buildings and Conservation Areas

If the building is listed or located within a Conservation Area, guidance on *Listed Buildings and Conservation Areas* must also be considered. Boxes throughout this guideline give specific information relating to Listed Buildings and Conservation Areas. You can check if your property is listed or located within a conservation area on the Council's website www.edinburgh.gov.uk/planning

Business Gateway

Business Gateway offers businesses free practical help and guidance. Whether you're starting up or already running a business, and provide access to business support and information services.

To get more information on help for your business, or to book an appointment with our experienced business advisers please contact our Edinburgh office.

Contact details:

Business Gateway (Edinburgh Office)
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG
Tel: 0131 529 6644

Email: bglothian@bgateway.com

www.bgateway.com

This guidance was initially approved in December 2012 and incorporates additional text on short term commercial visitor accommodation approved in February 2013, and minor amendments approved in February 2014, February 2016, March 2018 and February 2019.

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Do I need Planning Permission?

Planning Permission

Planning permission is required for many alterations, and changes of use. However, some work can be carried out without planning permission; this is referred to as 'permitted development'. Permitted development is set out in legislation.

Common enquiries are set out in the relevant chapters of this document.

If you believe your building work is 'permitted development', you can apply for a [Certificate of Lawfulness](#) to confirm that the development is lawful and can go ahead. This can be applied for online at www.eplanning.scot

What is a change of use?

Most properties are classified under categories known as a 'Use Class'. For example, shops are grouped under Class 1 and houses under Class 9. Some uses fall outwith these categories and are defined as 'sui generis', meaning 'of its own kind'. This is set out in The Use Classes (Scotland) Order 1997 (as amended).

Changing to a different use class is known as a change of use and may require planning permission, although some changes between use classes are allowed without planning permission. Planning permission is not required when both the present and proposed uses fall within the same 'class' unless there are specific restrictions imposed by the council. The Scottish Government Circular 1/1998 contains guidance on use classes.

Listed Buildings and Conservation Areas

Fewer alterations are considered to be permitted development and most changes to the outside of a building, including changing the colour, require planning permission. More information on other consents which may be required is included on the next page.

Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings and also applies to the interior of the building and any buildings within the curtilage. Planning permission may also be required in addition to Listed Building Consent. If your building is listed, specific guidance on [Listed Buildings and Conservation Areas](#) must also be considered along with this document.

What Other Consents Might Be Required?

Advertisement Consent

Advertisements are defined as any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, and employed wholly or partly for the purpose of advertisement, announcement or direction.

While many advertisements require express consent, certain types do not need express consent as they have 'deemed consent'. You can check this by consulting [The Town and Country Planning \(Control of Advertisements\) \(Scotland\) Regulations 1984](#).

Advertisements displayed in accordance with the advert regulations do not require advertisement consent.

Illuminated shopfront signage in a conservation area requires advertisement consent.

Building Warrant

Converted, new or altered buildings may require a Building Warrant. There is more Building Standards information at www.edinburgh.gov.uk/buildingwarrants. For detailed information please go to the [Scottish Government website](#).

Road Permit

You must get a permit to the Council if you want to carry out work in or to occupy a public street. A [road permit](#) will be required if forming a new access or driveway or if placing a skip or excavation in a public road. It will also be required for scaffolding

or to occupy a portion of the road to place site huts, storage containers, cabins, materials or contractors plant, to put up a tower crane or to operate mobile cranes, hoists and cherry pickers from the public highway. For more information contact the Areas Roads Manager in your [Neighbourhood Team](#).

Licensing

Some activities, such as the sale and supply of alcohol or late hours catering, require a licence.

Please contact [Licensing](#) for more information on 0131 529 4208 or email licensing@edinburgh.gov.uk.

~~The Civic Government (Scotland) Act 1982 (Licensing of houses in Multiple Occupation) Order 2000, requires operators of HMOs to obtain a licence allowing permission to be given to occupy a house as a HMO where it is the only or principal residence of three or more unrelated people.~~ Part 5 of the Housing (Scotland) Act 2006 requires HMOs to be licensed unless exempt. A license gives permission to occupy a house as an HMO. An HMO is a house where three or more unrelated people reside as their main residence.

Table and Chairs Permit

If your business sells food and drink you may be able to get a permit from the Council to put tables and chairs on the public pavement outside your business.

A [tables and chairs permit](#) allows you to put tables and chairs on the public pavement between 9am and 9pm, seven days a week and is issued for either six or twelve months. For more information please email

TablesChairsPermits@edinburgh.gov.uk or phone 0131 529 3705.

Biodiversity

Some species of animals and plants are protected

by law. Certain activities, such as killing, injuring or capturing the species or disturbing it in its place of shelter, are unlawful. It is also an offence to damage or destroy a breeding site or resting place (or obstruct access to).

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be taken. If it is identified that an activity is going to be carried out that would be unlawful, a license may be required.

More information on European Protected Species, survey work and relevant licenses is available on the [Scottish Natural Heritage website](#).

Trees

If there are any trees on the site or within 12 meters of the boundary, they should be identified in the application. Please refer to [the Edinburgh Design Guidance \(chapter 3.5\)](#) for advice.

All trees in a Conservation Area or with a Tree Preservation Order are protected by law, making it a criminal offence to lop, top, cut down, uproot wilfully, damage or destroy a tree unless carried out with the consent of the council. To apply for works to trees, go to www.eplanning.scot.

Trade Waste

Proposals for commercial use of a property should ensure that there will be sufficient storage space off street to store segregated waste containers, in line with the Council's Trade Waste policy.

Changing a Residential Property to a Commercial Use

What does this chapter cover?

Changes of use to:

- private day nurseries
- house in multiple occupation (HMOs)
- running a business from home
- guest house
- short term let accommodation

This guideline is not intended to address new hotel development which is covered by [Edinburgh Local Development Plan](#) (LDP) Policy Emp 10 Hotel Development.

Where an extension to a residential property is required to then run a business from home, please refer to the [Guidance for Householders](#) to understand what permissions are required.

When is planning permission required?

Some activities within a residential property can be undertaken without requiring planning permission. Some common enquiries are given below.

What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a [Certificate of Lawfulness](#) for legal confirmation.

Private day nurseries

The change of use from a residential property to a private day nursery requires planning permission.

Where child minding is undertaken from a residential property, whether a change to a private day nursery has occurred will be assessed on a case by case basis. Consideration will be given to the number of children, the frequency of activity and the duration of stay. The criteria under 'Running a business from home' should also be considered.

Houses of Multiple Occupation (HMOs)

The sharing of accommodation by people who do not live together as a family is controlled at the point at which there is considered to be a material change of use. For houses, Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 considers this to be when more than 5 people are living together, other than people living together as a family. As with houses, the Council would also expect a material change of use to occur in flats when more than 5 unrelated people share accommodation. All planning applications for Houses in Multiple Occupation (HMOs) are assessed using LDP Policy Hou 7: Inappropriate Uses in Residential Areas, having regard to the advice below.

Running a business from home

Proposals which comply with all the following may not need planning permission, but always check with the council first.

- There should be no change in the character of the dwelling or the primary use of the area. For example, signage, display of commercial goods, increased pedestrians and vehicular movements, noise etc.
- There should be no more than the parking of a small vehicle used for commercial and personal purposes within the curtilage of a dwelling house.
- Any ancillary business should not be detrimental to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, ash, dust, or grit.
- There should be no impact on the amenity or character of the area as a result of visitors or deliveries to the property.
- The primary use of the property must be domestic and any members of staff on the premises should have no impact on the amenity and character of the property.

Using your home as a guest house

Planning permission will not be required for the use of a house as a bed and breakfast or guest house if:

- The house has less than four bedrooms and only one is used for a guest house or bed and breakfast purpose
- The house has four or more bedrooms and no more than two bedrooms are used for a guest house or bed and breakfast purpose.

Planning permission will always be required if a flat is being used as a guest house or bed and breakfast, regardless of the number of rooms.

Short Term Let Accommodation

The city-wide Edinburgh Short-term Let (STL) Control Area came into force on 5 September 2022, which means that the use of a residential property for short-term let accommodation will constitute a change of use requiring The Council has designated all of its area a Control Area in terms of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”). That designation means that from 5 September 2022 there is a city-wide Edinburgh Short-term Let (STL) Control Area. Accordingly, a change of use of a dwellinghouse to use for a short-term let occurring on or after that date within the Control Area will be deemed a material change of use and will require planning permission provided that:

- It is not a private tenancy under Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016;
- It is not a tenancy of a dwellinghouse (or part of one) where all or part of the dwellinghouse is the principal home of the landlord or occupier;
- Sleeping accommodation is provided to one

or more persons for one or more nights for commercial consideration (i.e. an exchange of money);

- No person to whom sleeping accommodation is provided is an immediate family member of the person by whom the accommodation is being provided;
- The accommodation is not provided for the principal purpose of facilitating the provision of work or services to the person by whom the accommodation is being provided or to another member of that person’s household;
- The accommodation is not provided by an employer to an employee in terms of a contract of employment for the better performance of the employee’s duties; and
- The accommodation is not a hotel, boarding house, guest house, hostel, residential accommodation where care is provided to people in need of care, hospital or nursing home, residential school, college or training centre, secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks), a refuge, student accommodation or an aparthotel.

Section 26B of the 1997 Act applies where change of use of a dwellinghouse occurs after designation of a control area. However, it is important to remember that section 26B does not replace the existing requirements of the 1997 Act in respect of the need for planning permission for a material change of use. This means that a material change of use to short-term letting whether before or after 5 September

2022 would require planning permission. Consideration of whether the change of use is material in any particular case may include, but is not restricted to, matters such as the impact on immediate neighbours, the wider local amenity and local infrastructure. If a person wishes to ascertain whether any existing use of buildings is lawful, they can make an application for certificate of lawful use to the Council.

~~These legal requirements are set out in the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021. Further detail and guidance on these matters is contained in the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 and the Scottish Government’s guidance on Short Term Lets and Planning (Circular 1/2023) and their Planning Guidance for Hosts and Operators, July 2023. Annex B of the Scottish Government’s Planning Circular 1 of 2021 — Establishing a Short-term Let Control Area.~~

On 1 October 2022, the licensing scheme under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the “STL Licensing Order”) will was opened to receive applications for short-term let licenses. The requirement to have an STL licence license is separate from any need to have planning permission. Further information on STL licensing can be found within the Scottish Government’s Licensing Guidance for Hosts and Operators, June 2023.

In Edinburgh, due to the STL Control Area, where the use of a premises for a short-term let requires planning permission, to lawfully operate a secondary let STL under an STL ~~licence~~ license, there will be a need to either have planning permission in place, or an ongoing application for planning permission, ~~or have it in place confirmation from the Council that planning permission is not required.~~ In the event that ~~planning permission is required, and~~ the planning application and any related appeal is refused, the STL ~~licence~~ license holder cannot lawfully continue to operate the secondary let STL in terms of their licence.

Page 587 “Secondary letting” means a short-term let consisting of the entering into an agreement for the use of accommodation, which is not, or not part of, the ~~licence~~ license holder’s only or principal home.

~~Further guidance on licensing can be found on the Council’s website.~~

What to consider if planning permission is required

Policy Hou 7

Sets out when uses will not be permitted in predominately residential or mixed use areas i.e. uses which would have a materially detrimental effect on the living conditions of nearby residents.

Amenity

Proposals for a change of use will be assessed in terms of their likely impact on neighbouring residential properties. Factors which will be considered include background noise in the area and proximity to nearby residents.

In the case of private day nurseries, whether nearby residential uses overlook the garden will also be considered. This is due to the potential for increased noise to those households.

Road Safety and Parking

The *car parking standards* define the levels of parking that will be permitted for new development and depends on the scale, location, purpose of use and the number of staff. Parking levels will also be dependent on the change of use and proximity to public transport.

The existing on-street parking and traffic situation will be important considerations in this assessment. The location should be suitable to allow people and deliveries to be dropped-off and collected safely. This is especially important for children going to and from a private day nursery. The potential impact on vulnerable road users – cyclists and pedestrians – will also be a consideration.

Parking in Gardens

The provision of new car parking should have regard to character and setting of the property and should normally preserve a reasonable amount of front garden. In a conservation area parking in the front garden would only be considered if there was an established pattern and it was part of the character of the area. Parking in the front garden of a listed building is not likely to be supported and there is normally a presumption against loss of original walling and railings and loss of gardens. Further information on the design of parking in gardens can be found in the [Guidance for Householders](#).

Flatted Properties

Change of use in flatted properties will generally only be acceptable where there is a private access from the street, except in the case of HMOs. Nurseries must also benefit from suitable garden space.

Further information

If a proposal has the potential to result in impacts then these should be addressed at the outset so they can be considered by the case officer. Examples of information that may be required include:

- An acoustic report if there is potential for noise impact.
- Details of ventilation systems if the application has the potential to create odour problems, and details of the noise impact of any proposed ventilation system.
- Details of any plant and machinery
- Details of attenuation measures if structure-borne and air-borne vibrations will occur.

Short Term Let Accommodation

Applications for a change of use to short-term let accommodation will be assessed and determined against the relevant policies of the development plan and material considerations, both with respect to LDP policy Hou 7 and National Planning Framework 4 (“NPF 4”) policy 30(e) are two relevant policies of the development plan, and material considerations. The table below principally provides guidance in respect of LDP Policy Hou 7. It may but it also provides some assistance in relation to considering NPF 4 Policy 30 (e) criteria (i). This table is not relevant to the consideration of NPF 4 Policy 30 (e) criteria (ii).

<p>The character of the new use and of the wider area.</p>	<p>Where the location is predominantly commercial in character and there are no residential properties in nearby, adverse impacts on amenity are less likely. This means it is more likely short-term lets (STLs) can be supported in such locations.</p> <p>Where the location is mixed in character (residential / commercial) regard will be had to the nature of surrounding uses and the proximity of the proposal site to residential properties. Where there is likely to be a further deterioration on residential amenity in such mixed areas, it is unlikely that short term let proposals will be supported.</p> <p>Where the street has a quiet nature or low ambient noise levels (particularly at night-time), STL will not generally be supported. No weight will be given to the existence of neighbouring unlawful STLs as justification for the grant of planning permission for an STL.</p> <p>The Planning service will assess the merits of any proposal against its impact on the lawful planning use of nearby properties. Where the area is wholly residential, it is unlikely that short-term let proposals will be supported.</p>
<p>The size of the property.</p>	<p>Larger properties can have a greater capacity for guests. Where there are greater numbers of guests, there is increased potential for noise and disturbance. Both the number and size of rooms will be taken into account when considering this.</p>
<p>The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance, and parking demand.</p>	<p>If the property is accessed off a stair where there are other flats off that stair, it is very unlikely that a change of use will be supported. This is because it has been found that existing residents of flats within stairs are particularly affected by the pattern of activity which often results from STL use where multiple sets of guests stay for short periods of time throughout the year. Guests of the short-term let properties can arrive late at night and make noise and cause disturbance in a way which residents of that stair would not, given they will know of the impacts that they have on one another and be able to manage those impacts in a neighbourly way. Examples of disturbance include bumping suitcases up stair and using washing machines in the middle of the night.</p> <p>If the property does have its own main door access regard must be had to the other criteria within this table.</p> <p>Planning permission is granted to property rather than individuals, which means that property can change hands and be operated in a different way than was intended by the applicant for planning permission. Because of this, when considering the pattern of activity associated with a use, only limited regard can be had to how an applicant intends to manage that.</p> <p>It should be noted that licensing of STLs is separate from the planning system.</p>
<p>The nature and character of any services provided.</p>	<p>Where there is access to a communal garden which can be used by existing residential properties, or where there is a garden that would form part of the curtilage of an STL and would be in close proximity to residential gardens, STLs will generally not be supported. Where parking is provided, this will be considered within the context of the Council’s parking policies and guidance.</p>

Changing to a Food or Drink Use

What does this chapter cover?

Uses such as:

- Restaurants, cafes and snack bars (Class 3)
- Hot food takeaways (Sui Generis)
- Cold food takeaways which are classed as a shop (Class 1)
- Public houses and bars (Sui Generis)
- Class 7 uses (hotels and hostels) licensed or intending to be licensed for the sale of alcohol to persons other than residents or persons other than those consuming meals on the premises. i.e. with a public bar.

It does not include:

- Class 7 uses (hotels and hostels) without a public bar.

When is planning permission required?

Some food and drink uses do not require planning permission. Information on some common enquiries is given on this page.

Changing a shop to Class 3 use or hot food takeaway

Planning permission is required for a change of use from a shop to a hot food takeaway or to a Class 3 use, such as a café or restaurant. Whether this change has, or will occur will be determined on a case by case basis. Regard will be given to:

- Concentration of such uses in the locality
- The scale of the activities and character and appearance of the property
- Other considerations are the impact on vitality and viability, the effect on amenity and potential road safety and parking problems.

What should I do if it is permitted development?

If you believe planning permission is not required, you can apply for a [Certificate of Lawfulness](#) for legal confirmation.

Selling cold food for consumption off the premises

Businesses selling cold food for consumption off the premises, such as sandwich bars, fall within Class 1 shop use. If the building is already in use as a shop then permission is not required.

Some secondary uses alongside the main uses also do not need permission; this is dependant on the scale of the activity.

Ancillary uses which are not likely to require planning permission in addition to a Class 1 shop use are:

- The sale of hot drinks
- The provision of microwaves, soup tureens and/or toasted sandwich machines.
Note: hotplates for the cooking of food will generally not be acceptable in a class 1 establishment
- Seating constituting a very minor element to the overall use. The limit will vary according to the size and layout of the premises
- An appropriately sized café in a larger unit, such as a department store, if it is a relatively minor proportion of the overall floorspace and operates primarily to service the shop's customers.

What to consider if planning permission is required

Protecting Shops

Policies Ret 9-11

Set out which locations a non-shop use is acceptable. These policies should be considered if a shop will be lost as part of the changes. In some areas of the City, the loss of a shop use will not be permitted. In other areas, certain criteria must be met.

Policy Hou 7

sets out when uses will not be permitted in predominantly residential or mixed use areas.

Policy Ret 11

Sets out when food and drink establishments will not be permitted.

Restaurants, cafés, snack bars and other Class 3 Uses

Proposals will be supported in principle in the following locations:

- Throughout the Central Area
- In designated shopping centres
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in predominantly housing areas will not normally be permitted.

Hot Food Takeaways

With the exception of proposals within areas of restriction (shown on the next page), proposals will be supported in principle in the following locations:

- Throughout the city centre area as shown in the adopted Edinburgh Local Development Plan (LDP)
- In designated shopping centres as shown in the LDP
- In existing clusters of commercial uses, provided it will not lead to an unacceptable increase in disturbance, on-street activity or anti-social behaviour to the detriment of the living conditions of nearby residents.

Proposals in the areas of restriction will only be accepted if there will be no adverse impact upon existing residential amenity caused by night-time activity. Where acceptable, this will normally be controlled through conditions restricting the hours of operation to 0800 to 2000.

Proposals in predominantly housing areas will not normally be permitted.

Where a restaurant's trade is primarily in-house dining but a minor element is take-away food then this still falls within the Class 3 use. Where take-away is a minor component of the business it will not require planning permission.

