

# 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

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- 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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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

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- 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

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- 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

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- 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**

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- 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**

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- 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**

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- 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**

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- 8.1 Not applicable.

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

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- 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**

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- 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**

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- 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 1<sup>st</sup> 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](mailto: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**

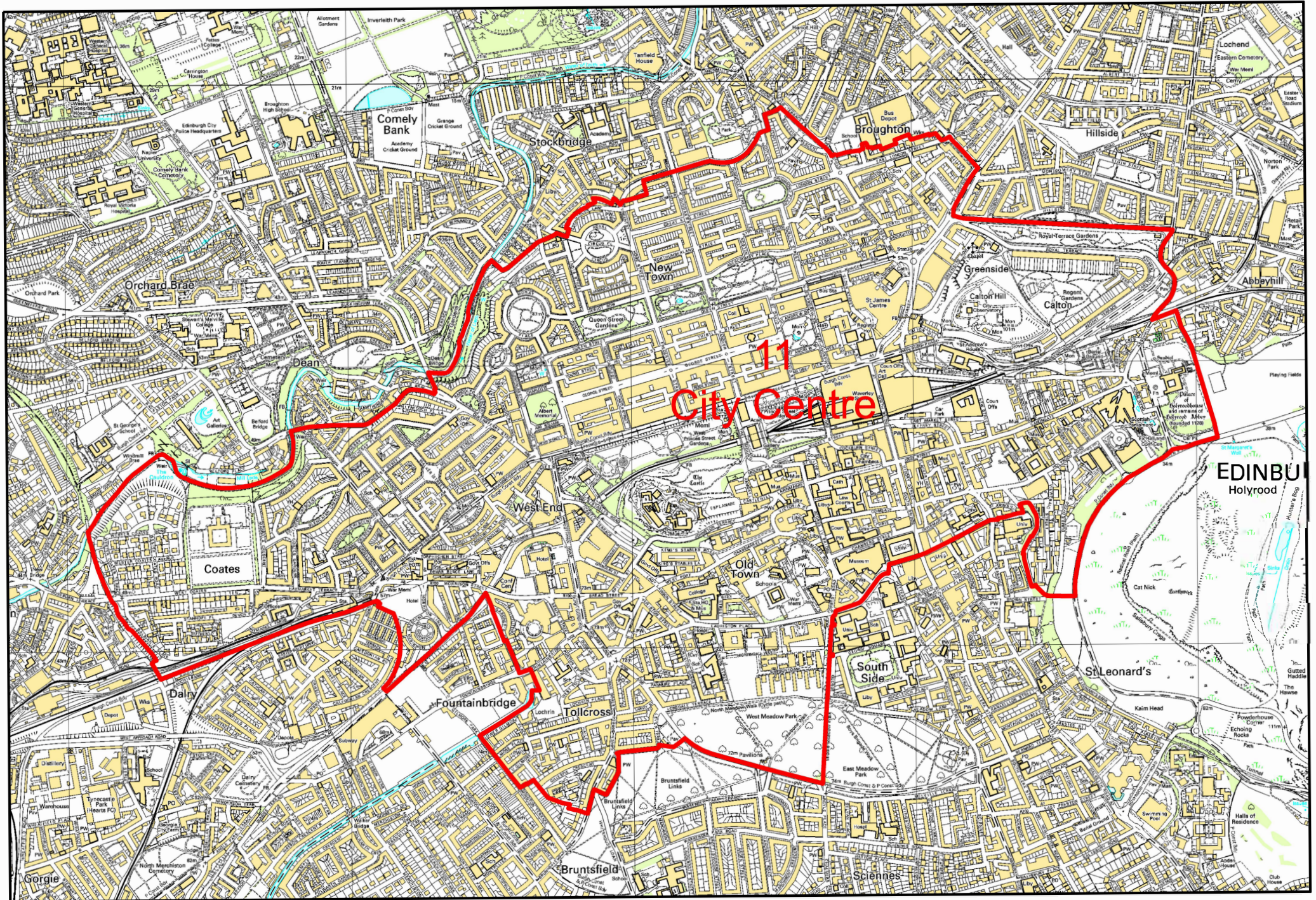
- 7.1 [Air Weapons & Licensing \(Scotland\) Act 2015 – Sexual Entertainment Venues– Update After Initial Consultation – Regulatory Committee – 21 October 2019](#)

- 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 CityCentre - 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?**

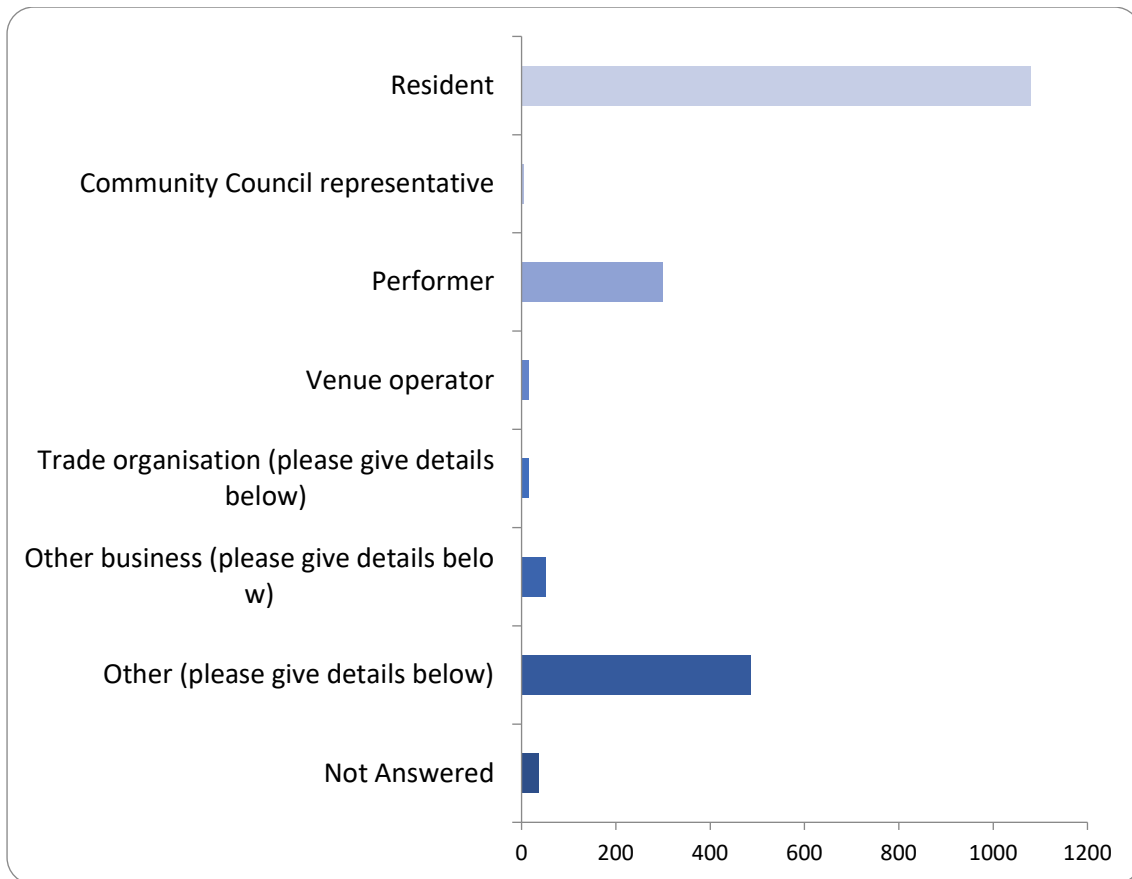
There were 1821 responses to this part of the question.

