

# Regulatory Committee

9.00am, Monday, 18 January 2021

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

Executive/routine  
Wards All  
Council Commitments

### 1. Recommendations

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

**Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 529 4042

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

### **2. Executive Summary**

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

### **3. Background**

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- 3.1 Section 76 of the Air Weapons and Licensing (Scotland) Act 2015 adds new sections 45A to 45C to the Civic Government (Scotland) Act 1982 ('the 1982 Act') in order to introduce a discretionary licensing regime for SEVs. Section 76 also amends section 41 of the 1982 Act to specifically exclude sexual entertainment venues from the definition of places of public entertainment, which ensures that a public entertainment licence cannot also be required for those venues. A SEV licence will only be required where a local authority makes a resolution in these terms under new section 45B of the 1982 Act.
- 3.2 On 21 March 2019 a commencement order was laid before the Scottish Parliament which provides local authorities with the necessary powers to introduce a discretionary licensing regime for SEVs.
- 3.3 Following a period of consultation, on 3 February 2014 the Regulatory Committee agreed to amend the Public Entertainment Resolution to remove premises used as 'saunas or massage parlours' from the requirement to obtain a Public Entertainment Licence. Any new regulatory regime which is introduced will not apply to such premises.

- 3.4 The key aims of civic licensing are the preservation of public safety and the prevention of crime and disorder. A specific licensing regime for SEVs will allow local authorities to consider local circumstances and to exercise appropriate control and regulation of these venues in setting the number of venues able to operate within their area. A published SEVs policy statement would be required to provide a local authority's policy and examples of licensing conditions, along with enforcement details. The policy should demonstrate how the local authority intends to help protect the safety and wellbeing of performers, customers and the wider public.
- 3.5 Where a local authority opts to license SEVs, the provisions at section 45A of the 1982 Act require a licence for premises operated as a SEV where the sexual entertainment is operated live, is for the direct or indirect financial benefit of the organiser and is for the sole or principal purpose of sexual stimulation of members of the audience. However, premises where sexual entertainment is provided on no more than three occasions in a twelve month period are to be treated as exempt from the SEVs licensing system.
- 3.6 A local authority which licenses SEVs will have to publish a SEV policy statement, developed in consultation with relevant interest groups (including violence against women partnerships, trade organisations and other similar groups) which will provide local communities with a clear indication of the local authority's policy. On 11 March 2019 the Regulatory Committee instructed officers to commence the initial consultation process in respect of SEV licensing.
- 3.7 To view the recordings of evidence sessions with relevant interest groups such as the Violence Against Women's partnership, members can follow the link [here](#). To view the session with Police Scotland and NHS Scotland, members can follow the link [here](#)

## 4. Main report

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

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

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

## **5. Next Steps**

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

- 5.3 Where a local authority passes a resolution, it must specify a date from which it is to take effect in their area. This must be at least one year from the date on which the resolution is passed. The local authority must also publish notice that it has passed a resolution not less than 28 days prior to the date the resolution is to take effect. The notice must state the general effect of the licensing procedure and provisions at Schedule 2 of the 1982 Act, as modified for SEVs, and be published either electronically or in a local newspaper.

## **6. Financial impact**

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

## **7. Stakeholder/Community Impact**

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- 7.1 There is a requirement to carry out a statutory consultation as part of the formation of a SEVs resolution and the timeline is outlined in Appendix 4. The Committee is asked to note that the timeline has been amended from previous reports to reflect the pause in policy work due to the COVID-19 pandemic.
- 7.2 In developing a policy, it will be necessary to consult with a wide range of stakeholders and this should include organisations such as violence against women partnerships, child protection committees, community councils, local residents, gender groups, local business communities, existing operators and Police Scotland.
- 7.3 It is recognised that concerns have been raised previously that such activity may be commercial sexual exploitation, encourages unhealthy attitudes towards women and therefore damages society as a whole.
- 7.4 The Scottish Government stated during the passage of the 2015 Act that the introduction of this legislation acknowledges the freedom of adults to engage in legal activities and employment. Nevertheless, it continues to promote, through all relevant means, gender equality and actions that tackle outdated attitudes that denigrate or objectify particular groups or individuals.
- 7.5 "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls" was first published in 2014 and updated in 2016. It sets out a definition of violence against women and girls, which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography, and human trafficking'. Whilst recognising the conflict between this definition and the licensing of sexual entertainment venues, the Scottish Government intends that licensing will help to ensure that such activities take place in safe and regulated environments.

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

## **8. Background reading/external references**

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

## **9. Appendices**

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

## **Appendix 1 - Draft SEV Resolution**

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

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

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

(1) Sections 45A-45C of the Act relating to Public Entertainment shall continue to have effect throughout the Council's area.