You can find out whether a site is located in the city centre area or a designated shopping centre through the online proposals map for the LDP, which can be accessed via the following link: <https://edinburghcouncil.maps.arcgis.com/apps/webappviewer/index.html?id=d1e3d872be424df5b89469de72bb03bd>

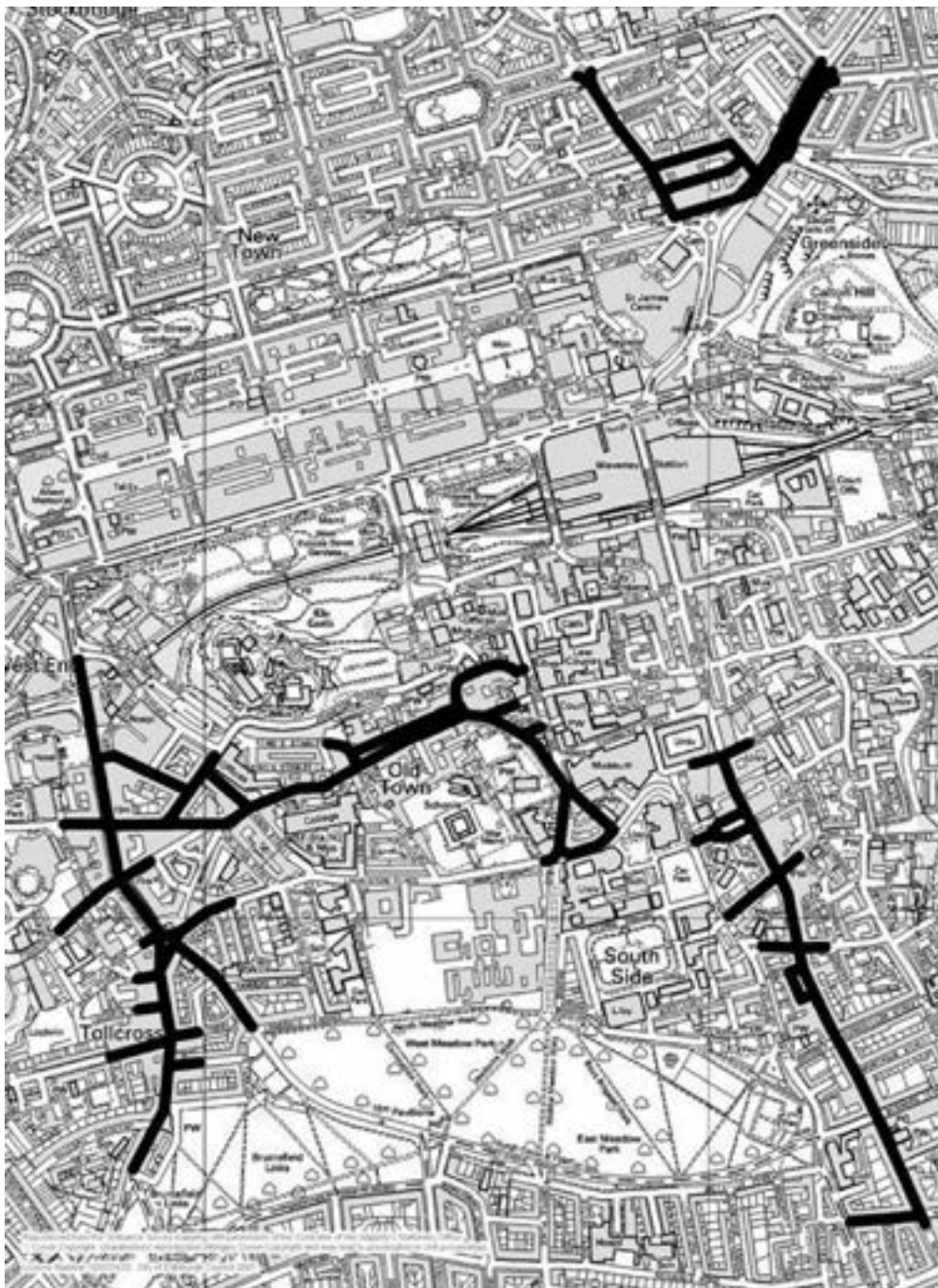
Public houses, entertainment venues and hotels outwith Class 7 (Hotels and Hostels)

In all locations, these uses should be located so as not to impinge on residential surroundings. Accordingly, such developments, with the exception of public houses designed as part of a new build development, will not be allowed under or in the midst of housing¹

There will be a presumption against new public houses and entertainment venues in the areas of restriction (shown on Page 10). Proposals for extensions to venues in the areas of restriction will only be accepted if there will be no adverse impact of the residential amenity caused by night time activity.

Proposals in predominantly housing areas and residential side streets will not normally be permitted.

[1] "Under or in the midst of housing" means a) where there is existing residential property above the application site or premises; or b) where there is existing residential property immediately adjoining two or more sides of the building or curtilage comprising the application site. "Residential property" means dwelling houses, flats or houses in multiple occupancy and includes any vacant units.



Ventilation

If the use is acceptable in principle, establishments with cooking on the premises must satisfy ventilation requirements to ensure that they do not impinge on the amenity of the residential area or other neighbourhoods.

An effective system for the extraction and dispersal of cooking odours must be provided. Details of the system, including the design, size, location and finish should be submitted with any planning application. A report from a ventilation engineer may also be required where it is proposed to use an internal route in an existing building for ventilation ducting.

The ventilation system should be capable of achieving 30 air changes an hour and the cooking effluvia ducted to a suitable exhaust point to ensure no cooking odours escape or are exhausted into neighbouring premises.

Conditions shall be applied to ensure the installation of an effective system before any change of use is implemented, and/or the restriction of the form and means of cooking where necessary.

On a listed building or in a conservation area, the use of an internal flue should be explored before considering external options. The flue would need planning permission and listed building consent in its own right.

Design

Any external duct should be painted to match the colour of the existing building to minimise its visual impact.

Location

Ventilation systems should be located internally. Where this is not practicable, systems located to the rear may be considered.

Noise

Conditions may be put in place to ensure that there is no increase in noise that will affect the amenity of the area.

The map identifies areas of restriction. These are areas of mixed but essentially residential character where there is a high concentration of hot food takeaways, public houses and entertainment venues.

Changing a Commercial Unit to Residential Use

When is permission required?

Planning permission is required to convert a business to a house or flat. Permission will also be required for physical alterations to any external

elevation. Listed building consent, where relevant, may also be required.

What to consider if planning permission is required

Protected shops

Policies Ret 9-11 set out when a non-shop use is acceptable. They should be considered if a shop will be lost as part of the changes.

In some areas of the city, the loss of a shop use will not be permitted. In other areas, certain criteria must be met. These policies should be considered for more information.

Amenity

Policy Hou 5

Sets out the criteria to be met by proposals to convert to residential use.

Applications for a change of use will need to prove that the quality and size of accommodation created is satisfactory.

Units with insufficient daylight will be unacceptable; proposals should fully meet the council's daylight requirements in the [Edinburgh Design Guidance](#). Basement apartments with substandard light will only be accepted where the remainder of the created unit represents a viable unit in its own right with regards to adequate daylight.

Dwelling sizes should meet the following minimum requirements and exceeding these standards is encouraged. Provision of cycle and waste storage is encouraged and may be required in some instances.

Number of Bedrooms	Minimum Gross Floor Area (sq m)
Studio	36
1 (2 persons)	52
2 (3 persons)	66
2 (4 persons)	81
3 (4 persons)	81
Larger Dwellings	91

Design

New designs should be of a high quality and respect their context

1. Consider the architectural or historic merit of the shopfront and its context and identify an appropriate design from one of the following three basic approaches.

Retain the shopfront



Henderson Street

Retaining the existing shopfront and adapting it for residential use is a simple method of conversion and ensures the property fits well within its context. Where the shopfront is of architectural or historic merit this will be the only appropriate design.

A design which retains the shop front could be used in residential areas or within a row of shops.

Simple contemporary design



Royal Park Terrace

Simple contemporary designs are often the most successful. The existing structural openings should be retained and any features of architectural or historic merit retained and restored. High quality materials should be used.

A simple contemporary design could be used in residential areas or within a row of shops.

Residential appearance

Conversions with a residential appearance are rarely successfully achieved. Attention should be paid to structural openings, materials and detailing to ensure the new residential property does not stand out from its context.

Windows which are a version of those on the upper floors in terms of proportions, location and detail are usually most appropriate. Doors should relate to the scale of the building and should not result in a cluttered appearance.

Paint work should be removed to expose the stone or toned to match the building above.

A design with a residential appearance may be appropriate in residential areas but not within a row of shops.



Consider the privacy of residents

To create privacy within the property, shutters or moveable screens behind the window could be considered as an alternative to frosted glass. Where considered acceptable, frosted glass should not occupy more than 50% of the height of the window. Retaining recessed doors also provides a degree of separation from the street. Metal gates could also be added.

Altering a Shopfront

There should always be a presumption to improve, where possible, a poor shopfront.

Understanding your shopfront

Policy Des 12 sets out the principles for altering a shopfront

1. Consider the period of the building and the style of the shopfront

Shopfronts come in many styles, reflecting the different periods of architecture in Edinburgh. Those of architectural merit or incorporating traditional features or proportions should be retained and restored.

2. Determine whether there are any original or important architectural features or proportions which need to be retained

The pilasters, fascia, cornice and stallriser form a frame around the window and should be retained. Recessed doorways, including tiling, should not be removed. Original proportions should be retained.



Pilasters



Cornice



Stallriser

3. Identify any inappropriate additions which should be removed

Large undivided areas of plate glass can be appropriate within a small shopfront, however over a larger area can appear like a gaping hole over which the upper storeys look unsupported.

Large deep fascia boards and other claddings should be removed and any original features reinstated.

Page 596



Deep Fascia



Proportions



Good Example

At 37-41 Nicolson Street, Edinburgh, restoration work has been carried out to remove modern additions and unveil the original Victorian shopfront of 'McIntyre's Drapery Stores'. Architectural features, including the cornice, pilasters and glazing bars have been exposed. Views into the store have now been opened up and the shop is more noticeable in the street.



Context

Shopfronts should be designed for their context

1. Consider the relationship of the frontage to the rest of the street

The relationship of the frontage to the established street pattern should be considered, particularly in terms of fascia and stallriser height and general proportions. Alterations should preserve and strengthen the unity of the street.





Cladding

One shopfront across two separate buildings will not normally be acceptable as it disrupts the vertical rhythm of the facades above.



2. Consider the relationship to features on the upper floors

Where units have a narrow frontage and vertical emphasis, they should retain their individual integrity, rather than attempting to achieve uniformity with adjoining properties.



Good Examples



St Stephen Street



William Street



Grassmarket

New Design

New designs should be of high quality and respect their surroundings

1. Identify the features or proportions which will need to be retained or restored

The pilasters and frame should be retained, even if the rest of the frontage is not of sufficient quality to merit retention.

Poorly designed fascias and pilasters do not make up a well composed frame. Pilasters should not be flat to the frontage and fascias should not exceed one-fifth of the overall frontage height or be taken over common staircases. Stallrisers should be in proportion to the frontage.

Cornice which continues from the adjacent frontages will require to be restored. No part of the frontage should be located above this.

2. Consider the design and materials to be used

Where a new frontage is considered appropriate, there is no particular correct style. Modern designs will be considered acceptable providing they incorporate high quality materials, are well proportioned, and retain any features of architectural merit.

Reproduction frontages should be based on sound historical precedent in terms of archival evidence or surviving features.

Appropriate spacing and cornice should be used to create a visual break between the frontage and the

building above.

Good Examples



Barclay Place



Bread Street

In general, natural and traditional materials, such as timber, stone, bronze, brick and render should be used. These should be locally sourced from renewable or recycled materials, wherever possible. Frontages clad in incongruous materials will not be acceptable.

Paint and Colour

When is permission required?

Planning permission, and where relevant listed building consent, will be required to paint a building which is listed or within a conservation area, including a change of colour.

Planning Permission will not be required to paint an unlisted building out with conservation areas. However the painting and colour of a building should reflect its character and the area.

Good Example



Victoria Street

Listed Buildings and Conservation Areas

Paint

Unpainted stonework and other good quality materials should not be painted.

Colour Schemes

The creation of a strong identify for a business must come second to an appropriate balance with the context. Colour schemes should clarify the architectural form and not apply alien treatments and design. The most successful are simply schemes which employ only one or two colours.

Muted or dark colours are preferable.

Uniform Appearance

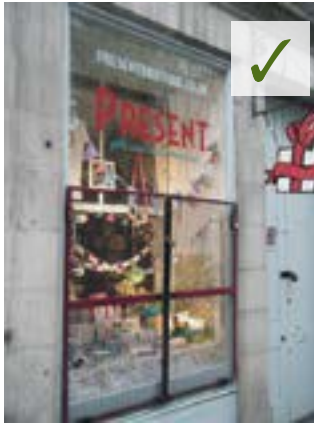
Coordinated paint schemes are encouraged and should be retained where present. In particular, common details, such as arches and pilasters, should have a uniform treatment. Similar lettering and signage should also be used.

The range of colours within a block should be limited.

Security

1. Determine whether a security device is necessary and consider alternative solutions

Security devices should not harm the appearance of the building or street. Toughened glass or mesh grilles could be used as an alternative to security shutters.



2. If a device is considered acceptable, consider its location in relation to the window

Where shutters are not common within the immediate area, they should be housed internally, running behind the window.

Elsewhere, shutters should be housed behind the fascia or a sub-fascia.

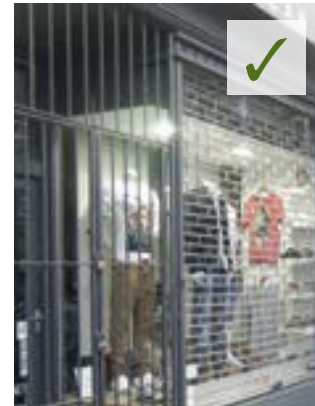
Shutters should not be housed within boxes which project from the front of the building.

3. Identify an appropriate shutter design

Solid roller shutters are unacceptable. They do not allow window shopping at night, the inability to view the inside of the shop can be a counter security measure and they tend to be a target for graffiti.

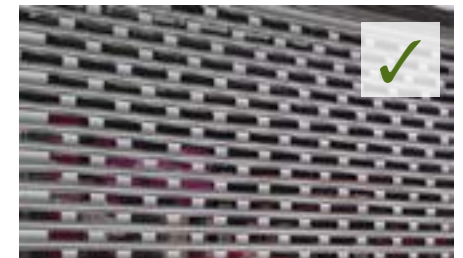


Roller shutters of the non-solid type may be acceptable in a perforated, lattice, brick bond or open weave pattern. Shutters made up of interlocking clear polycarbonate sheets running externally to the glass may also be acceptable.



Where there is evidence of early timber shutters, they should be restored to working order or replaced to match.

External roller shutters require planning permission.





Listed Buildings and Conservation Areas

Externally mounted shutters will not be considered acceptable.

The most appropriate security method is toughened glass. Internal open lattice shutters or removable mesh grilles may also be acceptable.

Metal gates are most appropriate on recessed doors.

Shutters should be painted an appropriate colour, sympathetic to the rest of the frontage and immediate area.

Blinds and Canopies

1. Consider whether a blind or canopy is appropriate on the building

Blinds and canopies should not harm the appearance of the building or street.

Traditional projecting roller blinds, of appropriate quality, form and materials, will be considered generally acceptable

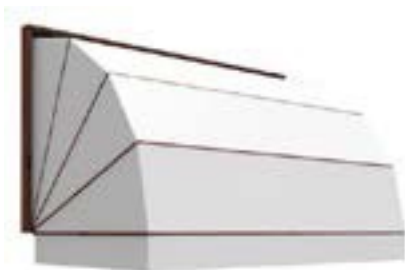
Dutch canopies will not be acceptable on traditional frontages where important architectural elements would be obscured.

Listed Buildings and Conservation Areas

Dutch canopies will not be acceptable on listed buildings or in conservation areas.

Blinds and canopies will not be considered acceptable on domestic fronted buildings.

Solar glass and film are acceptable alternative methods of protecting premises from the sun, providing they are clear and uncoloured.



Dutch canopy

2. If acceptable, consider the location of the blind or canopy

Blinds and canopies should fold back into internal box housings, recessed within the frontage. They must not be visually obtrusive or untidy when retracted.



Boxes housing blinds and canopies that project from the building frontage will not be acceptable.

Blinds and canopies will not be acceptable above the ground floor level.



3. Determine an appropriate design and materials

Blinds and canopies must be made of high quality fabric. Shiny or high gloss materials in particular will not be supported.

An advert, including a company logo or name, on a blind or canopy will need advertisement consent.



Other works affecting or relating to a shopfront or other business which may require planning and/or listed building consent:

- Installation of garlands, particularly if they are supported by a structure
- Free standing advertisement fixtures, awnings, flagpoles and banners

Where permission is required these will generally not be acceptable.

Automatic Teller Machines

1. Consider whether an ATM will be acceptable

ATMs should not impact upon the character of the building or area.

Free standing ATMs add to street clutter and will not be considered acceptable.

ATMs may be considered acceptable when integrated into a frontage, providing no features of architectural or historic interest will be affected and the materials and design are appropriate.

2. If acceptable, consider the location, design and access

Consideration should be given to pedestrian and road safety. Terminals should be sited to avoid pedestrian congestion at street corners and narrow pavements. The assessment of the impact on road safety will include any potential increase in the number of vehicles stopping, visibility and sightlines.

The use of steps for access to ATMs should be avoided and the units should be suitable for wheelchair access.

Where ATMs are removed, the frontage should be reinstated to match the original.

Listed Buildings and Conservation Areas

Consideration should first be given to locating the ATM internally. For guidance on internal alterations, consider the Listed Buildings and Conservation Area guidance.

Externally, ATMs should be located in a concealed position on the façade, within an inner vestibule or on a side elevation.

ATMs should not be fitted to finely detailed façades or shopfronts of historic or architectural merit. They will not be acceptable where stone frontages, architectural features or symmetry will be disturbed. New slappings (knocking a hole through a wall to form an opening for a door, window etc) will be discouraged.

Only one ATM will be allowed on the exterior of any building.

Where acceptable, the ATM should not be surrounded by coloured panels or other devices and signage should not be erected. The ATM and any steps or railings, where necessary, should be formed in high quality materials and be appropriate to the area. Surrounding space should match the façade in material and design.

Permissions Required

ATMs which materially affect the external appearance of a building require planning permission. Listed building consent may also be required for an ATM on a listed building. In addition, advertisement consent may be required for any additional signage.

Air Conditioning and Refrigeration

Location

Air conditioning and refrigeration units should not be located on the front elevation or any other conspicuous elevations of buildings, including roofs and the flat roofs of projecting frontages.

It will normally be acceptable to fix units to the rear wall. These should be located as low as possible.

Design

Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Listed Buildings and Conservation Areas

The preferred location for units on listed buildings and within conservation areas are:

- standing within garden or courtyard areas (subject to appropriate screening and discreet ducting)
- Within rear basement areas
- Inconspicuous locations on the roof (within roof valleys or adjacent to existing plant). However, in the New Town Conservation Area and World Heritage Site, aerial views will also be considered.
- Internally behind louvers on inconspicuous elevations. This should not result in the loss of original windows.

Where it is not practicably possible to locate units in any of the above locations, it may be acceptable to fix units to the wall of an inconspicuous elevation, as low down as possible.

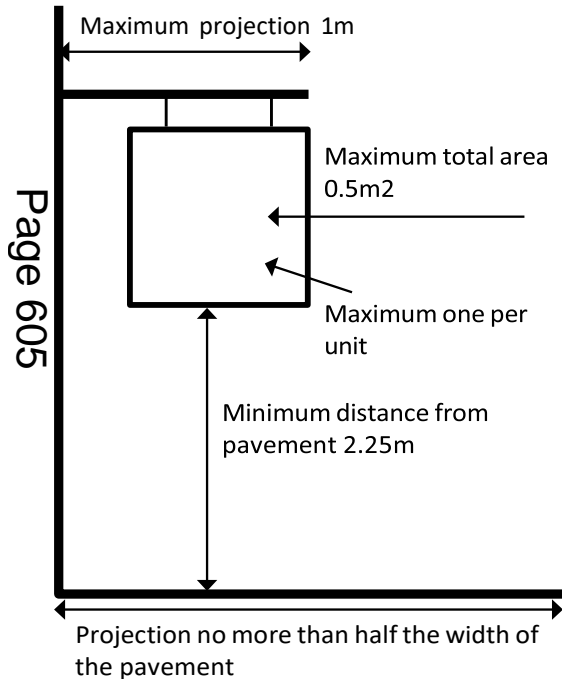
Units should be limited in number, as small as practicably possible and painted to tone with the surrounding stonework or background.

Ducting must not detract from the character of the building.

Signage and Advertisements

1. Consider the scale, location and materials of the advertisement and any lettering

High level signage is not normally considered acceptable.



NB. Dimensions may be reduced for smaller frontages

Projecting and Hanging Signs

Traditional timber designs are most appropriate on traditional frontages.



Fascia

Box fascia signs applied to existing fascias are not considered acceptable.