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

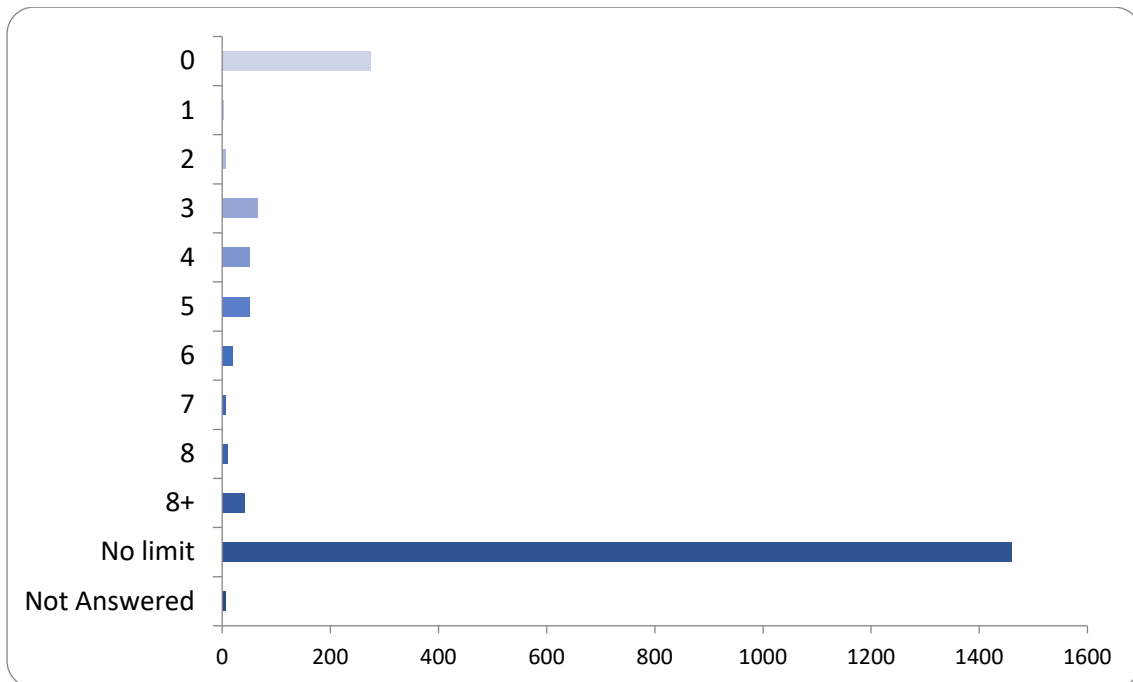
### Further details

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**

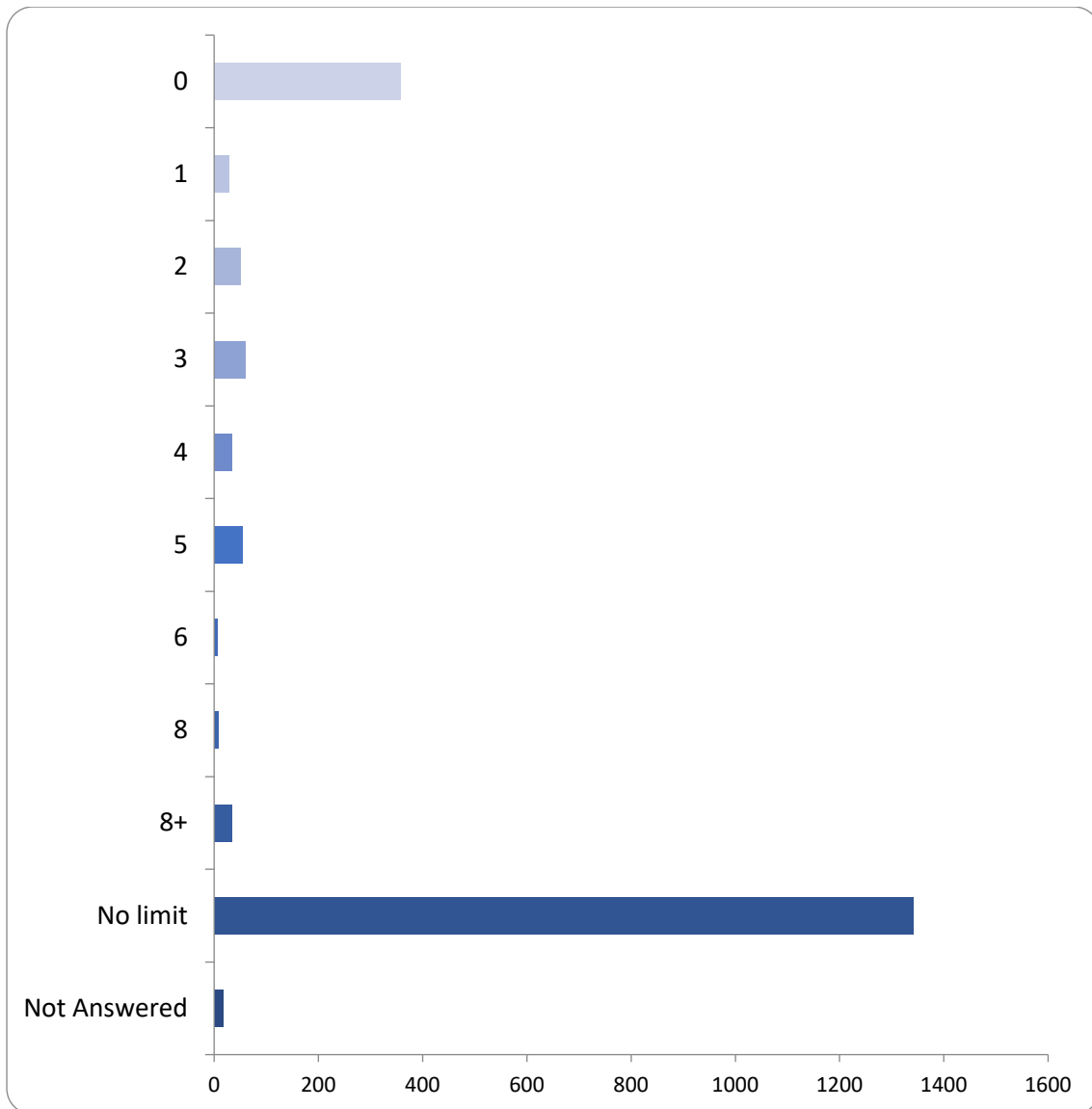
There were 1987 responses to this part of the question.