(2) Subject to the terms of the Act, a Sexual Entertainment Venue licence shall be required for the use of the premises specified in (3) below as places of Sexual Entertainment as from *TBC*

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

(a) Sexual entertainment which is operated live, for the direct or indirect financial benefit of the organiser and is for the sole or principal purpose of sexual stimulation of members of the audience.

## Appendix 2 - Draft Policy Sexual Entertainment Venue Policy

### Introduction

- 1.1 The City of Edinburgh Council (“the Council”) is able to regulate sexual entertainment venues through the Civic Government (Scotland) Act 1982.
- 1.2 Section 76 of the Air Weapons and Licensing (Scotland) Act 2015 added new sections 45A to 45C to the 1982 Act in order to introduce a discretionary licensing regime for sexual entertainment venues (SEVs). Section 76 also amends section 41 of the 1982 Act to specifically exclude sexual entertainment venues from the definition of places of public entertainment to ensure that a public entertainment licence cannot also be required for those venues.
- 1.3 The Council’s Regulatory Committee resolved on dd/mm/yyyy to pass a resolution under section 45B(1) to gain regulatory control of SEVs through a licensing regime with effect from dd/mm/yyyy. Consequently, this SEV policy applies to the whole of Edinburgh.
- 1.4 The adoption of the resolution under section 45B(1) of the 1982 Act allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.5 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of SEVs. The policy will have regard as to how it will affect the objectives of:
  - 1.5.1 Preventing public nuisance, crime and disorder
  - 1.5.2 Securing public safety
  - 1.5.3 Protecting children and young people from harm
  - 1.5.4 Reducing violence against women
- 1.6 The policy will also provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Sub-Committee when determining an application. This policy will be reviewed regularly and revised when necessary.
- 1.7 The key aims of civic licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime allows the Council to consider local circumstances in setting the number of venues able to operate within their areas and to exercise appropriate control and regulation of those venues.

## Definitions

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

## Locality

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

### Character & Vicinity of Relevant Locality

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

### Appropriate Number of SEVs in a Relevant Locality

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

## Suitability of Premises

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

## **SEV Application Process**

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

### Making an Objection

- 4.4 It is possible to lodge an objection against the grant of an application for a SEV licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service ([licensing@edinburgh.gov.uk](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.
- 4.5 To be considered as competent, objections should include the following information:
- a. The name and address of the person or organisation making the objection
  - b. The premises to which the objection relates
  - c. The objection must be signed by the objector, or on their behalf
- 4.6 Objections to a SEV application will be considered by the Licensing Sub-Committee when determining the application. A copy of the objection will be sent to the applicant, however certain contact details such as telephone numbers, email addresses and signatures will be removed.

### Determining an Application

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

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

#### Variation of a SEV Licence

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

#### Renewal Application

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

#### Right to Appeal

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

## Conditions

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

## Relationship with Other Strategies

- 6.1 Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published in 2014 and updated in 2016. It sets out a definition of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography, and human trafficking.' Whilst recognising the conflict between this definition and the licensing of sexual entertainment venues, the Scottish Government intends that it will help to ensure that such activities take place in safe and regulated environments

## Related Documents

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

## Review

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

## Appendix 3 – Proposed Conditions

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

### Definitions

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

## 1. Conditions

### Opening Hours

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

### Control of Entry to the Premises

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

### **Exhibition of SEV Licence**

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

### **Security & CCTV**

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

### **Layout & External Appearance of Premises**

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

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

### **Record Keeping**

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

### **Performances**

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

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

### **Premises Management & Staff Welfare**

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

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

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

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

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

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

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

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

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

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

### **Touting for Business**

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

## Appendix 4 - Proposed timeline



## Appendix 5 - Evidence Session Briefing Notes

### SEVs Evidence Hearings – Briefing Note

#### Session One – 21 January 2019

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

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

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

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

#### Participant One – Cllr Gavin Barrie

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

#### Participant Two – Sir Richard Rowley – CEO, Mansley Group

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

### Participant Three - Colin Stone – Princes Court Residents Association

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

### Participant Four - John Loudon – Cramond & Barnton Community Council

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

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

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

## **Session Two – 31 January 2020**

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

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

- Police Scotland
- NHS Scotland
- Licensing Standards Officers

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

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

A summary of each contribution is below:

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

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

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

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

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

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

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

#### **Session Three (Part One) – 17 February 2020**

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

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

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

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

A summary of each contribution is below:

#### Participant One – Fantasy Palace

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

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

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

#### Participant Two – Burke & Hare

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

#### Participant Three – Babydolls – No.1 Showbar

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

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

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

#### Participant Four - Western Bar

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

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

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

#### Participant Five – Liquorice Club

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

#### Session Three (Part Two) - 31 January 2020

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

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

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

A summary of the performers contributions is below:

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

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

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