Individual lettering should not exceed more than two thirds the depth of the fascia, up to a maximum of 450mm.

Princes Street

Projecting signs and banners will not be supported. Illumination must be white and static.

Listed Buildings, Conservation Areas and Royal Mile

Signage obscuring architectural details is not acceptable.

Signage should be timber, etched glass or stainless steel; synthetic materials are not appropriate.

Signage should harmonise with the colour of the shopfront.

Applied fascia boards/panels will not normally be acceptable. Lettering shall be applied directly onto the original fascia. If there is an existing applied fascia board/panel in place, this should a) be removed and the original fascia restored, or b) an appropriate new fascia applied but only where there is no original fascia.

Letters must be individual and hand painted.

On buildings of domestic character, lettering or projecting signs are not acceptable. Guidance on alternative signage is given on the next page.

In the Royal Mile area of Special Control, there are additional controls on advertisements.

2. Consider an appropriate method of illumination

External illumination will only be acceptable if unobtrusive.

Individual letters should be internally or halo lit. Discreet spotlights painted out to match the backing material or fibre optic lighting may also be acceptable. Illumination must be static and no electrical wiring should be visible from outside of the premises. White illumination is preferable.

Projecting signs should only be illuminated by concealed trough lights.

LED strip lighting to illuminate signage may be acceptable where it can be positioned discreetly on the shop front.

3. Consider alternative advertisements

Internal Advertisements

Advertisements behind the glass should be kept to a minimum to allow maximum visibility into the premises.



Listed Buildings and Conservation Areas

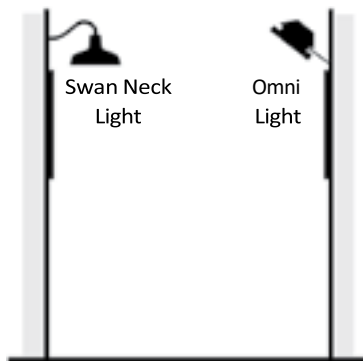
Basement properties

Basement properties may be identified by a name plate or modest sign on the railings, or where they don't exist, discreet and well designed pole mounted signs may be acceptable.



Listed Buildings and Conservation Areas

Swan neck lights, omni-lights on long arms or trough lights along the fascia will not normally be acceptable. Letters should be halo or internally lit.



Directional Signs/ Temporary On-Street Advertising / A boards

Advance directional signs outwith the curtilage of the premises to which they relate (including 'A boards' and other temporary on-street advertising) will not be permitted.

Guest Houses

Houses in residential use (Class 9) but with guest house operations should not display signs, except for an official tourism plaque or a window sticker.

For properties operating solely as a guest house (Class 7), any pole signs located in front gardens should not exceed 0.5sq metres in area.

Buildings of domestic character

On buildings of domestic character, identification should consist of a brass or bronze nameplate, smaller than one stone. Where the building is in hotel use, consideration will be given to painted lettering on the fanlight or a modest sign on the railings.

Cycle Storage

Commercial buildings which operate under class 4, 5 or 6 of the use classes order* have permitted development rights to erect a structure for the purpose of the temporary storage of pedal cycles, provided that the following criteria are met:

- The structure will not be sited within the curtilage of a listed building
- If the site is located in a conservation area, the structure will be located within the front curtilage of the commercial building
- The structure will not obstruct the clear line of sight of a road or footpath by the driver of a vehicle entering or leaving the commercial building (a driver's view of pedestrians and drivers on the footpath and road next to the building should not be worsened as a result of the structure being erected)
- The structure would create an obstruction to light to another building

To get written confirmation that you do not require planning permission you can apply for a Certificate of Lawfulness. You can do this online and you will get a decision from us on whether permission is required. This certificate can be used to confirm you do not need permission. It can also be useful should you decide to sell or rent the premises, or if you are asked if you have permission for ancillary buildings.

Note: The planning authority will not provide informal opinions as to whether a building will obstruct either the clear sight of a driver, or light to another building. If you wish to seek clarification as to whether your proposal complies with these requirements in order to be considered permitted development, a certificate of lawfulness must be applied for.

* Use classes order

Class 4 - Business use

- As an office, other than a use within class 2 (financial, professional and other services)
- For research and development of products or processes
- For any industrial process

Being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class 5 - General Industrial

Use for the carrying on of an industrial process other than one falling within class 4 (business)

Class 6 - Storage or distribution

Use for storage or as a distribution centre



You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact ITS on 0131 242 8181 and quote reference number 21-6965A ITS can also give information on community language translations.

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Regulatory Committee

12.30pm, Monday, 5 February 2024

Street Trading and Markets – update after consultation

Executive/routine
Wards

All

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the content of this report;
 - 1.1.2 Agree to the creation of a member officer working group, as set out in paragraphs 4.5 and 4.6; and
 - 1.1.3 Agree that no changes shall be made to the current street trading policy, including not issuing street trading licences in areas of the High Street, Hunter Square and Playfair Steps, pending the conclusion of the member officer working group.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Head of Regulatory Services

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

Street Trading and Markets – update after consultation

2. Executive Summary

- 2.1 As a result of a public consultation to inform the future of Street Trading and Market Operation in the city, this report recommends setting up 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. The report also asks the Committee to reaffirm certain conditions with respect to the operation of markets, pending the conclusion of the working group.

3. Background

- 3.1 Street Trading and Market Operator are optional licensing activities under the [Civic Government \(Scotland\) Act 1982](#) ('the Act'). In 1983 the City of Edinburgh Council exercised its powers by way of resolution to adopt these activities, and developed a Street Trading policy.
- 3.2 The Street Trading policy provides the ability to control and manage activity. It ensure/s that traders operate within the same general constraints that apply to any other business, including that they comply with relevant legislation and meet the same minimum standards that any responsible business should observe.
- 3.3 Certain city centre locations have been redeveloped to improve the quality of the public space. This has led to competing demands for the use of public space, and there has historically been an increase in the volume of licence applications for street trading. Areas particularly affected by this demand and lack of available space include Castle Street, High Street, Hunter Square and Grassmarket.
- 3.4 Public realm space continues to attract significant demand from street traders, market operators, parades and processions and event organisers. The Culture and Communities Committee approved a new approach to the [use of public spaces for events and filming](#) in October 2023. It is essential that all strategic aims of the Council are considered, and that the Street Trading policy is consistent with these.
- 3.5 Committee considered reports on the subjects of Street Trading and Market Operation on [21 October 2019](#), [18 January 2021](#) and [2 December 2021](#).

4. Main report

- 4.1 The City of Edinburgh Council regulates Street Trading and Market Operators under the Civic Government (Scotland) Act 1982.
- 4.2 As a result of developments in the [Street Trading Policy](#), there is a presumption against licensing street trading in the city centre. In recent years Edinburgh's city centre has evolved and changed, resulting in a further reduction of opportunities for Street Trading.
- 4.3 On 1 May 2023, Committee agreed to [review](#) the current Street Trading and Market Operator Policy, particularly with respect to the licensing of these activities in the city centre. A consultation was posted on the Council's website between 20 September and 13 December 2023, inviting responses to questions about Street Trading and the operation of markets in the city. The consultation was directly highlighted to licence holders and community councils and was publicised on the Council's social media channels.
- 4.4 The consultation received 145 responses, and results are attached at Appendices 1 and 2. Topics raised by consultees included:
 - 4.4.1 Strong support for Street Trading of local products to continue in city centre;
 - 4.4.2 Support for markets as destinations potentially outwith city centre;
 - 4.4.3 No support for Council-branded stances;
 - 4.4.4 Respondents seek quality control/prevention of the sale of substandard products (however it should be noted that the 1982 Act does not provide a mechanism for this);
 - 4.4.5 Support for mobile trading; and
 - 4.4.6 Support for new businesses/pop-ups.
- 4.5 After consideration of the consultation responses, officers recommend that a short life Member/Officer working group should be convened to further examine appropriate city areas for street trading which could be managed directly by the Council. With a view to the improvement of customer choice and the range and quality of available products, officers recommend consideration of:
 - 4.5.1 A management model similar to those which currently exist in [Westminster](#) and [York](#); and
 - 4.5.2 Reaffirming conditions that markets with a minimum of three stalls must provide toilets within the defined market area and must identify a manager.
- 4.6 In order to assist policy development, officers suggest that the Member Officer working group is provided with the following information:
 - 4.6.1 Summary of existing trading locations within city centre; and
 - 4.6.2 Confirmation of any appropriate locations outwith the city centre for market trading.

- 4.7 Two areas for which officers recommend retaining the status quo pending further discussion are:
- 4.7.1 Maintaining the current pause on issuing licences at the Playfair Steps areas; and
 - 4.7.2 Minimum and maximum trading hours.
- 4.8 Officers have liaised with Police Scotland and National Galleries. Feedback so far indicates that they would support maintaining a policy of no licences being granted at Playfair Steps and the Mound Precinct pending final decisions on changes to the policy. Correspondence from National Galleries is attached at Appendix 3.

5. Next Steps

- 5.1 If the recommendations are agreed, then the service will liaise with Committee Services to convene a short life Member Officer working group and include this work within the workplan.

6. Financial impact

- 6.1 None arising from the report.

7. Equality and Poverty Impact

- 7.1 None arising from the report.

8. Climate and Nature Emergency Implications

- 8.1 None arising from the report.

9. Risk, policy, compliance, governance and community impact

- 9.1 The development of policy in respect of licensing of street traders is part of a wider placemaking role for the Council. It is essential that all strategic aims of the Council are considered and that the Street Trading policy is consistent with these aims.
- 9.2 The policy framework and conditions continue to support:
- 9.2.1 A safe, clean and well-maintained environment;
 - 9.2.2 A more attractive environment for those living in, working in and visiting the city;
 - 9.2.3 An improved, more diverse, retail offer; and

9.2.4 An environment that promotes and protects the economic wellbeing of the city.

- 9.3 Destination markets and street trading can be a draw for tourists and can bring a wide variety of stalls, commodities and cultures. Licensed street trading activities can also assist in the prevention of illegal street trading, by displacing undesirable criminal activity and hawking. Conversely, if poorly managed, street trading and markets can have a negative effect on an area leading to obstruction to pedestrians, a visually unappealing and untidy street scene, sale of poor-quality goods which do not meet local needs and an increase in complaints to the Licensing Authority.
- 9.4 There is a need for a common set of rules that would apply to all street traders and market operators. As with any business, these should not cause nuisance or inconvenience to their neighbours, or to the community within which they are located.

10. Background reading/external references

- 10.1 None.

11. Appendices

- 11.1 Appendix 1 – summary of responses to consultation
- 11.2 Appendix 2 – responses to open-ended questions
- 11.3 Appendix 3 – email from National Galleries Scotland dated 22 January 2024

Street Trading and Market Operators

<https://consultationhub.edinburgh.gov.uk/sfc/street-trading-and-market-operators>

This report was created on Wednesday 03 January 2024 at 15:01

The activity ran from 20/09/2023 to 13/12/2023

Responses to this survey: **152**

1: What is your name?

Name

There were 145 responses to this part of the question.

2: What is your email address?

Email

There were 142 responses to this part of the question.

3: What is your organisation (if relevant)?

organisation

There were 71 responses to this part of the question.

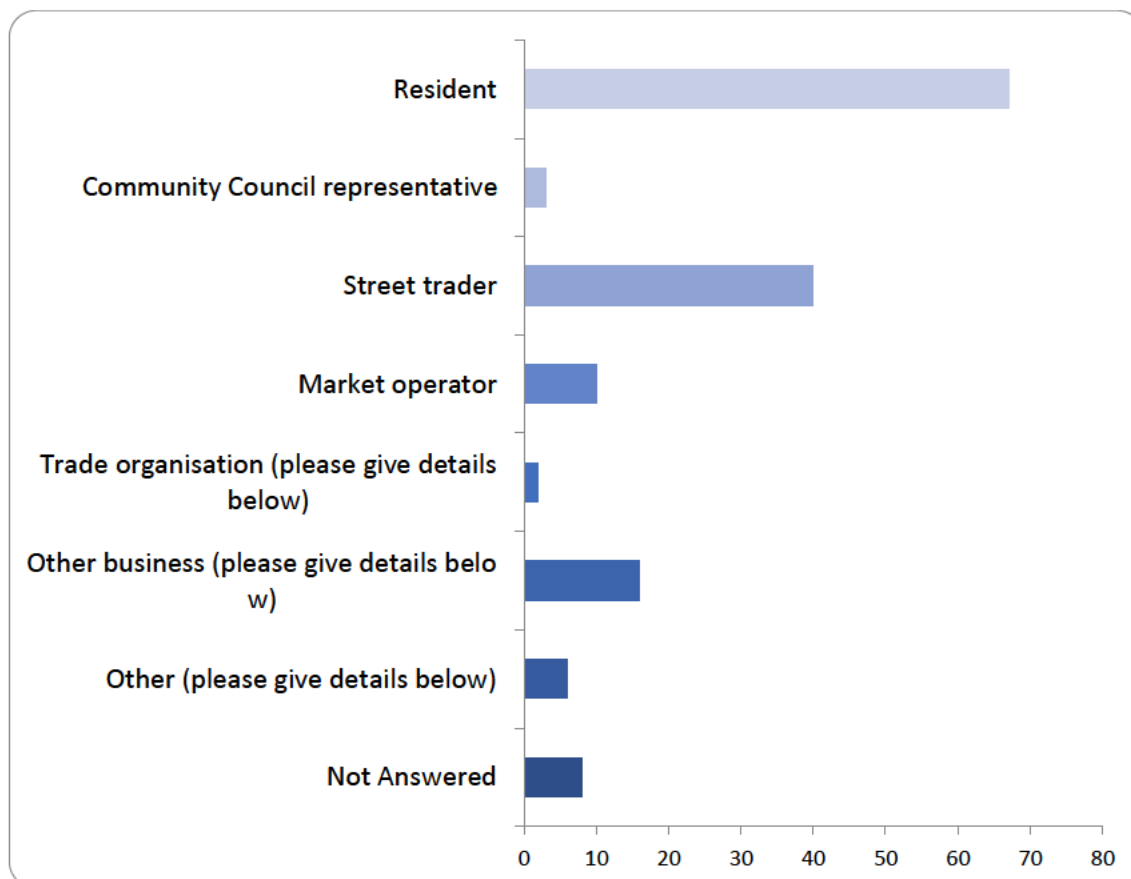
4: Please choose which of the following best describes you.

Respondent organisation

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There were 144 responses to this part of the question.

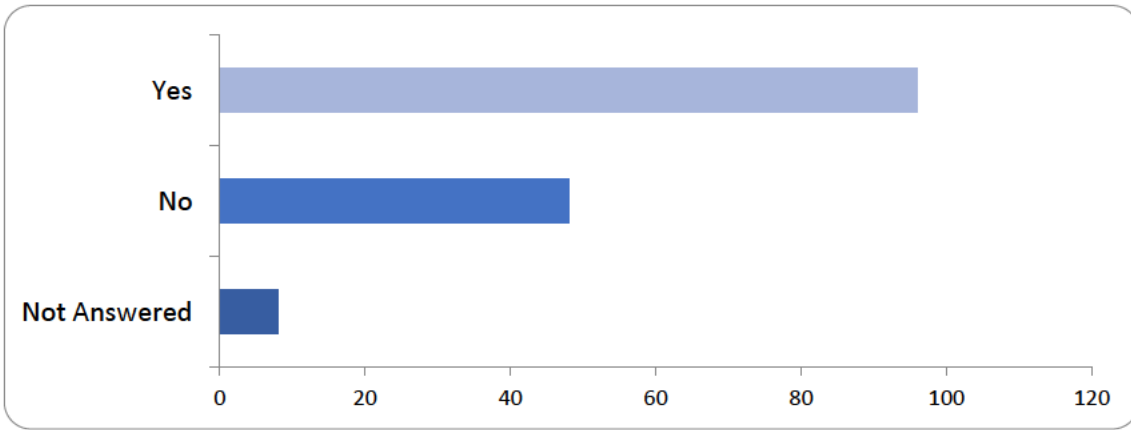


Option	Total	Percent
Resident	67	44.08%
Community Council representative	3	1.97%
Street trader	40	26.32%
Market operator	10	6.58%
Trade organisation (please give details below)	2	1.32%
Other business (please give details below)	16	10.53%
Other (please give details below)	6	3.95%
Not Answered	8	5.26%

There were 46 responses to this part of the question.

5: Would you like to see more street trading in Edinburgh, for example food and drink stalls?

There were 144 responses to this part of the question.



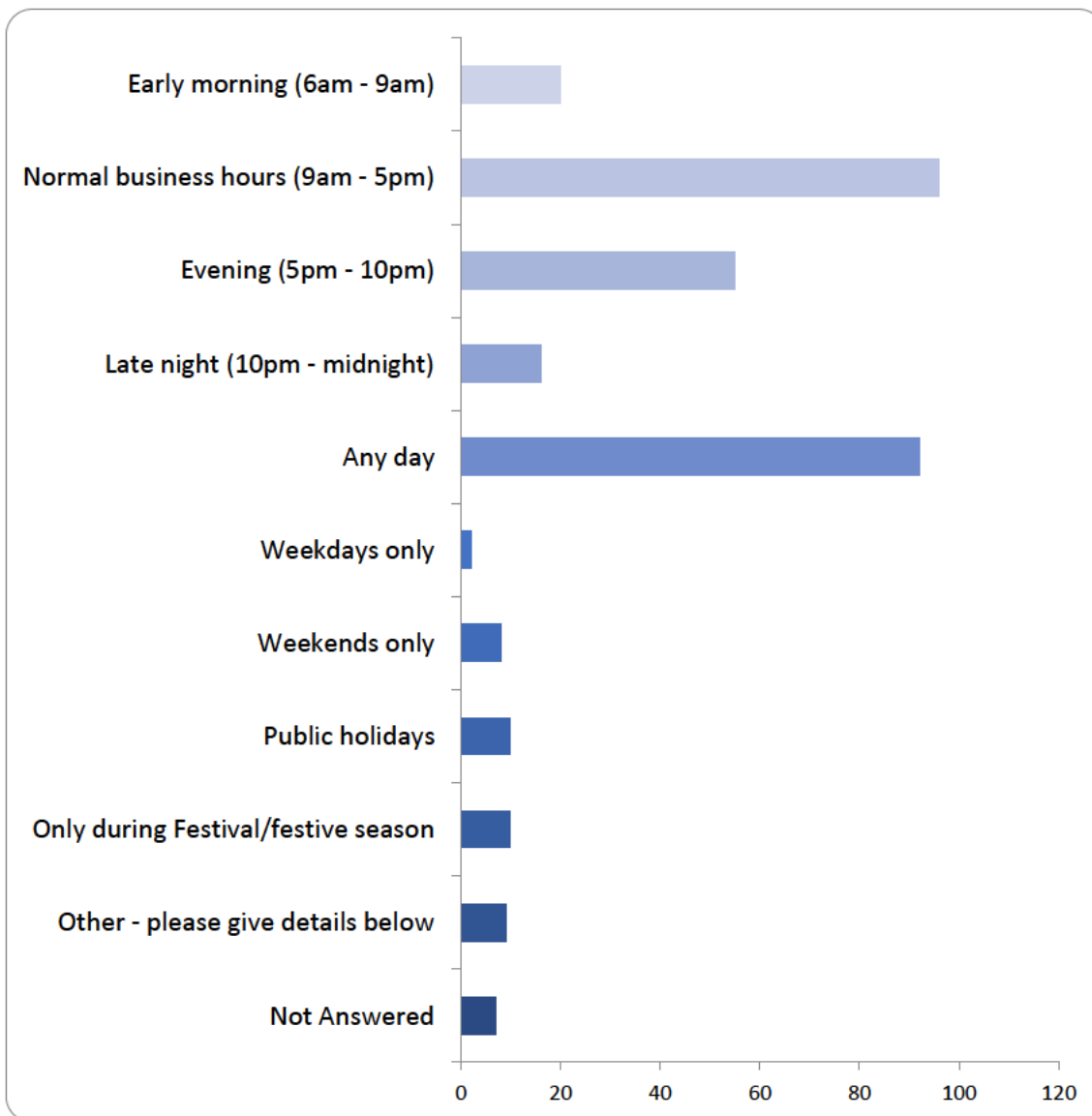
Option	Total	Percent
Yes	96	63.16%
No	48	31.58%
Not Answered	8	5.26%

If yes, please tell us what goods/services you would like to be available in the street.