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.

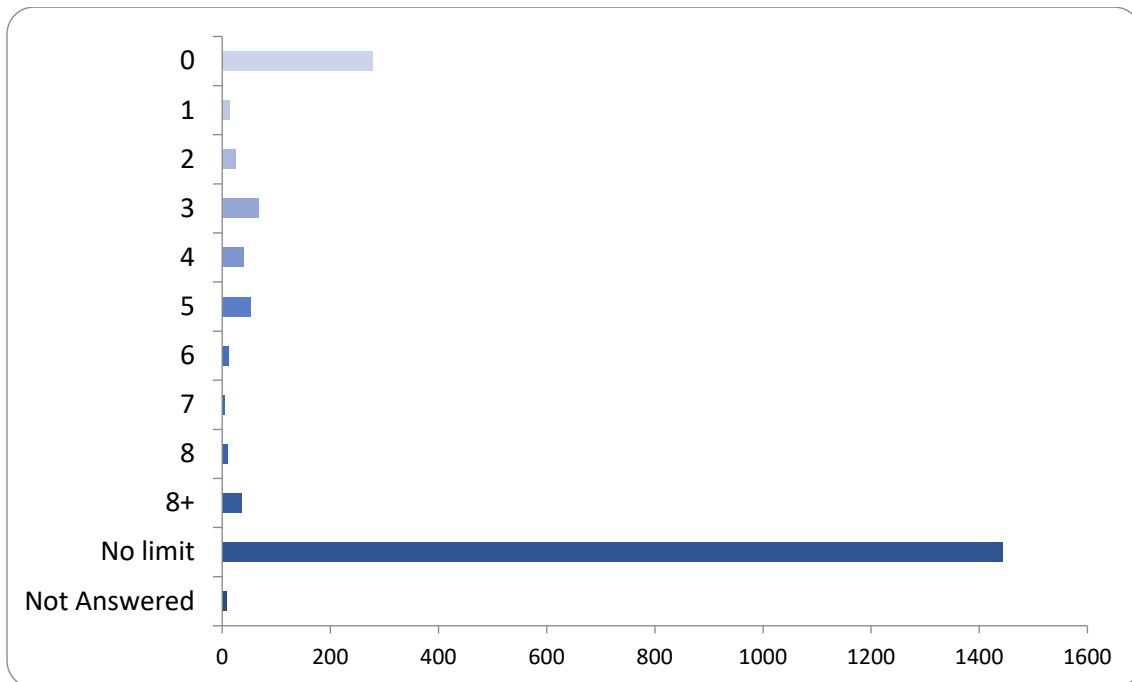


Option	Total	Percent
0	357	17.91%
1	29	1.46%
2	50	2.51%
3	61	3.06%
4	34	1.71%
5	54	2.71%
6	6	0.30%
7	0	0.00%
8	8	0.40%
8+	35	1.76%
No limit	1341	67.29%
Not Answered	18	0.90%

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



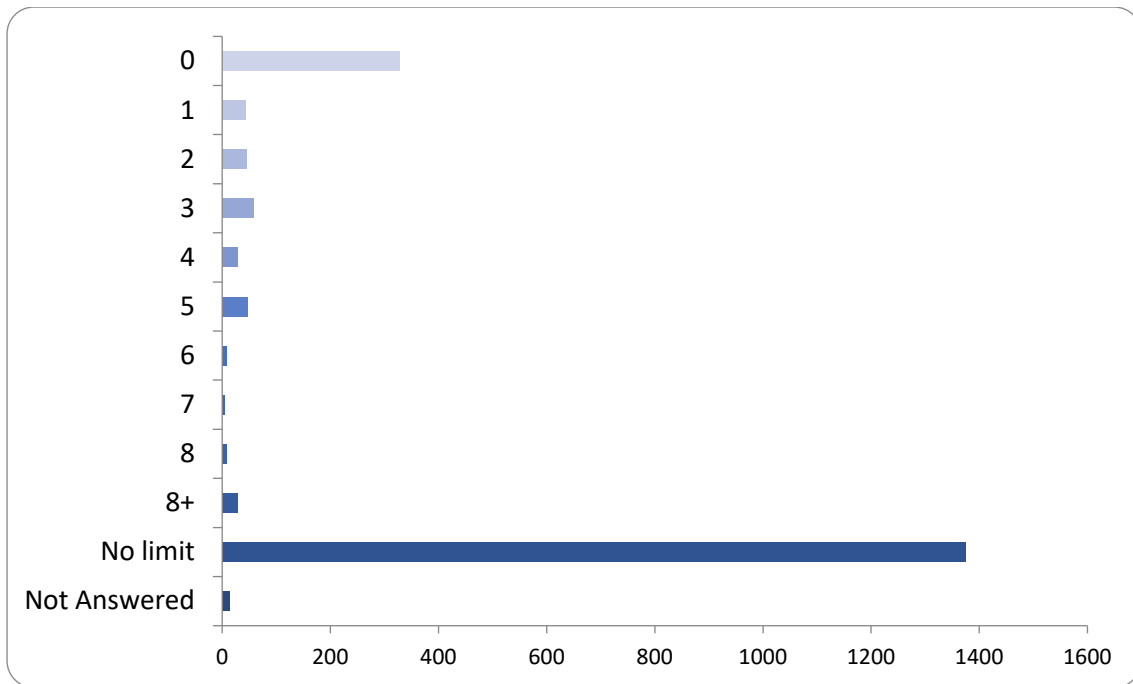
There were 1985 responses to this part of the question.



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**

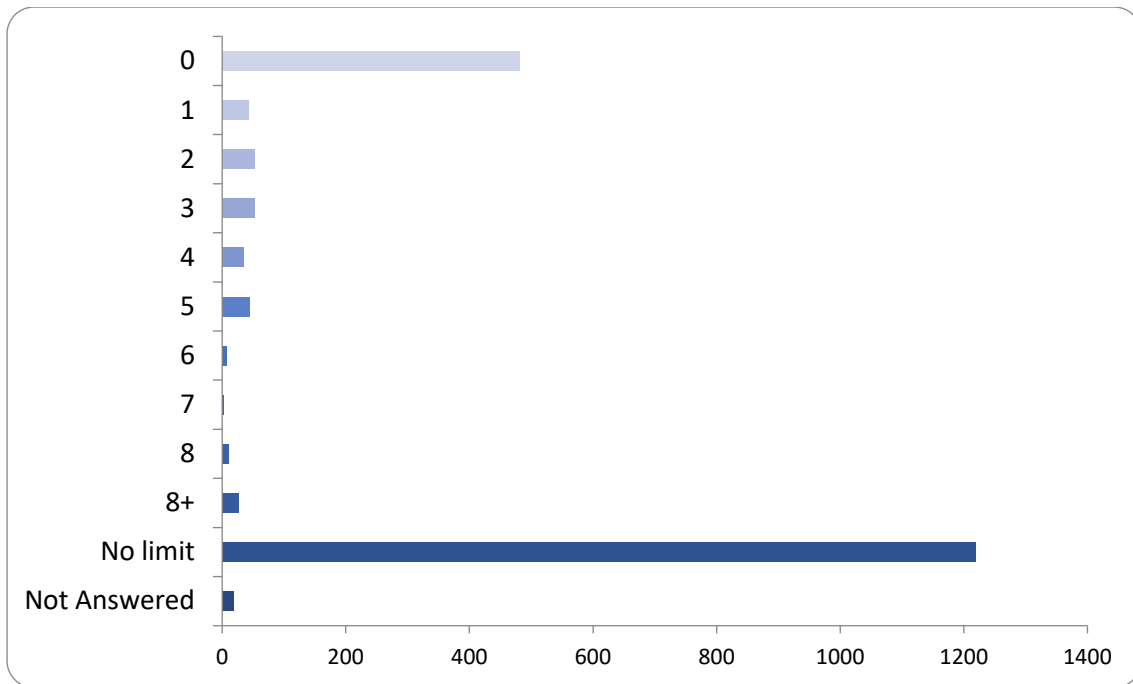
There were 1979 responses to this part of the question.



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

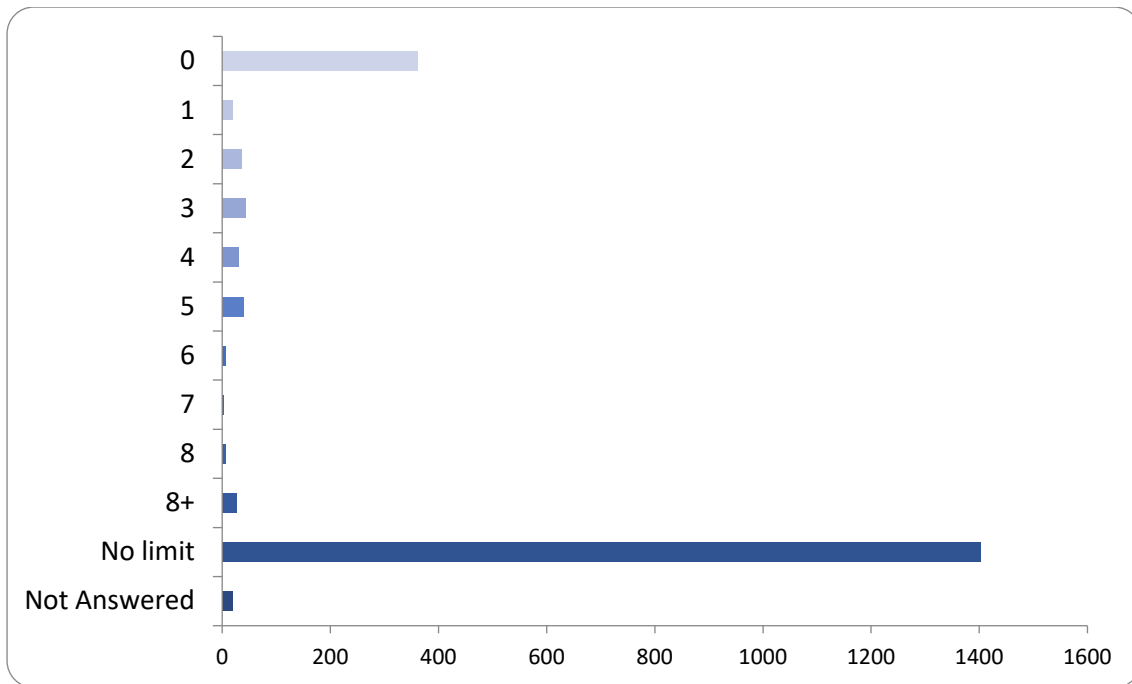
There were 1974 responses to this part of the question.