There were 85 responses to this part of the question.

6: When should street trading be allowed?

There were 145 responses to this part of the question.

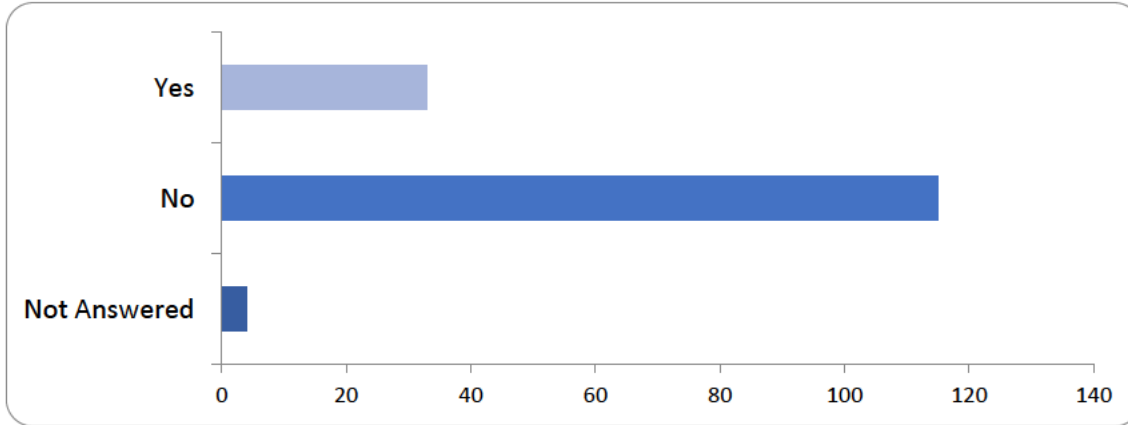


Option	Total	Percent
Early morning (6am - 9am)	20	13.16%
Normal business hours (9am - 5pm)	96	63.16%
Evening (5pm - 10pm)	55	36.18%
Late night (10pm - midnight)	16	10.53%
Any day	92	60.53%
Weekdays only	2	1.32%
Weekends only	8	5.26%
Public holidays	10	6.58%
Only during Festival/festive season	10	6.58%
Other - please give details below	9	5.92%
Not Answered	7	4.61%

There were 15 responses to this part of the question.

7: Should the Council consider providing all stalls and making them all look the same?

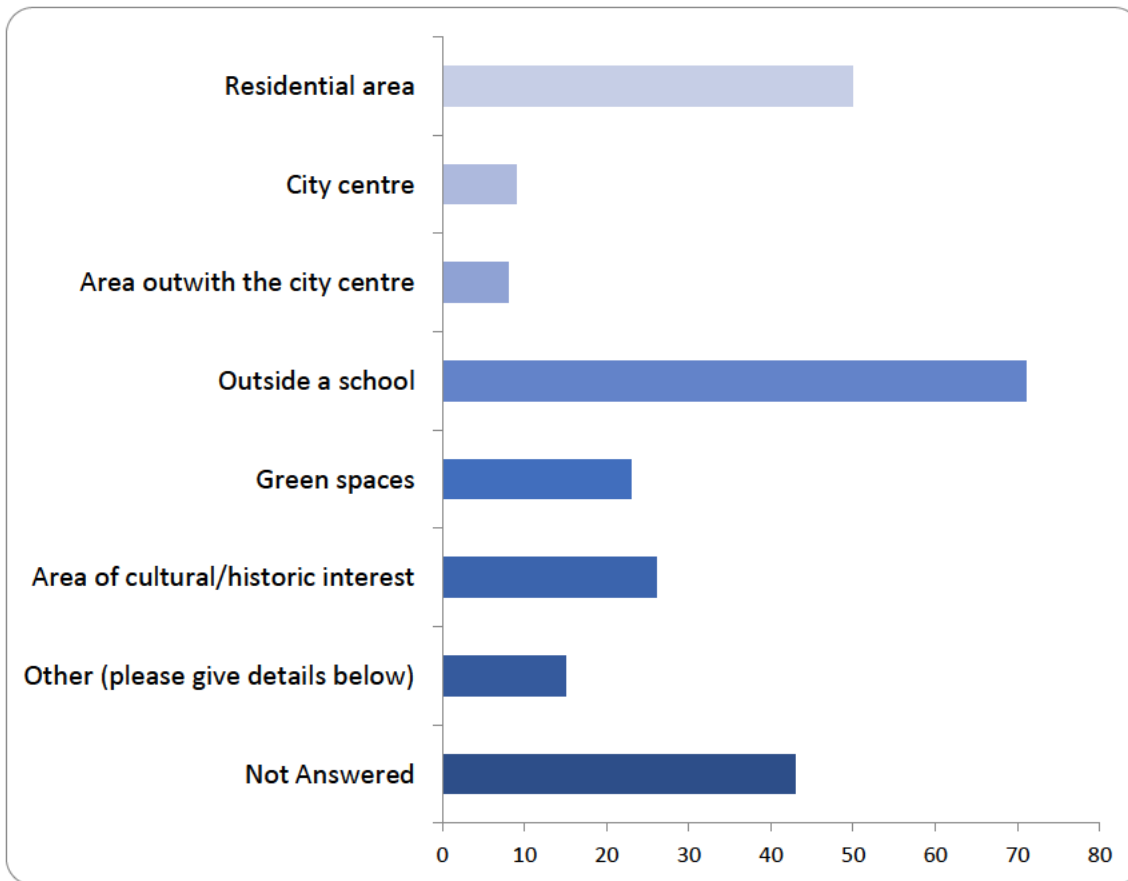
There were 148 responses to this part of the question.



Option	Total	Percent
Yes	33	21.71%
No	115	75.66%
Not Answered	4	2.63%

8: Is there anywhere that street trading should not be allowed?

There were 109 responses to this part of the question.



Option	Total	Percent
Residential area	50	32.89%
City centre	9	5.92%
Area outwith the city centre	8	5.26%
Outside a school	71	46.71%
Green spaces	23	15.13%
Area of cultural/historic interest	26	17.11%
Other (please give details below)	15	9.87%
Not Answered	43	28.29%

There were 42 responses to this part of the question.

9: What are the benefits of allowing street trading?

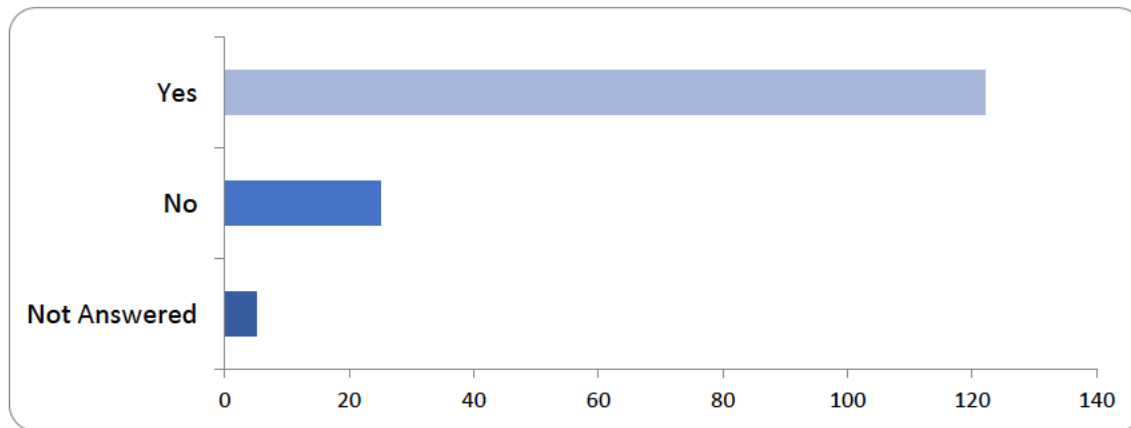
There were 134 responses to this part of the question.

10: Are there any drawbacks to allowing street trading?

There were 125 responses to this part of the question.

11: Would you visit an Edinburgh market that was outwith the city centre? For example, Leith, Gorgie, Queensferry.

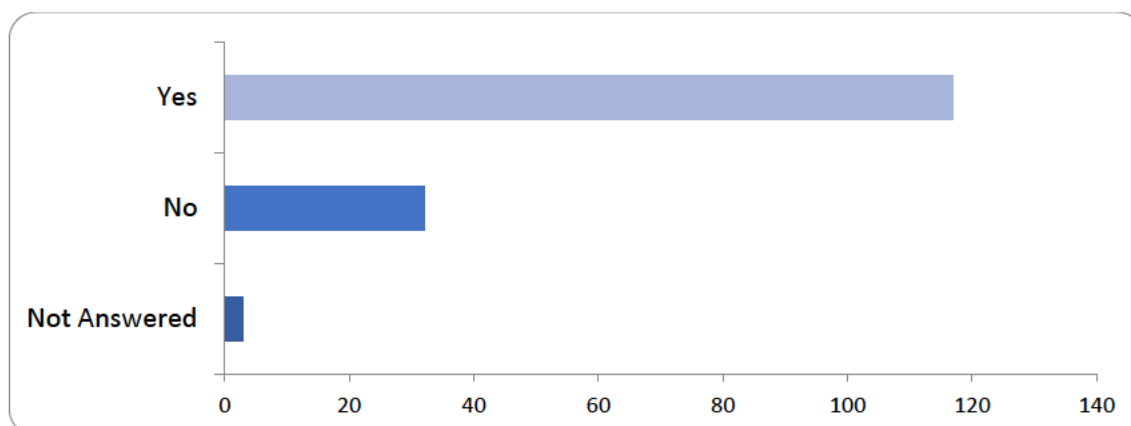
There were 147 responses to this part of the question.



Option	Total	Percent
Yes	122	80.26%
No	25	16.45%
Not Answered	5	3.29%

12: The licence has requirements for providing customer toilets. Is it acceptable for those toilets not to be within the market itself?

There were 149 responses to this part of the question.

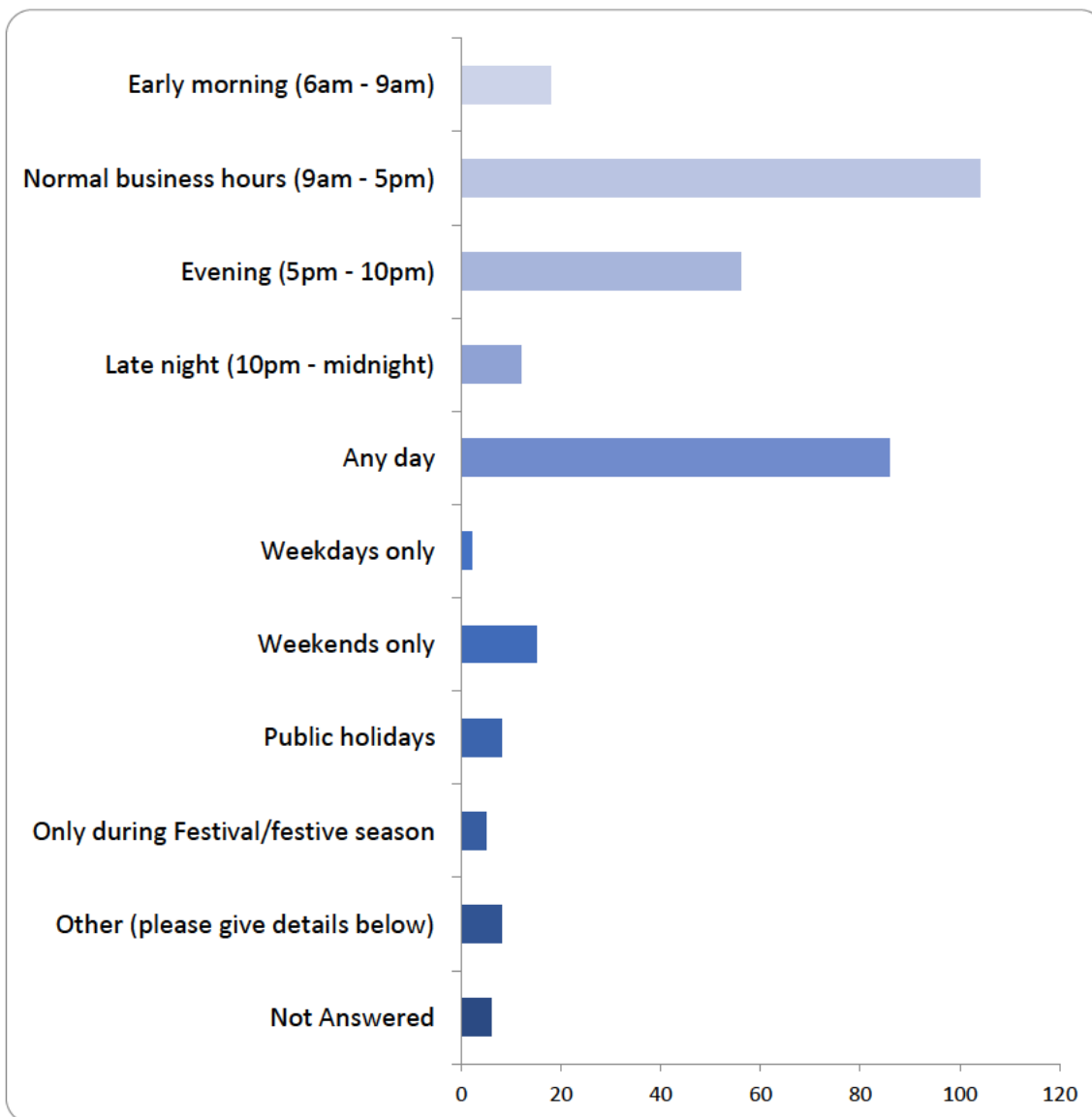


Option	Total	Percent
Yes	117	76.97%

No	32	21.05%
Not Answered	3	1.97%

13: What opening hours and days are appropriate for an Edinburgh market?

There were 146 responses to this part of the question.



Option	Total	Percent
Early morning (6am - 9am)	18	11.84%
Normal business hours (9am - 5pm)	104	68.42%
Evening (5pm - 10pm)	56	36.84%
Late night (10pm - midnight)	12	7.89%
Any day	86	56.58%

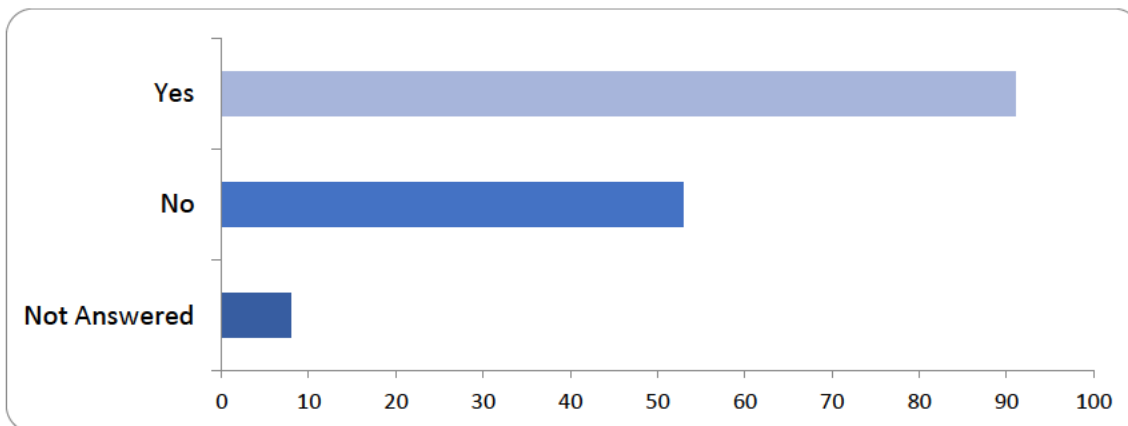
Weekdays only	2	1.32%
Weekends only	15	9.87%
Public holidays	8	5.26%
Only during Festival/festive season	5	3.29%
Other (please give details below)	8	5.26%
Not Answered	6	3.95%

Other (please give details)

There were 16 responses to this part of the question.

**14: Should mobile trading be allowed in Edinburgh city centre?
Please give further details below.**

There were 144 responses to this part of the question.



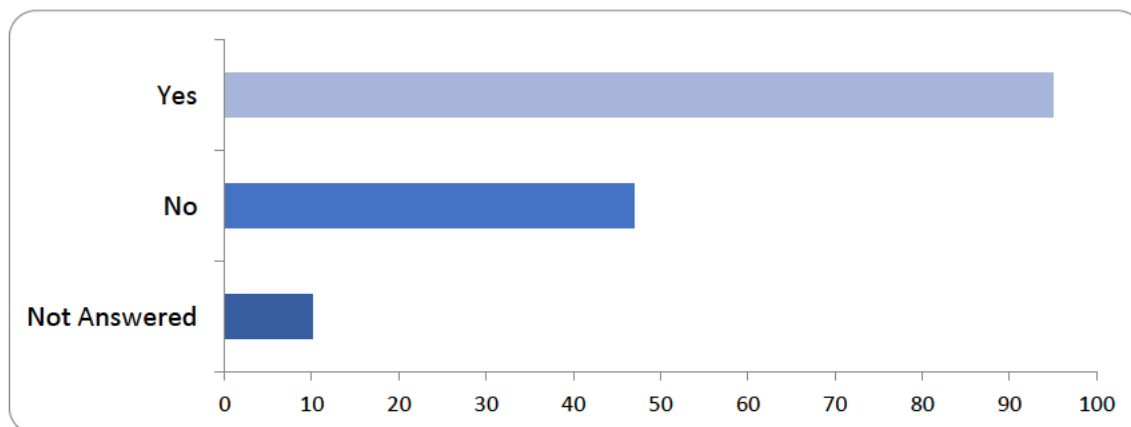
Option	Total	Percent
Yes	91	59.87%
No	53	34.87%
Not Answered	8	5.26%

Further details - mobile trading in city centre

There were 73 responses to this part of the question.

15: Should the Council allow more types of goods be sold from mobile vehicles? Please give details below.

There were 142 responses to this part of the question.



Option	Total	Percent
Yes	95	62.50%
No	47	30.92%
Not Answered	10	6.58%

There were 67 responses to this part of the question.

16: Would you like to make any further comment about street trading, operating a market or selling from mobile vehicles?

There were 93 responses to this part of the question.

The remainder of the consultation asked demographics questions and these will be made available on request.

Appendix 2

Q5 - Would you like to see more street trading in Edinburgh, for example food and drink stalls? - If yes, please tell us what goods/services you would like to be available in the street.