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.

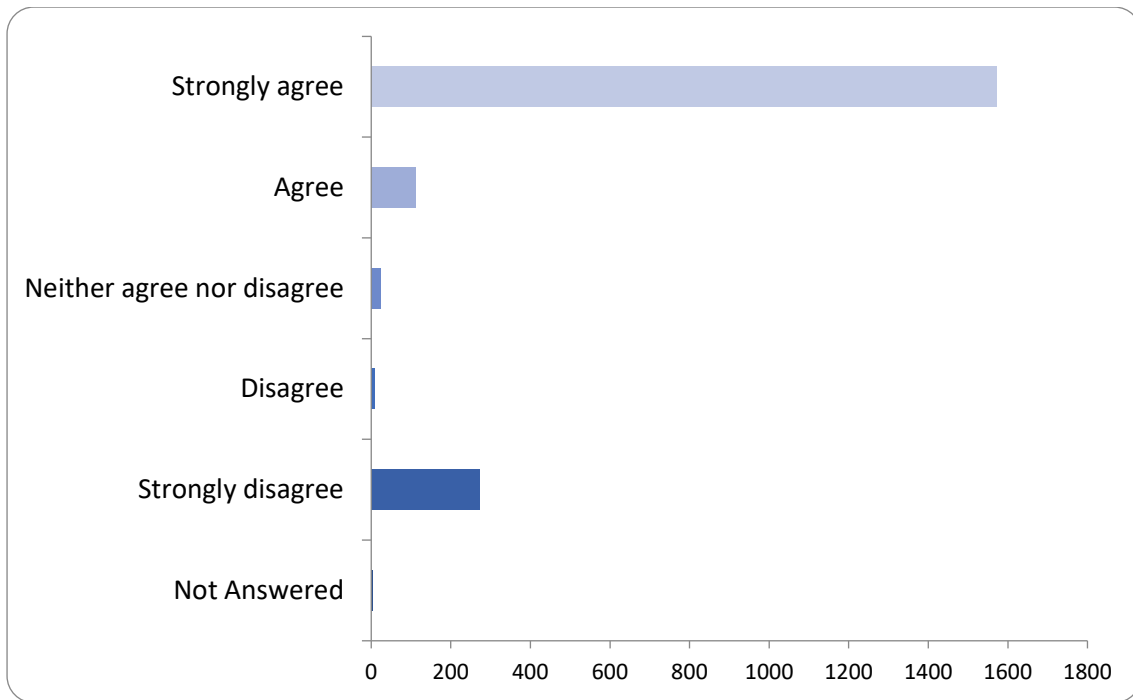


Option	Total	Percent
0	361	18.11%
1	20	1.00%
2	36	1.81%
3	43	2.16%
4	31	1.56%
5	39	1.96%
6	7	0.35%
7	2	0.10%
8	6	0.30%
8+	27	1.35%
No limit	1402	70.35%
Not Answered	19	0.95%

**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**

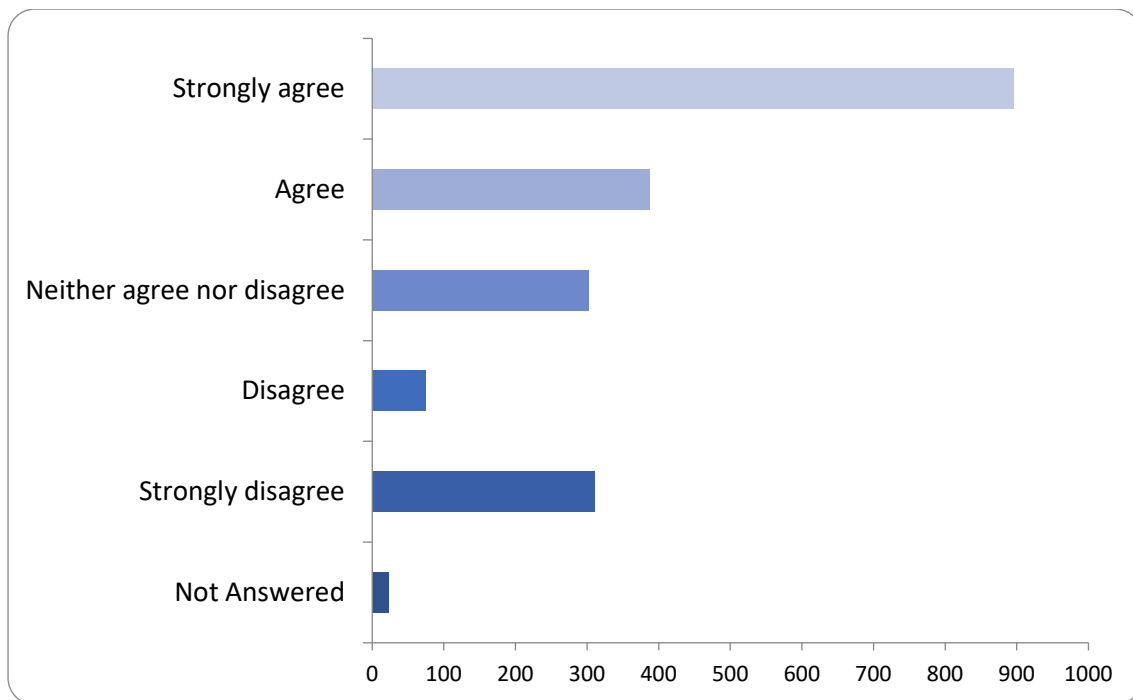
There were 1988 responses to this part of the question.



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

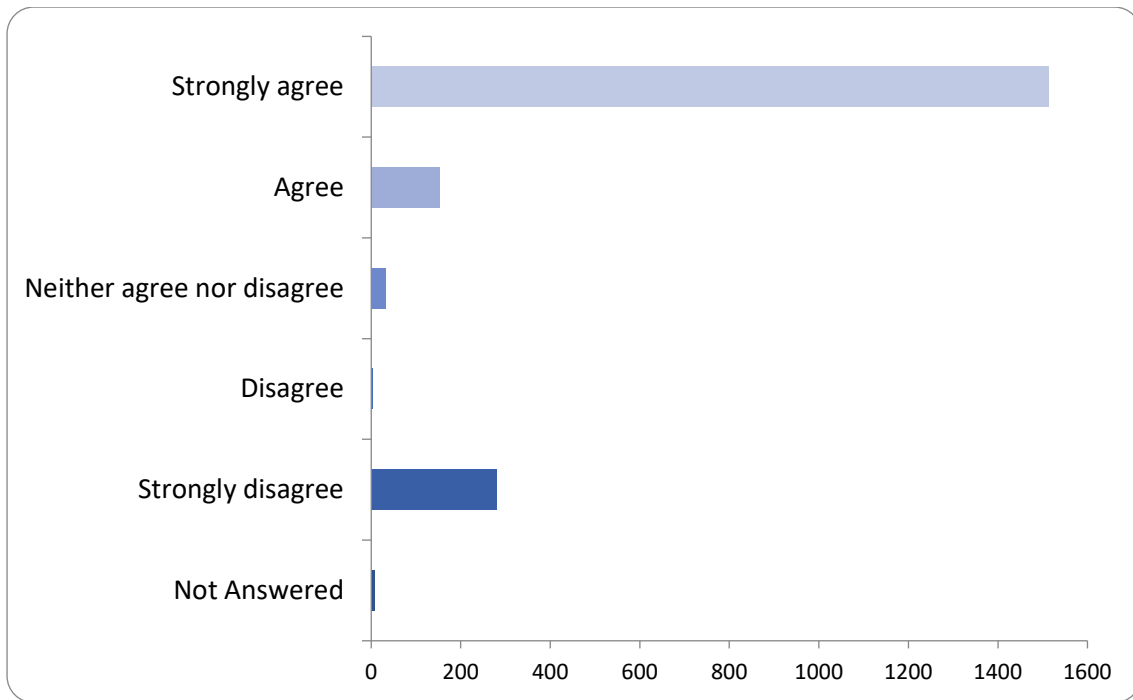
There were 1970 responses to this part of the question.



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**

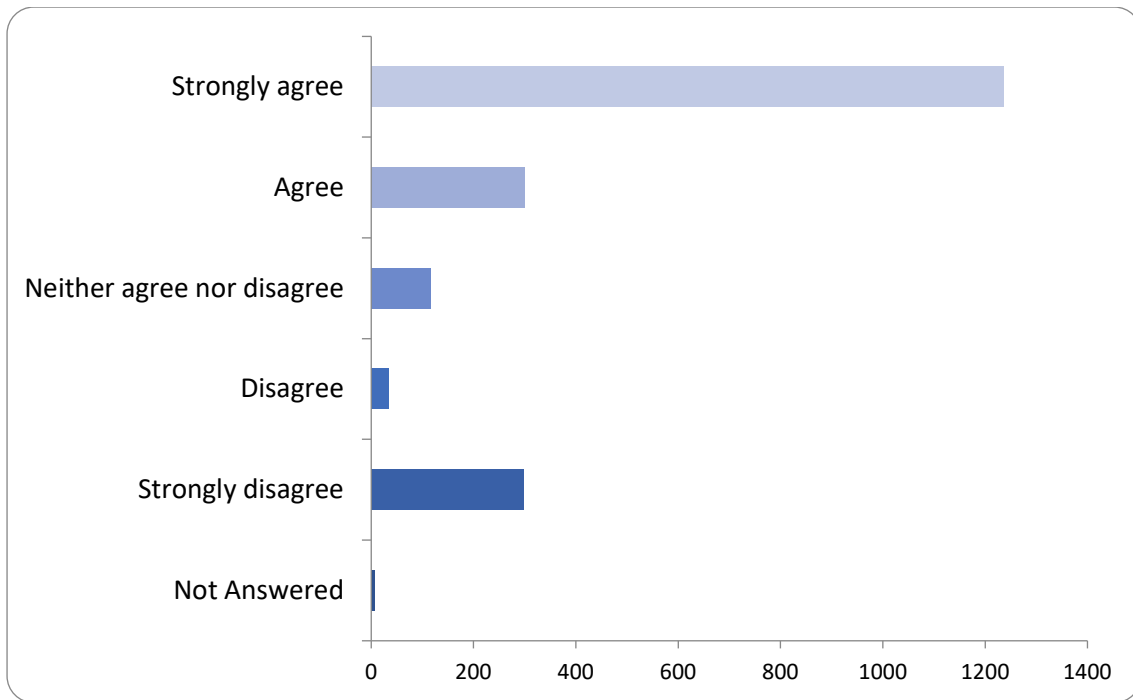
There were 1985 responses to this part of the question.



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.