1	Food stalls in areas like George Sq and Waverley Bridge could be good, but only in locations where there aren't existing cafes on the street
2	Lots of different wares, Crafts, food, small businesses
3	Yes, where suitable locations can be found and where there are not already existing Street Traders
4	Food and drink, coffee, street food. Arts and crafts from local artists and artisans.
5	Edinburgh should allow more/better showcasing of local food sellers, small businesses.
6	Absolutely, in my opinion small businesses bring a local charm which is enjoyed by locals and tourists alike. They bring the personal touch that large organisations cannot or do not offer.
7	Any at all. The most important thing is that these should be for local small businesses and not big companies
8	I think more variety would be welcome providing they are placed in sensible places and do not impact current street traders (ie not much point in having the same type of business like 5 coffee vendors situate near each other).
9	Small specialist market areas only. No alcohol. Otherwise, fresh fish vans and ice cream sellers should be allowed.
10	Such facilities are an obvious convenience for city centre users and visitors to an important tourist area
11	Market traders and regular food sellers
12	local produce or Scottish in general
13	good quality not rubbish food
14	Coffee and food. Make Edinburgh more like the beautiful European cities with bustling outside cultures.
15	If the right places and the quality is good.
16	I love the two street markets I attend, leith & Grassmarket. I love the mix of food and crafts but particularly candles that are hand poured and have essential oils.
17	A wide variety of well run food/drink vendors bring a bigger choice to the consumer
18	Like to see more market stalls available around the centre of Edinburgh.They add atmosphere and visitors love them
19	really good food stalls and support from the council

20	not in the city centre
21	Locally made produce that allows small independent businesses (who cannot afford to own a shop front) to highlight their products, arts, produce.
22	More food stalls
23	More street food and drinks would be wonderful. It's great for it to be available in more spaces.
24	Small vendors selling homemade fare
25	Local craftsmen and food vendors.
26	Food and drink as long as they are of high standard.
27	fruit and vegetable stalls, groceries, bakery
28	Food and drink, crafts
29	I think most applications have their own merits and need to be considered on an individual basis.
30	It is always great to be in a vibrant and culturally representative city. So street food from different cultures, arts and crafts stall, music related trader etc would be great choices.
31	More independent food trucks
32	Food, small brands, new starts
33	Tourists love having small independent craft stalls so more opportunities for these would be a bonus for the city and the tourist industry
34	More small artisan businesses providing a wider array of food and drink. This would need to be provided in an appropriate place/season of course.
35	Local crafts
36	artisanal, genuine food and drink from different countries
37	Good quality artisan food trucks; interesting locally produced goods - not mass produced rubbish
38	A mix of food and crafts. It gives the city a buzz and access to products not available in the shops.
39	Scottish Foods
40	pop up stalls are very popular and there are already xmas markets that have stalls that do very well and are well visited

41	Anything! But especially independant local makers and sellers goods.
42	Food, drinks, homemade gifts, art
43	Craft/artisan but definately NOT food and drink
44	local goods and services
45	Small food and drink stalls, coffee outfits like that at west-end
46	More local produce
47	More small/independent food and drink outlets to give consumers more and better quality choices.
48	Great to support small local businesses rather than big supermarkets. Quality is better and a reason to go out in the city
49	It offers more diversity and a chase for people to get something new.
50	A variety. Markets are on the. Rise in popularity
51	Local businesses offering good quality local produce at affordable pricing
52	Farmers markets and local products I do not agree with the Xmas market at the mound where it's all imported stuff
53	Hand made and home made, more from the Highlands and Islands
54	more local food and healthy rather junk food. People don't get enough options, also for new traders it is impossible to enter and find a suitable spot.
55	There should be a range of independent operators available, from food, goods, tours, and so on. Vetted to ensure it is in keeping with the quality we wish to see. I.e. not permitting cheap knock offs, phone case vendors and the like
56	If it's a yes then it needs to be fair and open. I.e. maybe there is a pitch or 2 but it should operate on a rotation. Whether that be for 24 hours a week or a month. If it does become available it shouldn't be that one trader gets it indefinitely.
57	Coffee and hot snacks
58	It's not so much about a specific product, but it would be great to see a selection of street food in more areas than now. Eg. High Street or Princess Street

59	I would like to see more arts and crafts being sold on the high street from those living and working in the city. For too long, whether the fringe festival market, or the Christmas market, had been handed over to companies outside the city, and the stalls have been poor quality run by folk from other cities. When will local folk living and working in the city get a chance - particularly the few high street and mound stalls that were available, have now been suspended.
60	Traditional and ethnic food, home made goods
61	More original retailers
62	Focus on the well organised markets would be preferable
63	Seasonal/local produce or ethnic food
64	Wider range of products and competitive pricing
65	This is dependent on suitable locations of course and a variety of stalls supporting local business/ goods should be priority.
66	I would like to sell my handmade products, mainly from wood, clocks, placemats, chopping board
67	Street trading could undermine the parlous economic position of shops for example at Roseburn Terrace.
68	I would like to see small vendors (not apart of big chains) selling handmade crafts or food. I feel it brings alot to a city and brings life to the street. It provides opportunities to small businesses to grow.
69	We're not adverse to them, provided that: - they don't unfairly compete with local businesses - they don't add to local issues e.g. public littering - they are supported by nearby access to public toilet facilities
70	A mobile souvenir stalls might be good for old town. But products must be made by local artists, not import.
71	Quality hand crafted goods
72	Pop up's & street food.
73	Coffee, pastries and hot food
74	More makers market venues
75	More sites where pop up type markets for makers could operate
76	Food and drink as I feel we are behind as a capital city where, for example in London, there is an abundance of markets which makes for a more vibrant city.
77	Encouragement of small local businesses.
78	Encouragement of small local businesses.
79	More local produce provided by independant suppliers, where suitable locations can be identified with a bias towards local small businesses.

80	Provision should support established local small businesses and should be focused on providing additional opportunities for services which are rarer than others - such as ethnic food and arts and crafts.
81	No view
82	Crafts
83	I would like to see more local Artists
84	More local traders especially local artists
85	More food and drink small businesses, particularly local businesses

Q9 - What are the benefits of allowing street trading?

1	Hopefully a fairly dynamic food scene for new small business owners and more options for people in the city centre as it can be surprisingly hard to find a decent sandwich on a day out.
2	Edinburgh for a capital city is seriously lacking by not having a market. It allows small traders who cannot afford premises or wish to sell part time their wares
3	People can get a coffee from an old Police box where there may not be a cafe.
4	Street Traders are (almost always) local people running small family businesses. Local small business should be supported and encouraged by the Council as it supports the local economy and local people.
5	<p>Outside of the city centre would benefit from more pop-up shops/stalls and a variety of traders and markets as there are less options outside the city centre for shopping. regular markets for all kinds of shops/stalls in pre-agreed locations around the city would be welcomed.</p> <p>For example, I live near Gracemount, there are very few shop or cafes in walking distance of my house. If I want to buy anything other than groceries it is a 45 minute walk to the nearest shops. Many people are not capable of making a journey of that length. There are large spaces, both green and paved, all around this area where traders or small markets could pitch and sell to locals, There is definitely a market for some of these things. I have spent the last seven years walking my kids to school and longing for a coffee stand somewhere nearby to get a decent coffee. I have also been frustrated by the lack of variety in the local shops which sell absolute essentials only. I also know that there are lots and lots of local artists, makers, and small businesses who would love somewhere to sell their products but are priced out of the competitive city centre festivals market. Small towns often have makers markets but to sell in edinburgh you have to either pay through the nose to be in a craft fair or go on a waiting list. SO I know more opportunities for small businesses would be welcomed. Regular days and times for markets or vendors on rotation would both increase customers and create community both among the vendors and the locals, giving locals somewhere to go. It would also benefit elderly and disabled residents who struggle to get into the city centre or out of town shopping areas.</p>
6	to fill in gaps between established licenced permanent premises
7	Questionable and depending on the products traded
8	More diversity

9	We could really support small businesses and support the local economy. Local businesses are part of the community and will respect the city and brand.
10	Competitive prices. Reduce unemployment. Personal touch.
11	Supporting local businesses and small businesses. They add a vibrancy to the city,
12	Variety of choice for public/tourists, supporting local businesses, support local economy.
13	few
14	Limited, but may offer choice and allow specialist and startup businesses to get established.
15	There are none to my business or staff
16	Provides an important visitor attraction
17	Supporting small businesses in a difficult time where large corporations seem to be taking over
18	Encourages local businesses and provides an outlet for local produce
19	Similar to pop-up shops they allow new businesses to set up with minimal overheads. They can test the concept without risking too much money.
20	None
21	To show variety in terms of options.
22	Convenience in the parks
23	Increase foot traffic and provide extra amenities
24	income and tax generating for provision of good quality food. Hate the cheap scottish items for sale on Royal Mile. Makes Edinburgh look cheap.
25	Tends to allow small local businesses the opportunity to trade. Adds to the atmosphere of the area. Offer customers choices other than enclosed businesses.
26	Bring some life back to the city. Stop the conglomerates taking over. Give Edinburgh a soul.
27	Brings business to traders around the market-eg cafes etc
28	Gives people a chance to show off their talents and earn money at the times that suit them and their lifestyle
29	Promoting small businesses rather than huge retailers always making the profits.
30	Small business get noticed and visitors can interact with local crafters and businesses which they love
31	It gives a sense of community. People love a farmers market. It gives local traders an opportunity to sell direct o public without huge overheads
32	Encourages small start ups to test the water of retail without a big capital outlay

33	They add atmosphere. Tourists and locals love them. They also given more variety to what is available in shops. They are missed on the Royal Mile and the Mound.
34	It allows for diversity for the shopper, It provides a place for the small trader to sell without huge overheads
35	Supporting small businesses
36	Vibrancy. starter incubators for all sort of businesses that go on to be pillars of the independent sector, much needed when chain offerings are so samey and no different in Edinburgh to London ... or eg Rome Very often cheaper . Innovative.
37	Build closer community, support local, small independent traders.
38	Greater choice, interaction with makers, more character to locations
39	Small business can actually operate without extortionate rent and rates. Allowing a variety of business rather than your usual fast food and coffee chains like Starbucks. Local businesses actually operating in the city rather than a cookie cut version of every other city in the country.
40	Allows for a more diverse and different shopping experience to the high street. I like supporting small businesses
41	Allowing small businesses access to the same footfall as larger businesses with bricks and mortar premises. These businesses provide diverse foods and crafts, making the city more interesting, attracting trade and improving the local economy.
42	It provides market access for smaller traders who might not be able to access fixed property or provide the volume required to sell in regular stores. If only fixed shops can access the market in Edinburgh, then only large corporations will be able to afford to access it, pricing out any local businesses.
43	Better offer to tourists/occasional local visitors/residents.
44	Allows people wandering the streets to be exposed to multiple unquiet small businesses and also helps these businesses
45	diverse businesses
46	Increasing diversity of goods available to residents, support for small businesses, increased appeal for tourists by adding to the character, friendliness, and liveliness of the city
47	Its allows people to start a business they might not otherwise have been able to start - in terms of cost, commitment, investment. Natalie who used the make jewellery from old Scottish Maps was a great example of that, she had very small non-obtrusive pitch by railings nears Grey Friars Bobby. Tourists/visitors loved it - it adds to charm uniqueness of the city. Many visitors tell me its great to see it because it doesnt happen much in other cities - which are now looking the same as they all have a McDonalds and the same franchises and chain stores everywhere. Most tourists prefer to interact with local people as part of their visiting Edinburgh experience.
48	A space for small independent business to reach customers and continue trading. It offers the public an opportunity to buy from local makers and away from mass produced items.

49	It would definitely attract more national as well as international tourist. As a tourist in different cities, one of this activities I enjoy the most is visiting street markets. In addition to that, it might help the mental health of residents of the city as street markets create a positive atmosphere.
50	Potential access to niche products unavailable in supermarkets, potential for supporting artisan producers whose bottom line is other than profit; ie socially rewarding, sense of community or simply the reward of making and selling great food and drink with wonderful ingredients.
51	It allows visitors to & residents of Edinburgh, an opportunity to meet Artisans who make & sell their products. These products are bespoke and quality items. There are too many Tartan Tat shops up & down the Royal mile high street, bridges etc there are some lovely shops too, Being a trader on the market allows an opportunity to bring a smile to peoples faces chatting to people from all over the world leaving them with a great lasting impression of the friendly peoples of Scotland
52	Help small businesses, local people and independent business to make a living
53	Good for the economy, vibrancy, freedom, peoples well being and mental health to get them out.
54	Different food Grab a coffee
55	Encourages visitors and shoppers.
56	Gives opportunity for small independent traders who cant afford retail premises to sell direct to the public. Gives the city centre a buzz and allows a greater selection of goods from quality traders for locals and tourists
57	I don't found any benefits
58	Allowing small businesses run by the local resident community should be an important part of what Edinburgh is about. This helps to give part of the local economy some identity and without this Edinburgh becomes just another city in the crowd.
59	It reinforces the culture of community, provides a focal meeting point for locals as well as visitors, encourages small and local artisan businesses to produce and sell in the city, reduces the carbon and mile footprint of items bought, provides varied alternatives to uniform, mass produced, chain and corporate trading.
60	Adds interest to shopping in the city centre for both tourists and locals. Make sure its local businesses such as handmade crafts, and not tourist tat made in China.

61	<p>Allowing street trading in Edinburgh has several benefits, particularly for the growth, enhancement, and visibility of small, family-run businesses that specialize in genuine, handmade, and unique products. By permitting street trading, these businesses gain a platform to showcase their offerings directly to the public, attracting a diverse range of customers. This not only fosters economic growth for these local enterprises but also contributes to the overall vibrancy of Edinburgh's street life.</p> <p>Street trading can serve as a catalyst for cultural exchange and community engagement, as residents and tourists alike have the opportunity to discover and support local artisans and their distinctive creations. Furthermore, the presence of street traders adds character to the cityscape, creating a more dynamic and appealing urban environment.</p> <p>In summary, allowing street trading in Edinburgh is beneficial as it provides a valuable avenue for small, family-owned businesses to thrive, enriching the local economy, fostering community connections, and adding a unique charm to the city's streets.</p>
62	Diversity of choice for consumers/chance to see and acquire local and non mass produced food and artisan products/chance for local makers and growers to sell in a central place with good footfall but with realistic overheads
63	Adds interest and colour to the streets and gives access to a different range of products
64	Supporting small businesses that can't afford an all year around rent
65	It gives small businesses a chance to compete with large established companies in an area where renting indoor space is too expensive for many.
66	Diversity of quality produce from small independent producers
67	It adds to the diversity of what Edinburgh has on offer and is an avenue for small, independent businesses.
68	economic aspects for (local) traders
69	Showcasing scottish products from makers who couldn't afford a permanent shop
70	I rely on markets for a lot of my income, some of them are indoor and some are street trading. I think street trading is a huge benefit to local Edinburgh culture and to tourism; local makers can show off their wares and provide goods for the city inhabitants and visitors, whilst not having to commit to the huge overheads in owning a bricks and mortar shop. Markets and single traders fit the aesthetic of Edinburgh's old town and it's always lovely to see stalls set up, amidst the bustling crowds.
71	Small business have the opportunity to trade without the expensive overheads of a shop. Local people and residents have local produce and items to buy and markets provide a cultural and cared for environment.
72	Diverse range of products, more handmade artisan products, allow folk to start new business. Create positive and interssting atmosphere in city.
73	it brings people both local and tourists into the centre creating a vibrant lively atmosphere and so benefits local businesses. it gives smaller local traders an entry point to get established without the costs of a long term lease on premises
74	Helps support small local business which in turn the local economy. Potential attract more visitors. With competitions ensures no monopoly and fair price for visitors.

75	It allows small producers to sell and gives customers other places then supermarkets to buy high quality non-processed foods.
76	It helps with small producers keep their business sustainable. At the same time, local people and visitors can experience the good quality produce the city can offer.
77	It allows small producers to sell their products and gives customers other places than supermarkets to buy high quality non-processed foods.
78	Support local businesses. Better quality. Gets you out & about (hood for well being)
79	Community, independent traders all year round rely on them, locals and visitors generate plenty of trade and contact
80	Diversity, small business development, makes options more available
81	Start up businesses have an opportunity to sell goods The public have a choice to small independents.
82	none?
83	Diversity of fresh produce made and delivered by local residents
84	Creating a better atmosphere and feel of the city, showcasing small local businesses
85	Cultural colour, variety of produce available, a chance for small businesses to grow.
86	Introduction to Scottish produce
87	Adds character to the city. Helps local business.
88	Events generate revenue for local businesses in addition to their normal footfall.
89	Give more options for entrepreneurs to start businesses before having a shop. People love to sport small businesses and not big companies.
90	This would be a huge draw to encourage residents to WANT to head into the city centre. It feeds directly into the local economy whilst also offering something wholesome for tourists.
91	It allows interesting an new concepts and ideas to be practiced in a metropolis setting. That wouldn't otherwise be able to via barriers of renting traditional shop space.
92	Gives visitors access to all ranges of services, without having to search for refreshments. Gives the smaller trader a chance to expand and maybe offer employment to others.
93	As mentioned in the opening statement, a variety of offerings. Usually provided by a family owned stall which ideally offers a high quality quick treat for customers they not usually find or can not as quickly access
94	Allows trading without the need for permanant premises

95	Street trading allows local artists and crafts folk to sell their work. As part of the cultural fabric of the city, why shouldn't they be allowed to sell their works to tourists and locals alike? It would be good to consider vetting stall holders to provide goods are locally made and sourced or of a high quality. There has always been talk to bring the artists and crafts folk back to the city, which is now becoming year by year a Disney world of cheap Chinese made goods, over priced and of poor quality. All the shops seem the same. There is no sustainability, both environmentally and culturally. Where is the vibrancy? Where are the local arts and crafts? Where are the small local independent businesses that offer an alternative to the same old same old?
96	Allows a small business to provide services in an area that might not sustain a permanent shop
97	Lower waste, more variety.
98	Direct contact between buyer and maker is a unique opportunity to reach unique and unusual goods.

Q10 - Are there any drawbacks to allowing street trading?

1	Yes, depending on location and how the stall affects the flow of people moving around, but also in what type of stall is allowed. We don't need vendors selling tourist tat and plastic crap.
2	Giving licenses to mass produced or tartan tat sellers
3	Noise, queues obstructing pavement access for wheelchairs etc.
4	No - provided there are procedures in place to licence them, as there have been for many years.
5	Potentially messy. Potential for stalls to look messy and ugly. Pre-built stalls could help with that as well as rules and regulations. Noise, if late at night food vendors are attracting drunk people to a previously quiet area. Health and safety - fire hazards, food safety, rubbish etc. Obviously all of these could be overcome with regulation and planning.

6	Litter and Litter and dirt I have seen CEC Salt Bins full of discarded coffee cups etc
7	Impact on cleanliness, noise levels, mobility and space for pedestrians
8	Litter Safety (cars etc)
9	I think if it's managed effectively through appropriate licensing etc then I don't think there would be any drawbacks.
10	None whatsoever.
11	No
12	None although I would add so long as the process for licensing is fairly straightforward so not to make it a complex arrangement for local businesses.
13	litter and more litter
14	Litter, noise, additional traffic (foot and vehicle) and possibly loss of trade to businesses in the locality who have higher overheads (such as paying rates).
15	Take up valuable pavement space Take business away from Established businesses who pay rates even in the quiet months More places for EHO to inspect
16	Potential litter issue but it is no different for any fast food outlet so just needs to be controlled with the traders taking a key responsibility
17	No, as long as there's appropriate licencing
18	Assuming street traders abide by their license terms or similar then I can't see any
19	Misuse of pedestrian space. Inconsiderate parking by traders.
20	1. They can do diminish the viability of permanent shops. 2. They can easily destroy their aesthetic value of a historic city like Edinburgh 3. They create extra street litter 4. They frequently create unnecessary noise by playing loud music. eg coffee caravan on the Meadows 5. Where there is more than one street trader, it can easily give the impression of a shanty town, not a European capital city 6. They create unnecessary obstructions for pedestrians; not good for promoting active travel 7. They run fossil fuel generators, causing both noise pollution and air pollution, as well as burning fossil fuels. Even though advertising electrical operation, like the ice cream van in Holyrood Park, they run the vehicle engine to keep themselves warm. 8. They seriously diminish historic settings, like the Royal Scottish Academy and the National Gallery, as well as the Castle Esplanade.
21	Lots. Unfair competition against rate paying permanent traders mainly.
22	Potential an increase to the anti social behaviours through noise.
23	Too much exploitative tat being sold. There should be priority given to local traders
24	It takes custom away from shop owners who are hard pressed
25	Blocking or reducing space on streets for walking and buggies/ wheelchairs
26	Rubbish in the streets

27	more rubbish bins and collection needed
28	There can be refuse, noise and smell issues but if operated correctly, there shouldn't be any issues.
29	Complaints from residents. Complaints from the big companies.
30	As long as carefully set up and supervised then no!
31	Sometimes a lot of cheap tat is sold and people don't clean up after themselves
32	Not that I'm aware of.
33	Some people try to be dominant when street trading making it difficult for other small businesses to get involved
34	Just needs to be well run and monitored by reliable market managers
35	Cant think of any
36	None as long as it is run y good traders
37	No
38	not per se.. Most are about management or that management allowing ripoff merchants to proliferate thus not doing the citys reputation much good... but its minor. As they are nearly all episodic they dont take business from bricks and mortars vendors or if they do it is usually compensated for by increased footfall in the area.
39	If not monitored appropriately, it may cause disruption to local residents. Perhaps trial period with feedback and room for improvement should be rolled out to test pilot projects before final approval.
40	Possible noise, traffic, litter, inability of people to access locations
41	No.
42	I think as long as its not all the time and the vendors who are invited produce the goods allow for a different and enjoyable experience for the shoppers.
43	No.
44	Vehicular is something that needs to be considered. All markets should have plenty of loading spaces and access to nearby parking, otherwise there is a risk of roads being clogged by traders unloading at setup and takedown. So long as there is space to park/unload out of the way of traffic, the actual road burden is minimal.
45	Could be litter problems.
46	local shops may suffer - no more coffee or sandwich places required. Rubbish needs to be collected.
47	None

48	<p>I could make up plenty examples of things that COULD go wrong and be called drawbacks, but in my opinion and experience most Street Traders know that their behaviour/actions directly affect their livelihoods. And the vetting and application process, etc seems to be at the right level of control.</p> <p>With regards to think it has been sensibly marshalled and monitored in Edinburgh. If traders are properly vetted and they have a product which sustains/justifies them being there then its all good.</p>
49	The high cost of stalls at 'Edinburgh' Christmas market means local traders cannot take part. Trading is dominated by large importers from other areas of UK.
50	It is important to keep the hygiene and safety levels at the standards as stalls can cause unhygienic conditions and attract unsafe activities. So some certain standards had to be maintained
51	Monitoring quality and consumer confidence
52	No unless the person does not have a license to sell goods. People have traded at markets for millennia. Markets& traders are an essential part of life
53	Must be well checked by environmental health especially for food traders for safety both of public, staff and themselves.
54	Litter
55	Clogs up neighbourhoods.
56	Late night in residential areas can be a problem
57	Heath and safety issue, hygiene problem, noise, overall looking. Even the council is requested to withdraw all the A broad from the retails shop and fine the pavement parking, so why the street trader can allowed and it will block the pavement as well.
58	No, as long as there are appropriate checks on the individuals trading before licenses are issued.
59	As long as it is controlled and safe, I don't see any.
60	More tourist tat made in China
61	Not at all
62	Not unless they are loud/noisy/unhealthy
63	Rain is no fun
64	No it brings people.out to buy and engage in.healthy food
65	potential litter issues
66	Visual impact and potential litter (if food/drink traders)

67	Traffic and parking could be problematic.
68	I do not want smelly burger vans etc, stinks and creates litter.
69	it could increase littering so any traders must be monitored
70	If well managed there shouldn't be and ensuring support services are in place, eg increase in trading, more litter, but not an issue if bins are available and cleared regularly
71	None
72	No
73	Potentially litter from street food stalls.
74	Occasionally parking but not a real issue
75	It should be licensed and monitored
76	None - all positive
77	unregulated transactions, decreased standards
78	No
79	Only if they go on too long, eg the Christmas market below princes st.
80	No if you spread it around the city more. Craigmillar area has nothing much at all
81	No. As long as they are licenced.
82	As long as market operators are responsible then no.
83	It definitely should be regulated because it can cause a disturbance and dirtiness in the city, but it should be regulated to facilitate small and more sustainable entrepreneurs to be part of the system.
84	In my view, nothing that would seem it unnecessary or negative. The positives far outweigh the negatives.
85	They could be unprofessional and amateurish.
86	No, this would give visitors and workers more variety
87	Depends on the area, I do not see any in the area we trade as long as you get along with your neighbouring businesses or residential properties.
88	Could potentially cause congestion if not regulated
	Stall appearance could be considered a drawback if not properly addressed. Professional looking stalls would add to the city streets. Also, folk with multiple shops should not be allowed to have stalls
89	No
90	Unless managed carefully, Potentially issues with drop off for setting up and taking g down for traffic issues.

91	<p>Dear Andrew Mitchell Is that a cough you have ? could it be cased by Carbon Monoxide Poisoning on Rose Street No its not your division If its not your division then what other division showed I be writing to other than Environmental Health Please tell me ? Dose the Ed council believe that climate change is taken place ?</p> <p>I try to tell you threes a problem with Carbon Monoxide Poisoning coming from petrel generator operated by street trader corner hanover street rose street Dose a street trader licence come with the right to run a petrol generator in the city centre or can anyone who has a trading licence run a dirty petrel generator? Third world country's are now turning away from using them yet the trader is aloud to use with impunity</p> <p>We now know carbon monoxide kills people you cant see it Its a powerful "climate forcer", absorbing warmth from the sun and contributing substantially to global heating. It is also a major component of fine particle air pollution It also cause asthma and effects the bran</p> <p>battery power is better for the enverment cars and vans now use battery power around the city centre please take dirty petrel generator off the street let use breath cleaner air dos no one care as long as it doesn't effete them personally ?petrel generator in use rose street</p>
92	Competition for bricks and mortar business.
93	Possible low quality or overpricing of goods being sold
94	<p>Licencing is too slow and cumbersome, I understand wanting to keep trading to a standard however the council seem to just use it as a money making scheme, take temproray market tradaers licence for example, the costs for this are ridiculously too high, we recently applied for a christmas market licence for small two day christmas craft fair to support local business, the cost of the licence was £1,000 this is absolutely extortionate for a small christmas fair - This stifles oppportunity and hurts small businesses, not only do we have to pay the licence fee but also venue hire fees, marketing costs, staffing costs. insurance, and others. It makes it completely non viable from a financial point of view to pay such ridiculous costs for a small and simple craft market and fair - which by the way was hosted in a private building. I understand the need for safety and to ensure that markets are well organised but there needs to be a line between markets taking place on the street in public, or ones that are hosted in schools or churches or halls. imagine paying £1,000+ for a small school fair with 25 stalls. ridiculous. Also the process is far too slow and long this entire process needs to be much much quicker, other wise you are agian harming small and local businesses and preventing more successful events from taking place.</p>
95	None assuming that suitable licensing protocols are in place
96	<p>Food smells - city stinks rats rubbish</p>

97	I do not see any negatives from that
98	Impact on shops Litter
99	Creating a system that monitors Street trading can be a challenge.
100	Unfair competition to local businesses who are operating within same peer business. Access to power that's both affordable *AND* minimise noise pollution!
101	Unemployment increases. Economic growth rate decreases. Damages the free-market.
102	Noise in a residential area. Evening licences in these areas should be restricted. Pavement obstruction. Consideration should be given to how wheelchair users & other users of mobility aids are impacted and how accessible the stall is.
103	yes - if its not regulated it can look a mess
104	No
105	Mess, litter, crowding, low quality imported tat and diesel generators for ultra processed food outlets, a lack of quality
106	If no power available, generators can make noise, adds to pollution if needing to drive away and back everyday, can cause conflict if traders are in close proximity
107	noise, pollution, litter, crowded streets and thoroughfares, aesthetically unpleasant.
108	Can become taken over by the likes of market at the foot of the mound which is mostly generic tat
109	Potential for too many like the "German market" with bought in goods
110	Detriment of rate paying local businesses
111	Needs to be controlled to ensure the quality of goods sold.
112	Needs to be control of goods being offered both in terms of quality and safety.
113	It would require effective management and control to ensure quality of goods and safety.
114	None known
115	The " Christmas " market has become intrusive and is of poor quality
116	No, Assuming there are basic licensing protocols in place.
117	No - if the organisers are responsible and look after the site, before, during & after the market
118	So long as there is a proper system of licensing/planning in place, there should be none.
119	Street trading should not be encouraged if it undercuts or reduces the scope for ordinary trade by shops etc
120	Unightly, attract litter, not becoming of a UNESCO city of culture
121	None

122	A lot of public walking space is taken up
123	No assuming they are licensed and health and safety checked.
124	Clutter on pavements, possible litter, unsocial activities in residential areas.

Q14 - Should mobile trading be allowed in Edinburgh city centre? Please give further details below.

1	Just don't see a need for more coffee vendors in town...
2	It would be better to grant a proper Street Trader Licence to a small business to, using the example given, sell coffees at Waverley. If there is an appropriate place for a mobile trader to stop for some time, there must be an appropriate place for a permanent Street Trader pitch.
3	No mobile trading at places such as Waverley where there are plenty of established permanent outlets. Ditto none at museums or galleries, sports places that already have their own facilities
4	I'm a little unsure on this. My preference would be they are licensed and have a location to trade.
5	I would prefer for a fixed pitch
6	Why not just give them a permanent pitch? More vans driving around the city centre doesn't seem very desirable
7	I do not see why this would be required if a fixed place of trading could be secured. Also returning customers would not know where to go if trader is moving all the time.
8	when a pedicab coffee stall operates in the Dean Village there is more litter directly connected to the operation
9	Already established businesses operating there
10	Trading should be from a permitted fixed position
11	Not without a set pitch or licence, could cause traffic problems or pedestrian path blockages and safety
12	Traders should be granted fixed pitches as this will regulate numbers
13	But only if pedestrian space and safety isn't impacted by either the trader or their vehicles.
14	There is no need for any mobile traders in the city centre. All they do is lower the tone of the city and create smells of cheap burgers or fish or chips. They do absolutely nothing for the City. It is quite plain the city is prostituting to itself to these traders, as many of them are based in London, so they must be making huge amounts of money to make it worth their while coming here. The only justification for a mobile trader will be if there is no local provision with an a quarter of a mile e.g. coffee, or if it allows a premium producer to get a foothold in the city. In the latter case licenses should not be renewed after three years, but instead passed to new traders.
15	Why not?

16	Would block walking or road traffic and there's already a lot of services provided
17	good quality items for sale. not cheap tatty scottish stuff
18	Again, it is all about allowing things to happen within reason and taking in to account the surrounding areas. Any licence needs to have conditions about noise, rubbish etc.
19	Don't see why not if controlled properly
20	There are already too many coffee shops
21	I think got drinks, snacks and that type of goof is well suited to mobile trading
22	You do the German market. where is the local, afootdale markets. pushing out local traders in favour of European marketers isn't good. Pricing is crazy as well.
23	Dubious... The police kiosks work..
24	Should add a maybe option above for choice. In some instances, it could negatively affect other existing business, which may not be so fair. Probably need to be assessed on individual cases and more closely monitored.
25	Fish, meat, veg and coffee mobile vans would be great and allow for these community trades to bring quality produce to an area - giving a choice to the consumer versus the supermarket
26	While stationary stands only cause congestion during setup and takedown, mobile traders will risk blocking streets and bicycle lanes throughout the day.
27	The presence of 'coffee carts' or the like around Waverly and similar transport hubs would be useful for travellers, providing more variety along side the fixed venues.
28	If what's being sold is apt and it is serving a need/demand then yes.
29	As long as certain standards maintained and the mobile vehicles do not obstruct normal living conditions, I am always happy to see more options for food and coffee.
30	No problem whatsoever with this except for limit to numbers per location
31	Why not but there might be some complaints from coffee shops who pay business rates etc
32	Only in designated areas
33	More variety and interesting looking
34	Can't think why this would be required. Perhaps an answer would be to provide a license for a fixed place to trade.
35	I think it would supplant existing facilities.
36	But no more than is already available
37	Already plenty of shops, lack of parking for essential vehicles and if more stalls then it would be very congested

38	Parking restrictions and clean air zone will make it impossible to have a vehicle parked temporarily in the Centre without using up a parking space or partly blocking pavement areas (public realm).
39	Stops large companies monopolising city centre and gives more choice.
40	No there is enough
41	depends very much on the product : ice-cream, coffee, yes. Meat, fish, cheese etc would seem more suited to areas with a sufficient residential population to support them
42	believe allowing mobile trading would be harder to control, therefore concern on quality and potential impact on some tradition traders. it wouldn't be a level play field and therefore providing others with unfair advantage.
43	It would give more life to the city centre.
44	The idea of a mobile coffee is good. Local businesses rather than large chains such as Starbucks. Supports small & local
45	Within reason and not restricting traffic or pedestrian flow and not cheap bulk produce like burgers kebabs etc
46	Don't know
47	Under market conditions in specific area
48	if the business has a sustainable base. I wouldn't allow regular fish and chips, burgers van I would allow business that helps the planet and educate people about it.
49	Again, an offering of street foods which are so popular. Offering something additional to tourists.
50	If there is a demand for it or it offers something novel.
51	This would be of great service to visitors and workers, who need quick and available service. I am shocked this is not available in the first instance.
52	Yes as it could offer a range of interesting street foods to compete and offer an alternative to existing provision.
53	Anywhere there is demand and where traffic will not be obstructed
54	Should be available every where
55	Businesses paying rates should have precedence
56	Coffee and snacks
57	Something that offers a product that others don't, could easily be allowed.
58	This would help small business and local traders and provide a much welcome service to the communities.
59	It give opportunity for people who wants run their business
60	Should have specific areas, times .. as they have to move about.. safe routes need to be planned

61	Especially not when using blasting and distorted loudspeaker(s)! Ice cream vans might have their charm though, but they may also fill a gap in a market that's likely seasonal - e.g. has anybody seen the QUEUES outside Mary's Milk Bar at the Grassmarket on sunny/warmer days?!!
62	Permission should be granted in agreed mobile trading zones.
63	Within reason. Either a location where multiple vehicles can operate, or a rotation of vehicles in certain spots, dotted about
64	In areas where public transport and pedestrian safety are un-affected,
65	Mobile trading would increase street clutter and impede pedestrians. There is a requirement for diesel generators which are as polluting in both noise and air pollution as cars, something the council refuses to address even whilst implementing the LEZ
66	Would allow small traders who couldn't sustain a shop presence to sell at busier times of day or year
67	Pricing for trading licenses needs overhaul though. We operate a very successful high end market at the foot of Lothian Road throughout the festival period but because the address is technically Princes Street our licence is eyewateringly more expensive than the site a few meters further up the street at Festival Square. We are looking for venues to run more events throughout the year but outwith the apparently arbitrary central zone because of the cost
68	Why should businesses with premises paying rates be subject to cheap competitors
69	encourages small businesses
70	If there are places for mobile traders to go, why not grant them a fixed pitch as a street trader.
71	It is difficult to see how this could be policed properly and there are difficulties enough with parking in the centre.
72	Why not give people a fixed pitch, thus eliminating the possibility of multiple traders in a small area and also diversifying the market
73	There are sufficient outlets in the city centre

Q15 - Should the Council allow more types of goods be sold from mobile vehicles? Please give details below.

1	Any type of practicable food should be allowed.
2	Within reason, I can't see any reason why not.
3	literally anything within food hygiene and health and safety limitations (not alcohol obviously)
4	and strict rules on frying because the smell extends for scores of metres from such stalls eg Castle Street which by the way is in the City Centre
5	Undecided
6	On a case by case basis and depending on proposed locations.
7	Yes, as long as this supports local small business

8	As above...I don't support mobile traders.
9	only food that has to be cooked and hence unlikely to result in littering
10	Should be limited to fresh fish vans and ice cream sellers only.
11	Provided it is appropriate and done from a permitted fixed location
12	as long as the above is adhered to
13	Can't really answer this one as I'm not sure what the current limitations are
14	snacks and coffee
15	I don't think any form of mobile trading should be encouraged in the city, and certainly no more than is currently the case. And there should definitely be no extensions for non-food products. The centre of town is already bad enough with the profusion of identical shops selling tourist tat.
16	To give a nice variety of what's on the offer.
17	I'd particularly like gluten free food - but generally variety can be interesting
18	as long as the quality is good. Some of the Xmas Market stalls are filled with cheap, not good quality items.
19	Should stick to food related
20	As a dog owner/lover something like dog treats/poo bags in popular dog walking areas would be useful service
21	Arts and crafts ,antique pieces ,Edinburgh gifts
22	not sure Fruit and Veg maybe !
23	Perhaps refills to reduce unnecessary and polluting plastic packaging. And to reach areas where there are no refill shops available. Also to reach residents (elderly and people with disabilities etc) who may have difficulty in getting to places due to lack of easy transport.
24	No just usual cheap ice cream.
25	Fish,meat, bread, veg would be great
26	All trades, food and services should be allowed.
27	Provided hygiene rules are followed, and the products don't cause inconvenience (a kazoo seller near a library), there's little reason not to broaden the scope.
28	too many vehicles in Edinburgh already without adding food trucks.
29	While the presence of markets and street front stalls would add to the atmosphere and appeal of the city, I don't believe a large number of mobile vehicles trading would have the same effect.

30	I think if it was apt and giving a small local (or a new business) and helping hand up then yes. ie If someone was selling second hand books near a university, if someone was cutting keys or repairing mobile phones in a station then that a good idea so long as there was no similar existing businesses nearby. An existing established business (ie one that sold Tartan plastic souvenir tat) that was just looking for somewhere else to sell even more of the same, then no.
31	Particularly food from a variety of cuisines would be great.
32	Why not as long as it's a designated place for vehicles
33	Delis, hot food
34	Coffee Burger's Food
35	I think this needs to be kept regulated
36	Health and hygiene issue
37	Drinks, street food.
38	Artisan and interesting foods
39	If there are specified market areas that should suffice and take into account other comments
40	I'd like to see soup, bread and flowers.
41	not sure what but I would specify that the goods were local and handmade, something different to add to the area. There is enough imported generic tat already on sale in Edinburgh, we don't need any more.
42	as long as there are suitable controls and standards in place
43	To give consumers greater choices.
44	Think so. Most are positive and add to the offering
45	Butchers, fish monger, cheese etc
46	food trucks are great
47	Plant-based food.
48	Again, loosen the grip- follow the trend of modern, unique and dynamic trades who are offering new and innovative ways to trade.
49	Yea but they should be of a certain quality or craft. Rather than ice cream from a carton.
50	I have a coffee van and seel hot and cold snacks, giving us more opportunity to open up our services would be nothing but beneficial for Edinburgh and its visitors.

51	No idea
52	As above
53	General grocery, hot food. Do not set limits, rather let traders propose and let them figure out what people want to buy
54	Impossible to reply yes or no as this is a question that requires more information
55	Ethnic foods.
56	hand made products
57	Better quality souvenirs
58	Think should be specific for small businesses.. Crafts. unique goods
59	No if the question was about whether to allow selling a wider range of goods, as this would make it more difficult to assess, in terms of granting permission &/or enforcement?
60	All types of food & drink (except alcohol)
61	There is no need for mobile vehicles, apart from for revenue from the LEZ they take away from local traders who actually pay rent taxes vat etc
62	Where I live there is a fish van once a week, if there was also a vegetable van or a baker or a butcher for example that would save driving to supermarket as little other choice at the moment
63	encourages small businesses.
64	To encourage Diversity.
65	Subject to licensing control.
66	Yes. Mobile traders should be modernised. Rather than treats or unhealthy snacks more alternative goods should be promoted
67	The answer of yes is caveated in that perishable goods such as fish and greengrocery should be allowed in residential areas along with ice cream vans to provide a service to those with mobility issues. Mobile coffee, snacks etc should not be allowed especially if you are considering town centres.

Q16 - Would you like to make any further comment about street trading, operating a market or selling from mobile vehicles?