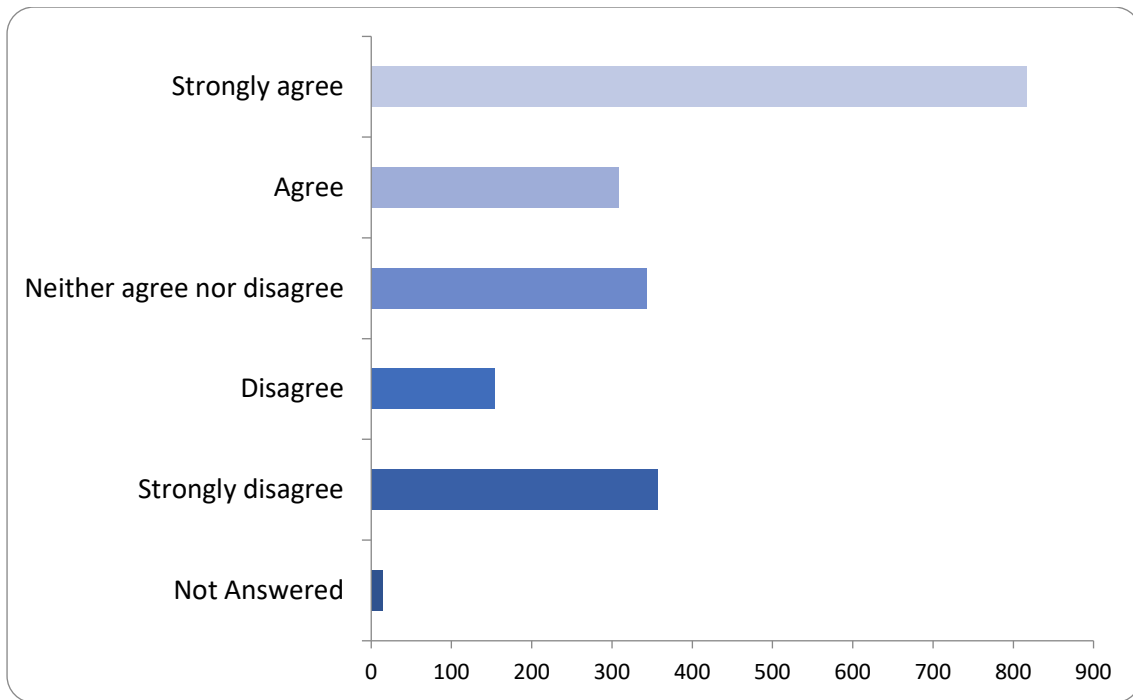


Option	Total	Percent
Strongly agree	1236	62.02%
Agree	301	15.10%
Neither agree nor disagree	117	5.87%
Disagree	35	1.76%
Strongly disagree	298	14.95%
Not Answered	6	0.30%

### **A residential area outwith the city centre**

There were 1979 responses to this part of the question.

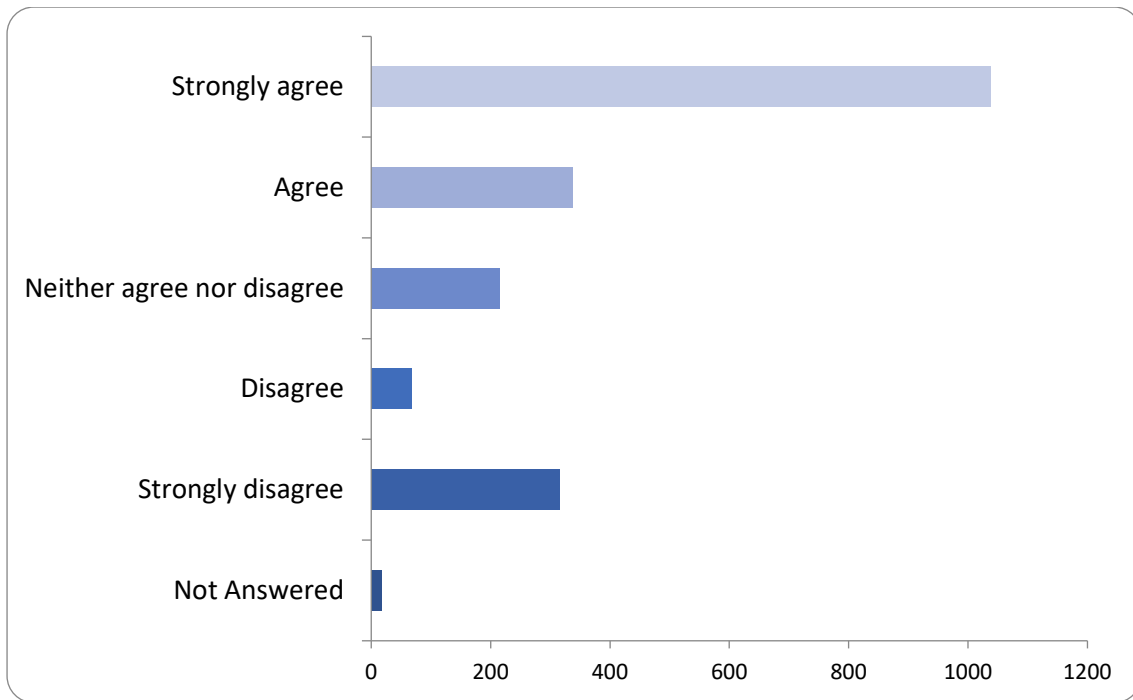




Option	Total	Percent
Strongly agree	817	40.99%
Agree	308	15.45%
Neither agree nor disagree	343	17.21%
Disagree	154	7.73%
Strongly disagree	357	17.91%
Not Answered	14	0.70%

### **An industrial or commercial area**

There were 1975 responses to this part of the question.



Option	Total	Percent
<b>Strongly agree</b>	1038	52.08%
<b>Agree</b>	338	16.96%
<b>Neither agree nor disagree</b>	215	10.79%
<b>Disagree</b>	68	3.41%
<b>Strongly disagree</b>	316	15.86%
<b>Not Answered</b>	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.

**OFFICIAL**

# 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

study<sup>1</sup> 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).

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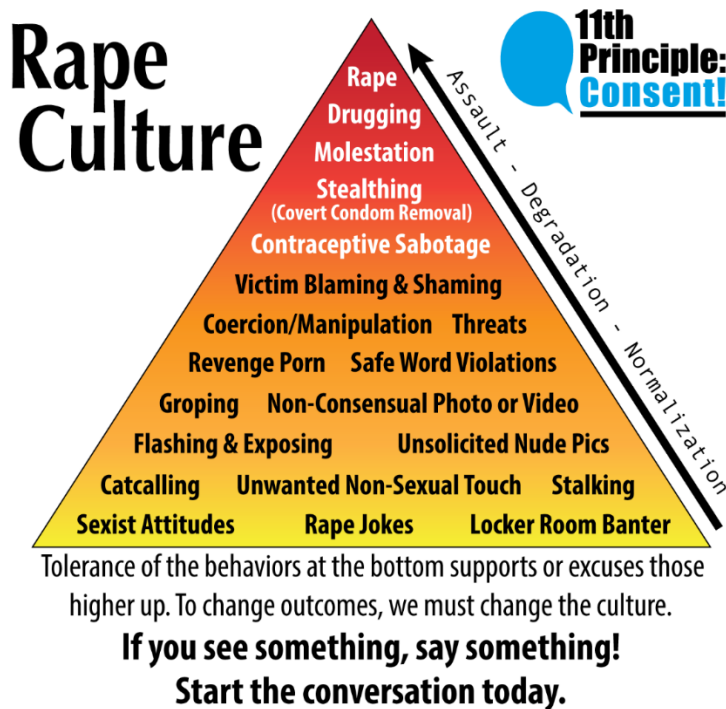
<sup>1</sup> Johnsson, S. and Jakobsson, N. (2017): Is buying sex morally wrong? Comparing attitudes toward prostitution using individuallevel data across eight Western European countries. Women’s Studies International Forum, Vol. 61, March-April 2017, pp.58-69