1	Support small businesses by allowing market trading
2	Supporting local business should be a priority for the Council. Given that most Street Traders/Market Traders are local people running small businesses and many are long standing businesses, they should be supported by policy and in practice. Priority should be given to small business over large companies when operating, for example, street markets.
3	I would like a website or leaflet for locals that indicate the days/times of regular local mobile trading. I lived in my house for four years before discovering that the annoying car horn I heard at seemingly random times was in fact a mobile butchers van. I wish I'd known sooner.
4	Litter Litter such places generate litter I think that there is sufficient for all outlets mobile and permanent alike to have to brand their

	packaging - some already do - AND for them to be charged for any of their litter found on the street
5	Ensure cleaning public services and planning do consider places where street trading takes place so existing and new street trading do not impact negatively cleanliness. Edinburgh is significantly dirtier than similar cities. Furthermore ensure Street trading does not impact negatively mobility and space for pedestrians. It should be done only if it improves the quality of public space both for residents and visitors and not only tourists
6	No
7	<p>There are some regular markets and some long standing traders who have enhanced the experience of the residents and visitors to the city.</p> <p>I feel there could be more opportunities to other local businesses. I've attended many events away from Edinburgh and I'm surprised how many, unknown to me at the time, Edinburgh traders (food stalls mainly) are at these events. It would be good to see more of them, more locally to support them and our economy. Anything to encourage them and make it a simple process to get them set up should be looked at.</p>
8	<p>I'm not sure what changes to layout in the mound and playfair steps have taken place. Other than the steps being closed for a long time.</p> <p>Street trading is a welcome alternative to the local community especially for those not wanting to deal with staff working in shops where they have no vested interest and as such offer a lesser experience.</p> <p>Let small traders continue to trade and make a living. Don't take away their livelihood and essentially make them unemployed.</p>
9	<p>This consultation suggests that the layout of Mound and Playfair Steps has changed - it hasn't. What happened was the steps were closed for years due to the Galery extension The only difference in layout is that the art and craft stalls are no longer along the path between the steps and the Mound square.</p> <p>The Council's policies should focus on supporting small businesses particularly those who have been trading in Edinburgh for a long time and which have struggled since 2020. Where there are new places to support new Street Traders or Markets, this should be done on a case by case basis. The city needs its small businesses and shouldn't place additional barriers to them succeeding.</p>
10	<p>As stated before I think it is a good idea to support more street trading especially with a view to giving more choice of different types of businesses. This leads to a greater customer experience and helps local businesses and the local economy. I think the council should avoid putting on more restrictions on local businesses as this only stifles what is already a tough environment for them. I would fruther like to add that you state the layout of Mound Precinct and Playfair Steps has changed. I do not think it has changed and has recently reopened after the works done to the Gallery.</p>
11	<p>Temporary stalls, whether at the festive markets or not, should not be selling alcohol. This takes trade away from licensed venues in the city who pay rates and require seasonal trade to survive. Any market should be family friendly and there is no need for them to trade late into the night. We dislike the town centre during December and now avoid it.</p>

12	Why not support existing businesses who are finding trade tough at the moment
13	Periodic markets like farmers' markets are always popular and draw people to the area
14	There are many long standing street traders that help both the economy and vibrancy of the City Centre. As long as there's space and a bit of control over who and where it's going on
15	Street traders present an additional option for residents for both selling and buying. They provide a benefit to the local economy and can be the only outlet for local produce. There are also areas in the city centre that can be used for such without any impact such as the Mound precinct.
16	The use of motor vehicles should be restricted to roads and designated car parks only, they should not be driven over or parked on footways, cycleways or any green areas.
17	I think more attention should be given to the closest. There are opportunities for small pop-ups in the ruins of mediaeval buildings in some closes, and opportunities for low nuisance stalls like Luckenbooths in places like Lady Stairs close. And on the subject of Luckenbooths, those stalls outside the City Chambers should be permanently removed
18	Should be encouraging shop owners rather than street trading
19	Continuity is important for markets to retain a customer base - and anyone with a property nearby would have been aware of the market.
20	make sure all items are good quality, be they food or other items
21	Obviously as market operators we have a vested interest. We are aware that since we started operating Stockbridge Market in 2011, there are a lot more markets in and around Edinburgh, indeed all over Scotland. On the whole, we believe this can only be a good thing in terms of providing customers choice and enabling smaller businesses the opportunity to sell their wares without having to operate from shop premises with fixed costs. The ability to buy goods at markets give a unique shopping experience. They are outdoors, nearly always accessible and family friendly. There is however a huge difference between local, weekly markets, and annual events. Like many other residents and businesses in Edinburgh, we feel that events such as Edinburgh's Christmas are too large and over commercialised. They do not offer value for money for traders or customers. There is little thought given to the product being sold and it is a pile them high bring the money in venture from our experience. There is a balance between providing an opportunity to experience Christmas in Edinburgh and appealing to a lot of people. As a market operator, we don't feel that is being achieved at the moment. Our markets serve very different demographics. Leith is primarily a local residents market, Grassmarket a tourist market and Stockbridge a mix of the two types of customers. At all times, we do our best to fit in with the local community and indeed enhance it as best we can. Our markets provide people the ability to buy product direct from the producers and to a lot of our customers, the provenance of the goods they are buying is so important. Markets give people to ability to meet producers in person.

22	Can bring a real good atmosphere to an area- very common in big cities in Europe- people like markets!
23	I'm lucky to have been able to show and sell the bags I make at a stall at Leith Market. Its well run and controlled properly and sells good quality items. If new markets are available and managed like this I'm all for it.
24	Street trading should be made fair and on a rotation basis to allow new and innovative small businesses to have a chance
25	No other comments
26	I think markets and individual stalls are integral part of a nice lively atmosphere in the city centre. The markets that do exist in Edinburgh at the mo. They are fantastic in what they offer. The stockbridge and grassmarket are wonderful places to go and think a lot of local businesses such as cafes pubs nearby benefit.
27	Keep getting better, Regulate skin care products and ask for Product certification. People pay a lot to get certified and there are those that do not get there products tested and harm people giving everyone a bad name.
28	<p>Edinburghs established markets are good well attended and much appreciated. The footfall trend is upwards since Covid as more people choose them as a place to shop regularly. there will be a need for one in West Edinburgh before long... Edinburgh Park maybe</p> <p>Dont know about demand now but could consider licensing something on the Parkand Ride sites which are not full at weekends/ early evenings in summer that might attract edge of towners and boost P&R coffers.</p> <p>Street trading/ van trading has more potential for adverse impacts and may need more checks and balances.</p>
29	<p>Would be nice to have farmers markets where prices are more reasonable for everyone to access and not only the well off and wealthy people. This may be due to high rental fees, which traders need to pass on the cost to cover for the running of the markets. While people are keen to support locals and local economy, the council also need to play their part in keeping the cost affordable for small businesses.</p> <p>City of Leeds has a massive market, where farmers, producers and small business have the chance to sell their products directly to consumers, making the prices affordable and not relying on big supermarkets that often squeeze the money out of hard working small farmers and have the majority of products imported (with high carbon footprint), overly packaged (with unnecessary and polluting plastics).</p>
30	Having more of this in Edinburgh would bring a more local vibe to Edinburgh opposed to the usual commercialised massive companies dominating the city.
31	No
32	<p>Street markets are regarded well across the city and a draw for those outside. Cities throughout the UK embrace markets and the small businesses that trade at them.</p> <p>They should be preserved and any barriers to their operation should be removed.</p>

33	<p>I am a small trader at weekend markets in the centre of Edinburgh. A large part of my income rests on being able to access these markets. However, I don't see much scope for pushing markets into inconvenient places and times. Markets should not be located in cramped spaces where they might cause congestion, and they should be limited to normal business hours. That way there will be tendency for markets to occupy spaces that people already frequent (and so not massively increase the noise) and not interrupt residents later in the evening when they might reasonably expect some peace and quiet.</p> <p>Market traders and street traders have a community of their own, and while I would love to see more markets in spaces that can easily accommodate them, I also feel that trying to push boundaries too much will result in significant local pushback, particularly if they are seen to negatively impact green spaces. Markets are bustling and fun places to be, but they are also a large logistical operation, albeit at a smaller scale, with all the loads inherent in that.</p> <p>A park with a market in it is no longer a park, and disused parking lot with a market in it is no longer a disused parking lot. It really depends on whether people feel they are losing or gaining by the market's presence.</p>
34	<p>The market in Castle Terrace on a Saturday is excellent for purchasing fresh food and other products as is the Stockbridge market on a Sunday.</p> <p>Both of these are preferable to the so-called Christmas Market in Princes Street Gardens...over-priced tat. No doubt it attracts tourists and others but in my view it "cheapens" Edinburgh.</p>
35	<p>Leith and Stockbridge markets are an excellent example of the types of outdoor trading that should be encouraged. Look to other countries market stalls.</p>
36	<p>The presence of street front stalls and in particular regular markets in central locations not only supports small businesses, it adds to the appeal and charm of the city.</p>
37	<p>I hope that any public opinion in opposition to some of the bigger - annual/event type - markets, ie ones in Princes St Gardens, is not being confused with / held against the smaller more local weekly markets. In my experience the weekly markets are all supporting local traders with local businesses, and provide community spirit.</p> <p>With regards to Steeet Trading, many of my customers from Europe and the USA like the charm/uniqueness of individual stalls, and as said before they dont travel to Edinburgh to see another branch of McDonalds. We get chatty, I tell them where the other good record shops in the city are, what pubs are good for gigs etc, sometimes the club and gig history of the city. I spend a lot of time giving info to people who need directions/somewhere local to eat etc. I consider myself - like most other market/street traders are good ambassadors for the city. Its in our interests to be friendly and chatty and most of us are anyway.</p>
38	<p>Markets provide an alternative for customers by offering independent, local and handmade items as well as an interesting offer of street food. They give the city character and variety. They need to be well run for health & safety and care taken to the type of food & products sold. Without access to a regular market many small business would close down. I have traded for several years in both Grassmarket and Stockbridge market and know that both tourists and locals appreciate the atmosphere those markets create. Both are very well run, rules and regulations are followed strictly.</p>
39	<p>Of course, more free flowing businesses will require more management and more auditing. Hence council might not have enough resources to maintain good levels of standards while allowing more businesses to trade. However, I believe in general, if it done right, it would increase the attractiveness of our city.</p>

40	Some markets are required to stay open until 4pm as part of their license - this is often unnecessary and results in empty looking markets in late afternoon which does not give a great impression so should be allowed to close for day at time at discretion of market operator
41	Like I say trading is part of our communities every one loves a market even if folks aren't buying it's the atmosphere and buzz of walking down a pedestrian space in the City and enjoying the experience of our great Capital City
42	Street trader operated by the owner and council cannot well organise every single one, so that it could be out of control. Operating market can provide more variety products and create the unique experience for the consumer and travelers, the market manage by operator and easy to follow up by council regarding the complain by residents or visitors. Mobile vehicles can convince for special event and or location.
43	Having lived here for over 30 years now I have seen that the large event companies have taken over a larger and larger chunk of business in the city centre. I think this has led to the city having a more inauthentic plastic feel to it for visitors. I also do not believe that these large corporate entities provide good value for money for local residents or visitors. I feel existing small businesses should be given more support and new sites provided to small businesses to strengthen the local economy.
44	I currently love the outdoor markets that are in Edinburgh. I regularly go to Leith Market, it really makes the area more vibrant and brings local people and tourists into the area who then use the other shops, restaurants and cafes. I also love Stockbridge Market for similar reasons. It's great for the area and a great Sunday day out. The Grassmarket Market and Castle Terrace Farmers market are also great markets which I enjoy visiting.
45	Market trading is essential for people to see and buy diverse local goods made and produced by people who do not have the circumstances to sell in any other way. Markets are sociable places where customers build a regular rapport with traders- valuable in an age of automated shopping. They are vibrant and bring greater trade and commerce to local establishments when they are on.
46	Most of the markets in Edinburgh are highly regarded by tourists and locals alike and bring visitors into the city and run well.
47	I'd like a unified high quality and safe appearance of market stalls, but not necessarily on Council expense. Maybe a guideline which needs to be met before a trading permit is given.
48	Markets and street trading creates interest and diversity in the city it should be affordable for folk to get a license.
49	Street trading, markets and mobile selling can be a good thing for Edinburgh. A diverse set up could be an attraction to Edinburgh. I think of London were street stalls can be found around the city selling a wide variety of products, services and goods. Bringing people together and giving people a reason to come into town. It is also good for small businesses and a benefit to long-standing family set-ups. If done well would give other small traders and business an opportunity to start up but needs to be done so there is no impact on existing traders. If this was handed over to corporate/bigger business the opportunity for others would be lost.
50	I absolutely love the markets and they create a sense of community. They provide with great quality food and I am supporting smaller businesses.
51	I absolutely love the markets and they create a sense of community. They provide with great quality food and I am supporting smaller businesses. It helps people get to know more about the process of the productions and more inclined to support a better source

52	I absolutely love the markets and they create a sense of community. They provide customers with great quality food and I am happy to be directly supporting small and independent businesses.
53	Markets are great and should be encouraged
54	Street traders are a vital part of the community, and provide independent holders with an income without the expense of owning/renting premises, they allow flexibility for those with other commitments, health issues, family issues, and are a regular point of call for locals and visitors. The massive town markets should not be compared with local indi traders who rely on regular spots for their income
55	As long as its registered and comply with regulations I think it's a great idea
56	Having access to markets was invaluable for establishing our business. The customers we meet are lovely and have a huge commitment to support local.
57	Markets are good options for local small traders bringing in their produce into town. But when every shop in Princes Street is being replaced by a Candy store, the council should consider to give more support to these sites rather than allowing street trading all around the City making it like a town on wheels with shops in every high Street disappearing at an alarming rate- Edinburgh is becoming a ghost town with betting agencies and gift shops for plastic tartans as the only options for a day out.
58	It would be a great shame to close the existing markets that we have u
59	I notice you named castle terrace was a concern. I love the farmers market that trades there and has done for many years.
60	Street trading adds a real depth of interest to any city. Great for nurturing small businesses. Bring traders and customers closer. Interesting to tourists. Licensing should be as easy and affordable as possible, not seen as an income source for the council.
61	Spread it out more, ot everyone wants to go the crowded city centre
62	Edinburgh has some great city centre markets. Farmers market and grassmarket on a Saturday and others out with the centre. Could there be a designated space where all types of traders could operate under market conditions without impacting local business Sunday-friday?
63	Add colour and vibrancy to the city. Provides jobs for local people.
64	The system is not easy. It should be a map with all the licences granted and a more accurate requirements guide. To say it depends on each case is very vague, and it seems the licences are always held by the same companies. Edinburgh Council should do as East Lothian council, designate areas publicly and allow people to apply.
65	And remove the ludicrous 'non-permanent advertising' section for existing street traders. Claim its additional risk to pedestrians, whilst having knee height bollards right down the royal mile.... I've seen more people falling over and injuring themselves over those bollards in my time compared to people falling over a restaurant A-board...
66	We think that there is a great opportunity here form the city and for enterprise. But curation of it is key to success.
67	Don't make is as hard as it was for me to obtain the license, if applicants have all documentation in place, they adhere to all that is required, help them don't hinder them, support them don't suppress them.
68	The council should revise the forms that charities are expected to complete when requesting a Street Trader Licence as these are not relevant as they are designed for those in business.

69	<p>Street trading has a long history in Edinburgh, and indeed, most cities of the world. Most folk visiting a city look to see where the local markets are, to get a feel and idea of what that city is about and has to offer, ie arts, crafts, small local independent businesses selling locally sourced goods. It is what makes a city vibrant and sustainable. How can you expect local artists and crafts folk to live and work inn a city if they are not allowed opportunities to sell their wares and make a living from it? I came to Edinburgh to study and stayed on after finishing. I have been here for over thirty years, trying to earn a living from my art and craft. It has been extremely difficult giving that the council decided to close the few opportunities I had to make a successful living from it, by suspending the street trading stances oil both the mound and the high street. Other cities actively encourage folk like myself to trade, as it is not the easiest thing to do in Scottish weather. I am now in a situation where I am looking to leave the city, and go to a city that is street trading friendly, so that I can make a living. Very unfortunate and regrettable.</p>
70	<p>The application process for a street trader's license is onerous and stressful. While the policy document states that the council wishes to encourage food vans in industrial estates and other underserved areas, much of it focuses on the city centre and the (necessary) restrictions there which don't apply to the foregoing objective. In areas which don't have the concerns of e.g. The Royal Mile, a simpler process would be effective.</p> <p>The evaluation process for a license is opaque. The steps along with minimum and median timelines should be published on the council website. The spreadsheet of applications should be updated weekly as promised (current version is Nov 20 2023, nearly 3 weeks old).</p> <p>Guidance should be offered on locations. Council staff are not allowed to advise applicants on how to choose a good location, and there are no objective rules published. Applicants risk losing the substantial fee and a lot of time to a rejection. A simple "what about here?" ... "yes, that looks good but I can't guarantee it will be approved" would be incredibly helpful. Some councils (e.g. Fife) have pre-approved locations for food vans in keeping with the policy of encouraging them in underserved locations, which an applicant can choose from. It would behoove the City of Edinburgh to curate such a list.</p> <p>The council appears indifferent to the fact this is someone's business and livelihood at stake, and the impact the process has on mental health. Some sensitivity to that situation would be appropriate. There is a culture of not saying "yes" to anything, perhaps in fear of accountability.</p> <p>The council should offer guidelines on how to legally operate while waiting for a license, e.g. as a home based business. Referrals to Scottish Law are unhelpful since every council makes its own interpretations. The council should be transparent about the rules it (not Holyrood) uses to make enforcement decisions.</p> <p>The council should introduce a policy of presumed consent, as used by many councils in Scotland and throughout the UK - if an application is prima facie reasonable, and there are no immediate objections during the first two weeks of consultation, grant the applicant a temporary license to trade pending a decision on the full license.</p>
71	<p>Markets such as Stockbridge and castle terrace give customers / visitors an opportunity to experience the amazing variety of goods that can only be accessed through markets. This is a proven attraction for visitors and a service to locals alike. If organised and run correctly it supplements the local shops and economies, adding an add! To the the other business communities.</p>

72	<p>The market operators licence is not suitable for private commercial events such as music concerts at premises that require ticketed entry (royal highland centre)</p> <p>Changes to layouts are normal, expected and part of dynamic assessment on site - and should capacities change we may require more food and drink vendors to supply the public. Currently such changes invalidate a MOL and this makes it difficult to satisfy the current licence requirements.</p> <p>In glasgow and other cities an MOL is not needed for private ticketed events, and these vendors are vetted and signed off by environmental health during the TPEL process.</p>
73	<p>Markets that offer local good quality products are beneficial and supported by the local communities. It's a great opportunity to offer to the residents products that they can't have anywhere else.</p>
74	<p>Some consideration for licence fees to be on a sliding scale to markets operating in a community setting and for non profit organisations. Length of licence could also be considered, it costs us the same for 1 day as it would for 28 days.</p>
75	<p>Again reduce the temporary market traders licence application fees they are not sustainable for small business or small operators. We would love to host a quarterly arts and craft fair in edinburgh but the fact we have to pay £1000+ everytime we want to apply for a licence it is just not sustainable to pay for either us or the small businesses and artisans we work with.</p>
76	<p>There seems to be a good balance of street trading and markets at the moment which is meeting the public need and great for local business. It would be really positive and beneficial to continue in this vein, without any additional restrictions being placed on these small businesses - many of which are long standing and should continue to be supported by council policy. Any new street traders should also receive the same consideration as and when there is suitable space for them.</p> <p>As for mobile vehicles, I'm not convinced there is a strong business case to meet a consumer demand here, given everything already available. These I suspect would also lead to even more congestion and litter. Certainly not in the city centre anyway.</p>
77	<p>They have to be clean and not cause rubbish or smells or take up street space. Queing should not disrupt people getting from a to b</p>
78	<p>I am very disappointed that I paid £250 , and my application was refused</p>
79	<p>My main concern is about the situation at Murrayfield Stadium, which during the concerts in spring 2023 degenerated into a disgrace. It may be that action is required at UK level - Christine Jardine MP has researched possible reform of the Pedlars Act.</p>
80	<p>Trading on the street and markets are an essential in any city and definitely should be apart of Edinburgh . Creatives should be supported and given opportunities to trade within city limits.</p>
81	<p>I am truly horrified and appalled at the councils lack of policy on the use of diesel generators in the city centre whilst introducing the LEZ</p> <p>George street is noisy (75 decibels from one unit clad in painted wood) and polluted by these generators for the ice rink, stalls pop ups etc</p> <p>The meadows would be more appropriate for this type of thing, more space and also not annoying actual residents of the city centre again and again. It must be hell if you live on George st or any city centre location year after year, plus the damage to the trees and grass in princes st gardens</p>

82	I think street trading is brilliant and has a place in Edinburgh, it can really attract tourists as well as locals. It does need to be managed appropriately though, as too many traders will mean some businesses will struggle
83	The markets are a special and vital part of Edinburgh culture and especially the weekend markets at Leith and Stockbridge create a strong sense of community which is much needed today.
84	Edinburgh could accommodate several markets fairly centrally but the price differential at the moment is so great that central venues are less attractive
85	I feel as long as there is a variety and not the same product being sold repeatedly at the same time, I see no problem as long they have a license and have the right training with regards to health and safety.
86	How.does.the.council think it can enforce any changes?
87	Whilst there has been significant mention of communities within the by-pass in this consultation, there has been little mention of the outlying communities - e.g Juniper Green, Currie, Balerno, Ratho. Balerno Village Trust (a registered charity) run a monthly Farmers Market in Main Street Balerno, our reason for doing this is significantly different from Market Traders in the city centre. As a community run market our main aim is to create community cohesion not profit. Through the market we engage with around 800 people per month, we invite local producers to sell their goods (which are not available in our local shops) and also support the local businesses operating in main street by increasing the footfall on market day. Whilst we understand and support the CEC charging a commercial rate for commercial markets in the city centre, we would ask that as the bill allows the CEC continue to offer charitable and non-profit generating markets licenses at a significantly reduced cost and preferably no cost.
88	Whilst there has been significant mention of communities within the by-pass in this consultation, there has been little mention of the outlying communities - e.g Juniper Green, Currie, Balerno, Ratho. Balerno Village Trust (a registered charity) run a monthly Farmers Market in Main Street Balerno, our reason for doing this is significantly different from Market Traders in the city centre in that it is run as a not for profit. As a community run market our main aim is to create community cohesion not profit. Through the market we engage with around 800 people per month, we invite local producers to sell their goods (which are not available in our local shops) and also support the local businesses operating in main street by increasing the footfall on market day. Whilst we understand and support the CEC charging a commercial rate for commercial markets in the city centre, we would ask that as the bill allows the CEC to offer charitable and non-profit generating markets licenses at a significantly reduced cost and preferably no cost. This used to be done in the past but we are now being charged the same as commercial operators.
89	The layout of the Mound Precinct and Playfair steps has not changed, It has merely reopened due to the completion of the Gallery extension.
90	The existing provision enhances the experience of the city for both residents and visitors. The licensing and planning systems seem to work well as currently configured. Street trading in particular is a valuable asset to our existing services. It is important for the council to support and promote small local businesses.