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 1988<sup>2</sup>. 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](http://www.11thPrincipleConsent.org)

<sup>2</sup> 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)<sup>3</sup> '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, 2012<sup>4</sup>).
- 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

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

<sup>4</sup> 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"> <li>-force work underground, resulting in unsafe working conditions</li> <li>-reduce employment rates in the middle of a cost of living crisis, pushing workers into unemployment and poverty or even less desirable work</li> <li>-creates a monopoly where workers lose their bargaining powers with managers/venue owners</li> </ul> <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 &amp; 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.	<b>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</b> <b>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</b>
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 &amp; 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.	<b>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.</b>
23.	<b>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.</b>
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"> <li>1. Any policy that directly impacts workers should be directly consulted with those workers.</li> </ol> <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"> <li>2. The council's duty to preserve the safety of the public includes those who work within strip clubs.</li> </ol> <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 &amp; 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><b>1.</b></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><b>2.</b></p>	<p>I raise concerns that a cap in the number of SEVs is likely to</p> <ul style="list-style-type: none"> <li>-force work underground, resulting in unsafe working conditions</li> <li>-reduce employment rates in the middle of a cost of living crisis, pushing workers into unemployment and poverty or even less desirable work</li> <li>-creates a monopoly where workers lose their bargaining powers with managers/venue owners</li> </ul> <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><b>3.</b></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><b>4.</b></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><b>5.</b></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.
<b>6.</b>	<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>
<b>7.</b>	<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>
<b>8.</b>	<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>
<b>9.</b>	<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>
<b>10.</b>	<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><b>11.</b></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><b>12.</b></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>

<b>13.</b>	<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>
<b>14.</b>	<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>
<b>15.</b>	<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>
<b>16.</b>	<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>
<b>17.</b>	<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>
<b>18.</b>	<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>
<b>19.</b>	<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>
<b>20.</b>	<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>
<b>21.</b>	<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>
<b>22.</b>	<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>
<b>23.</b>	<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>
<b>24.</b>	<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>
<b>25.</b>	<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>
<b>26.</b>	<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>
<b>27.</b>	<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>
<b>28.</b>	<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>
<b>29.</b>	<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>
<b>30.</b>	<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

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### Summary Report Template

Each of the numbered sections below must be completed

Interim report	<input type="checkbox"/>	Final report	X	<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)**

<b>Name</b>	<b>Job Title</b>	<b>Date of IIA training</b>
<b>Chris McKee (co-facilitator, lead officer, report writer)</b>	<b>Regulatory Team Leader</b>	<b>6 December 2023</b>
<b>Jackie McInnes (Co-facilitator)</b>	<b>Senior Planning Officer</b>	<b>09 March 2022</b>
<b>Catherine Scanlin</b>	<b>Licensing Manager</b>	
<b>Gordon Hunter</b>	<b>Regulatory Team Leader</b>	<b>24 October 2023</b>
<b>Gerry Mays</b>	<b>Principal Solicitor – Licensing</b>	
<b>Mark Upward</b>	<b>Advice Services Manager</b>	<b>November 2018</b>
<b>Anna Darocha (Note taker)</b>	<b>Licensing Officer</b>	

## 7. Evidence available at the time of the IIA

<b>Evidence</b>	<b>Available – detail source</b>	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
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"> <li>Customers</li> <li>SEV Performers &amp; Union Reps</li> <li>SEV Operators &amp; Legal Agents</li> <li>Neighbours / Residents / Community Councils</li> </ul>
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	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
		<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 <b>due regard</b> 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"> <li><i>• ...</i></li> <li><i>• sex.</i></li> </ul> <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	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
		<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"> <li>• SEV performer perspectives of working in the industry</li> <li>• If any links exist between SEVs and violent crimes; sexual offences; violence against women and girls</li> <li>• Examples of the regulation of the sexual entertainment industry in other countries.</li> </ul>

Evidence	Available – detail source	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
		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	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
		<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"> <li>• Birmingham</li> <li>• Camden</li> <li>• Leeds</li> <li>• Manchester</li> <li>• Sheffield</li> <li>• Westminster</li> </ul> <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

<b>Evidence</b>	<b>Available – detail source</b>	<b>Comments: what does the evidence tell you with regard to different groups who may be affected and to the environmental impacts of your proposal</b>
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?**

<b>Equality, Health and Wellbeing and Human Rights</b>	<b>Affected populations</b>
<p><b>Positive</b></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 &amp; 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><b>Environment and Sustainability including climate change emissions and impacts</b></p> <p><b>Positive</b>          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><b>Negative</b>          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><b>Affected populations</b></p> <p>SEVs premises operators/Local businesses</p> <p>Residents</p>
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<p><b>Economic</b></p> <p><b>Positive</b>          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><b>Affected populations</b></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](mailto:integratedimpactassessments@edinburgh.gov.uk) to be published on the Council website [www.edinburgh.gov.uk/impactassessments](http://www.edinburgh.gov.uk/impactassessments)

**Edinburgh Integration Joint Board/Health and Social Care**

[sarah.bryson@edinburgh.gov.uk](mailto:sarah.bryson@edinburgh.gov.uk) to be published at [www.edinburghhsc.scot/the-ijb/integrated-impact-assessments/](http://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"> <li>a. Edinburgh Rape Crisis Centre</li> <li>b. Edinburgh Women’s Aid</li> <li>c. Equally Safe Edinburgh Committee</li> <li>d. Rape Crisis Scotland</li> <li>e. Scottish Women’s Aid</li> <li>f. Zero Tolerance</li> <li>g. Any community council within or neighbouring the locality in which the premises are situated.</li> </ol> <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"> <li>a. The Equally Safe Edinburgh Committee</li> <li>b. Any community council within or neighbouring the locality in which the premises are situated.</li> </ol>	<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

<b>Point / Issue Raised</b>	<b>Officer Feedback</b>
<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

<b>Points / Issues Raised</b>	<b>Officer Feedback</b>
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.