91	<p>We have noted that there is no reference in your consultation to Balerno which has hosted a highly successful monthly Farmers Market continuously since 2005.</p> <p>We are also concerned that any market including indoor markets, which can include charitable markets, should be sustainable.</p> <p>Market operators licenses should be priced to recognize that in many cases the businesses to be represented at them may be fragile and apparently small costs can be unaffordable</p> <p>Markets offer not only opportunities for trade but as importantly opportunities for community building and cohesion.</p>
92	<p>I think street trading, particularly from ice-cream vans, is a part of British culture and supporting local businesses is a vital part of that as well. Most of the ice cream vans have been there for many generations and it's important to support them as a part of history and culture</p>
93	<p>The council should lobby for legislation changes that are in keeping with modern technology. A trader offering a service where payment is made online avoids the need for a licence. This would seem to be a way round the necessary vetting of traders and disadvantages traders who take payment in cash.</p>

Appendix 3

From: [REDACTED] >
Sent: Monday, January 22, 2024 12:01 PM
To: Gordon Hunter <Gordon.Hunter@edinburgh.gov.uk>
Cc: paul.lawrence@edinbrgh.gov.uk; [REDACTED] >
Subject: FW: Walkway leading to Playfair Steps

Dear Gordon

As per our recent conversation I have spoken to [REDACTED] and can confirm that she has the same view regarding the Street Traders returning to the Playfair Walkway as previously put forward by NGS i.e. we would be opposed to this. Notwithstanding the points raised by Paul Lawrence, which we agree with, the NGS site is part of a World Heritage setting and as you are aware considerable effort and cost has gone into maximising the appearance of the eastern façade of the Scottish National Gallery, which includes the Playfair Walkway and any return of the Street Traders would be detrimental to that view and our visitor experience. It is also worth noting that there has been a substantial increase in visitor numbers to our site – we have had the highest attendance to date for the National. This means that we are dealing with an increase volume of people who need to navigate the pathway safely and securely and especially so for any emergency. The point being the volume is not the same as before therefore we cannot safely return to vendors occupying the walkway. In 2023 we had 1,836,057 visitors, that's a year when the new galleries were only opened for the final three months— it is quite possible we could easily hit over 2 million in the near future.

[REDACTED] expressed concern that NGS appear to have not been part of the consultation process and trusts that if further consultation with essential stakeholders is to take place that we would be included.

I have been asked to cc Paul Lawrence into my reply, which is on behalf of [REDACTED] so that they can communicate directly with each other if wished.

I would be most grateful if you can keep [REDACTED] and myself apprised of any developments in this regard.

Kind regards

[REDACTED]

[REDACTED]

Email/Teams: [REDACTED]

Phone: [REDACTED]

 **National Galleries Scotland**

[National Galleries Scotland | Yours to discover](#)

Regulatory Committee

12.30pm, Monday, 5 February 2024

Landlord Registration Update

Executive/routine
Wards

All

1. Recommendations

1.1 Regulatory Committee is asked to:

1.1.1 Note the information provided in this report in relation to Landlord Registration in Edinburgh; and

1.1.2 Discharge the motion agreed by Regulatory Committee on 4 December 2023 (Appendix 1).

Paul Lawrence

Executive Director of Place

Dr Deborah Smart

Executive Director of Corporate Services

Contact: Andrew Mitchell, Head of Regulatory Services

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

Contact: Neil Jamieson, Head of Customer Services

E-mail: neil.jamieson@edinburgh.gov.uk | Tel: 0131 469 6150

Landlord Registration Update

2. Executive Summary

- 2.1 This report seeks to discharge a motion raised by Councillor McKenzie, from the Regulatory Committee of 4 December 2023 (Appendix 1), by providing information in relation to the operation of the Landlord Registration system in Edinburgh, including the roles of Customer and Regulatory Services.

3. Background

- 3.1 On 4 December 2023, Committee approved a motion by Councillor McKenzie as detailed in Appendix 1. This report addresses the motion.
- 3.2 The Landlord Registration scheme was introduced in 2006 under the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) ('the Act'). Subject to certain statutory exceptions, it requires landlords of let properties, including Houses of Multiple Occupation, to register with their local authority.
- 3.3 As at 3 January 2024, there are approximately 43,000 landlords registered within the City of Edinburgh Council area.

4. Main report

- 4.1 As required by the Act, the Council makes the following information publicly available on the corporate website:
- 4.1.1 The name(s) and correspondence address(es) of private landlords or agents who act on the owner's behalf;
 - 4.1.2 Whether a landlord is registered, or if their application is awaiting approval;
 - 4.1.3 If a landlord's registration has been subsequently refused or removed;
 - 4.1.4 The local authority with which the owner or agent is registered; and
 - 4.1.5 Whether there are any outstanding Repairing Standards Enforcement Orders for the property.
- 4.2 Tenants should be able to use the register to identify and contact their landlord or agent to obtain such information. The Council does not hold copies of tenancy
- Regulatory Committee – 5 February 2024 Page 2 of 7

agreements or other similar information, nor would the Council have a legal basis for requiring landlords to provide such.

- 4.3 In Edinburgh, Customer Services within the Corporate Services Directorate manage the Scottish Landlord Register for Edinburgh. This includes processing applications, maintaining records and responding to queries from landlords, with the mailbox receiving an average of 30 emails per day. These are predominantly from landlords seeking to update their registration information. A triaging process is carried out to ensure emails are prioritised and directed to the correct service delivery area. The team also deals with simple enquiries from members of the public, including tenants. The enquiries requiring further investigation are then sent to Regulatory Services for follow up action.
- 4.4 The indicative response time for this service is two weeks or 10 working days, and the current average response time is five working days. The website is regularly updated with response times, if these differ from the agreed service level.
- 4.5 A recent review of the [Landlord Registration](#) page on the Council's website is complete, with improvements made to ensure that users are directed to the correct service area and that it is clear how assistance can be sought where required. A breakdown of these changes is listed below.
- 4.5.1 The Council's website has been updated with a direct link to the Registers of Scotland site to allow users to search for landlord contact details or to check if a landlord is registered. Citizens are directed to contact the Transactional Landlord Registration service in the event that a property appears not to be registered. The 'Contact Us' details provide clear guidelines around the timescales for processing of information.
- 4.5.2 A clearer description of services related to Landlord Registration and Enforcement or Complaints has been added so that customers can direct their enquiry to the most appropriate service.
- 4.5.3 Auto responses now provide a commitment to redirect to the appropriate service if the enforcement or complaint enquiry is passed to Landlord Registration inadvertently. A further enhancement to the service has been introduced to triage all enquiries on a daily basis to ensure that each enquiry is directed to the correct service.

Landlord Registration Enforcement

- 4.6 The Private Rented Services (PRS) Enforcement team is responsible for enforcement activity in relation to all private landlords in Edinburgh. The team receives complaints of which, on average, 58% are from members of the public in relation to properties which they believe should be registered, or in relation to landlords who are not complying with their responsibilities. The remaining referrals (42%) are from other agencies and partner organisations including the Department for Work and Pensions, Police Scotland or other Council teams.

- 4.7 The team also provides advice and guidance for tenants and neighbours of properties subject to landlord registration requirements and other applicable housing legislation. This advice can relate to issues such as rent deposit schemes, the role of the First Tier Tribunal and the current temporary cap on rent increases in place until 31 March 2024.
- 4.8 All complaints are recorded and investigated, and appropriate action is taken. This may include informal action, issuing corrective advice and guidance, written warnings and rent penalty notices.
- 4.9 In more serious cases, a report will be submitted to the Licensing Sub Committee for consideration. This may recommend removal from the Landlord Register on the grounds that the landlord is not a fit and proper person to be registered. In the most serious cases, a report will be submitted to the Crown Office and Procurator Fiscal Service for consideration of prosecution, which could result in a fine of up to £50,000.
- 4.10 Service requests received and enforcement outcomes since 2019 are shown at Appendix 2. The figures reflect an increase in overall service demand and a decrease in enforcement output, which is partly related to the more moderate approach to enforcement taken during the Coronavirus pandemic. During this period, the focus was on support and ensuring compliance with legislation, however now that period has passed these figures will increase again as the normal regulatory approach has resumed.

5. Next Steps

- 5.1 This report reflects the work that it has been possible to do in the time available to meet the requirement to provide a report within one cycle. It is intended that any outstanding elements of the motion will be followed up with a report in future business bulletins to keep Committee updated.

6. Financial impact

- 6.1 There is no direct financial impact on the Council. All costs are contained within existing income from licensing or landlord registration fees.

7. Equality and Poverty Impact

- 7.1 Matters described in this report have no relationship to the public sector general equality duty, thus there is no direct equalities impact arising from this report.

8. Climate and Nature Emergency Implications

- 8.1 No climate or environmental impact arises from the contents of this report.

9. Risk, policy, compliance, governance and community impact

- 9.1 The Council's approach to managing the landlord registration process and associated enforcement activity contributes to the Council's strategic priority to create good places to live and work in Edinburgh.

10. Background reading/external references

- 10.1 [Landlord Registration webpage](#)
10.2 [Being a Landlord in Scotland Resource](#)

11. Appendices

- Appendix 1 Motion by Councillor Mackenzie as agreed by Regulatory Committee on 4 December 2023
Appendix 2 Enforcement figures since 2019

Appendix 1

Motion by Councillor Mackenzie

Regulatory Committee – 4 December 2023

Item 9.1 – Landlord Registration

Committee Notes:

A temporary cap on rent increases during private tenancies is due to be lifted on 31 March 2024.

Anxiety among some tenants that this will be followed by unreasonable rent increases. Many tenants do not possess contact details for their landlords and that this information is not always available on the Scottish Landlord Register.

Recent requests for information from landlordregistration@edinburgh.gov.uk have elicited automated replies stating predicted response times of between 2 weeks and 1 month. The absence of information on engaging with the Council offline in relation to landlord registration.

Committee Agrees:

- 1) The Council should strive to provide appropriate information to tenants timeously and accessibly in response to requests.
- 2) A report to the next Regulatory Committee on landlord registration will provide:
 - 2.1) An update on current response times for information requests, with proposals to reduce these if required.
 - 2.2) A breakdown of the information that tenants can reasonably expect when making enquiries on landlord registration.
 - 2.3) Proposals to improve access.

Appendix 2

Complaints and Enforcement Action relating to unregistered Landlords or properties	2019	2020	2021	2022	2023
Complaints and enquiries about Unregistered Landlord/Property	472	488	413	635	754
Investigation outcome – Exempt from Landlord Registration	73	78	27	59	197
Investigation outcome – Landlord properly registered	163	109	79	143	181
Investigation Outcome - Landlord Registration received as a result of enforcement action	233	234	122	198	296
Rent Penalty Notice	96	13	0	0	16
Warning letters	248	195	41	26	47

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Regulatory Committee

12.30p.m, Monday, 5 February 2024

Short Term Lets – Recommendations arising from Fatal Accident Inquiry

Executive/routine
Wards

All

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the content of this report and the response to the Scottish Courts and Tribunal Service; and
 - 1.1.2 Agree that any further work will be addressed in the review of the Short Term Lets Licensing Policy already agreed for 2024.

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 – Recommendations arising from Fatal Accident Inquiry

2. Executive Summary

- 2.1 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.

3. Background

- 3.1 The Council licenses short term let accommodation under [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-Term Lets\) Order 2022](#).
- 3.2 The Council received a letter from the Scottish Courts and Tribunals Service (Appendix 1) with respect to the Sheriff's determination of a Fatal Accident Inquiry (FAI) under the [Fatal Accidents and Sudden Death etc \(Scotland\) Act 2016](#). (link to judgement included at 10.1 below).

4. Main report

- 4.1 The City of Edinburgh Council regulates short term lets (STLs) as required by [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-Term Lets\) Order 2022](#) ('the 2022 Order'), which brings STLs within the scope of licensable activities covered by the statutory provisions of the 1982 Act.
- 4.2 Following the death of a guest staying in short-term let accommodation in the Angus area, a FAI was convened. This established that the guest's death resulted from carbon monoxide poisoning from a faulty mobile gas cabinet. The FAI established that there were precautions which could reasonably have been taken which, had they been, might realistically have resulted in the death, or any accident resulting in the death, being avoided.
- 4.3 The outcome of the FAI led to the Sheriff making recommendations to all local authorities in Scotland with the aim of preventing further deaths. The recommendations were that local authorities should consider making it a condition

of any licence issued in terms of the 2022 Order that licence holders should provide specific gas safety information to guests (Appendix 2).

- 4.4 The Council was asked to respond to the findings of the FAI and its response is attached at Appendix 3. In summary:
- 4.4.1 Legal advice has been sought on whether the current mandatory conditions of licence for STL licences would cover the concerns raised by the Sheriff's determination; and thereafter
- 4.4.2 Consideration will be given to whether it would be appropriate to introduce additional licence condition(s) and will report to the relevant committee of the Council in spring 2024 about options for doing this.
- 4.5 The Council is aware that Scottish Government officials are considering this issue as part of the planned review of the STL licensing system, especially whether a mandatory condition would best address this concern. The Council continues to engage with this work.
- 4.6 In the meantime, the Council is inspecting all properties for secondary letting and has added a check of portable gas devices to the checklist to determine the extent of their use in that sector. This will help to inform the need for any additional licence condition.

5. Next Steps

- 5.1 Council officers will take advice from Legal Services with respect to any action required and will engage with the Scottish Government about the possibility of introduction of a mandatory condition.
- 5.2 Any further steps required by the Council as licensing authority will be addressed in the review of the Short Term Let Licensing Policy which will commence before the summer recess.

6. Financial impact

- 6.1 There is no direct financial impact on the Council.

7. Equality and Poverty Impact

- 7.1 Not applicable.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

- 9.1 This report informs the Committee of recommendations made as a result of a Fatal Accident Inquiry (Appendix 1).

10. Background reading/external references

- 10.1 [FAI judgement - Scottish Courts website.](#)

11. Appendices

- 11.1 Appendix 1 – cover letter from Scottish Courts and Tribunals Service dated 13 October 2023.
- 11.2 Appendix 2 – Sheriff's recommendations.
- 11.3 Appendix 3 – City of Edinburgh Council response to letter from Scottish Courts and Tribunals Service dated 13 October 2023.

**Letter to parties to whom a recommendation is directed in an FAI determination
(non participant)**

Forfar Sheriff Court and
Justice of the Peace Court



SCOTTISH COURTS AND TRIBUNALS SERVICE

Forfar Sheriff Court, Market Street, Forfar, D08 3LA

Edinburgh Council
City Chambers
High Street
Edinburgh
EH1 1YJ

Your Reference:

Our Reference: FFR-814-22

Date: 13/10/2023

Dear Sir/Madam

Determination of the sheriff under the Inquiries into Fatal Accidents and Sudden Death etc. (Scotland) Act 2016

In the Inquiry into the death of Thomas Oliveri Hill

Please find enclosed a copy of the determination issued by the sheriff in the above inquiry. The sheriff in the determination, in terms of Section 26(1)(b) of the Act has made recommendations which might realistically prevent other deaths in similar circumstances. This brings the sheriff's involvement in the inquiry to an end.

Requirement to lodge a response:

In terms of section 28(1)(b) of the Act, as a person who was not a participant in the inquiry and to whom a recommendation has been addressed, you may send a response to the relevant recommendation/s for publication on the SCTS website, to the Scottish Courts and Tribunals Service (SCTS) setting out:

- details of what you have done, or propose to do, in response to the recommendation, or
- if you have: not done, or do not intend to do anything in response to the recommendations, the reasons for that.

Your response must be set out in style Form 6.2 in the court Rules (available on the SCTS website at <http://www.scotcourts.gov.uk>) and sent, in WORD format, by e-mail, to FAInotices@scotcourts.gov.uk

(Alternatively, if e-mail is unavailable, you should send your response to:
FAI Notices, ODBU, Scottish Courts and Tribunals Service, Saughton House,
Broomhouse Drive, Edinburgh, EH11 3XD.)

In terms of sec 28(5) of the Act SCTS must on receipt of the response, after considering any representations made, publish the response.

Withholding part or all of your response In terms of sec 28(4) - (6) of the Act you may, at the same time as lodging your response, apply to have all or part of the response withheld from publication. SCTS may also, at its own discretion and after consideration, withhold part of the response from publication. You will be advised in due course if a decision is taken to withhold any part of your response

The SCTS, other than publication, has no further responsibilities in relation to the responses submitted.

If you require any further information about the lodging of responses please contact the Operations Delivery Business Unit, on FAInotices@scotcourts.gov.uk

Yours faithfully


Sheriff Clerk Depute

Appendix 2

RECOMMENDATIONS

The Sheriff, in terms of section 26(1) (b) of the Act, and having regard to the matters mentioned in section 26(4) of the Act, Recommends that:

Local authorities in Scotland should consider making it a condition of any licence issued in terms of The Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 that licence holders provide specific gas safety information to guests, namely;

1. Written advice and guidance on what to do in the event of a carbon monoxide alarm sounding.
2. If there is a mobile gas cabinet heater in the accommodation, the manufacturer's instruction manual should be provided along with a warning that any such appliance should not be moved.

Appendix 3

SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH SHERIFF COURT

Court ref: FFR-B14-22

RESPONSE

to the

DETERMINATION OF

SHERIFF PAUL BROWN

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016

IN THE

INQUIRY INTO THE DEATH OF

THOMAS OLIVER HILL

To: The Scottish Courts and Tribunals Service

1. **THE CITY OF EDINBURGH COUNCIL**, a local authority constituted under the Local Government etc (Scotland) Act 1994, with principal place of business at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (**the "Council"**), being a person to whom a recommendation under section 26(1)(b) was addressed, do respond as follows.
2. The Council has an interest in the inquiry but was not a participant in the inquiry. The Council, as licensing authority for the City of Edinburgh, has an interest in conditions for short term let licences.
3. The Council is actively considering and taking legal advice on whether the current mandatory conditions of licence and the additional conditions of licence which the Council has adopted for STL licences would cover the concerns raised by the Sheriff's determination. The Council will thereafter consider if it would be appropriate to introduce an additional licence condition(s) and will report to the relevant committee of the Council in Spring 2024 about options for doing this.

The Council is aware that Scottish Government officials are considering this issue as part of the planned review of the STL licensing system and will engage with this review.

In the meantime, the Council is inspecting all properties for secondary letting and has added a check of portable gas devices to the checklist to determine the extent of their use in that sector. This will help inform the need for any additional licence condition.