

**ANGUS COUNCIL**

**CIVIC LICENSING COMMITTEE – 31 OCTOBER 2019**

**SEXUAL ENTERTAINMENT VENUES**

**REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT**

To advise the Committee of the changes to the Civic Government (Scotland) Act 1982 introduced by the Air Weapons and Licensing (Scotland) Act 2015 which implemented provisions giving Local Authorities in Scotland a discretionary power to licence Sexual Entertainment Venues and to invite the Committee to consider instructing a public consultation on the licensing of Sexual Entertainment Venues in Angus to inform future decision making.

**1. RECOMMENDATION**

It is recommended that the Committee:

- (a) note the changes to the Civic Government (Scotland) Act 1982 which introduced provisions giving local authorities the discretionary power to licence Sexual Entertainment Venues,
- (b) agree to instruct the Director of Legal and Democratic Services to undertake a public consultation on the licensing of Sexual Entertainment Venue in Angus to inform future decision making and that the consultation include the questions noted in **Appendix 1**

**2. BACKGROUND**

- 2.1 In April 2019 section 76 of The Air Weapons and Licensing (Scotland) Act 2015 ("2015 Act") came into effect and introduced new sections 45A to 45C to the Civic Government (Scotland) Act 1982 ("1982 Act"). Section 76 introduced provisions giving local authorities in Scotland a discretionary power to resolve to require Sexual Entertainment Venues ("SEVs") to be licensed. The 2015 Act also amended the 1982 Act with the effect of removing adult entertainment from the scope of the Public Entertainment Licensing regime.
- 2.2 SEVs are defined in the legislation 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. Sexual entertainment is defined as 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). If sexual entertainment is provided at a premises on no more than three occasions within a 12 month period, then those premises would not be treated as an SEV. There are no known premises of this type currently within Angus.

**3. LEGAL**

- 3.1 The current legal position is that SEVs do not require a licence to operate under the 1982 Act. The new regime is discretionary. It will only apply to SEVs if the Council (following a recommendation from this Committee) passes a Resolution to licence SEVs in the Angus area.
- 3.2 The introduction of the legislation is aimed at giving local authorities powers to improve standards in the industry, ensuring the safety of performers and customers, regulating the impact on locality, improving local accountability and control.

The new legislation is relevant to two Scottish Government Policies:

- “Equally Safe: A Delivery Plan for Scotland’s strategy to prevent and eradicate violence against women and girls” :  
<https://www.gov.scot/publications/equally-safe-delivery-plan-scotlands-strategy-prevent-violence-against-women/>

- “Trafficking and Exploitation Strategy” :  
<https://www.gov.scot/publications/trafficking-exploitation-strategy/>

#### **4. NEXT STEPS**

- 4.1 Before the Council can decide whether to pass a Resolution to licence SEVs, the Committee is being asked to agree to instruct a public consultation which will assist in gathering the views of the local community on the licensing of SEVs. It is recommended that the consultation goes live 4 November 2019 and runs for a minimum of six weeks so that the Committee may consider the responses and make an informed decision at their meeting on 9 January 2020. Proposed consultation questions have been provided for consideration by Committee at **APPENDIX 1** to this report.
- 4.2 Through the proposed consultation process views will be gathered in respect of the licensing of SEVs. As part of the consultation, views will be invited from the public and from interested parties including Police Scotland, Violence against Women Partnerships, Woman’s Aid, Angus Community Planning Partnership, Community Councils, the Angus Child and Adult Protection Committees, Elected Members, the NHS and other organisations which are deemed to have an interest. In addition, details of the consultation will be placed on the Have Your Say section of the Council’s website and on the Council’s social media. The issues relating to the licensing of SEVs are complex so this initial consultation period is extremely important for gathering community views on the proposals in the first instance.
- 4.3 This first consultation period will focus on whether SEVs should require to be licenced. If the Council determine to pass a Resolution, a second consultation will be progressed in relation to the forming of an SEV Policy Statement which will deal with the number of SEVs which ought to be in operation, proposed conditions and other relevant information pertaining to the licensing regime.
- 4.4 The Scottish Government has issued guidance in respect of the legislative changes and the new licensing regime for SEVs.

The guidance is available here:

- <https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/pages/2/>

Within the guidance, the Scottish Government have provided a flowchart which sets out the order of events which must take place prior to any SEV Licensing regime being implemented. A copy of this flowchart is shown at **APPENDIX 2** to this report.

#### **5. FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from the consultation process. If the Council determine at a later date to pass a Resolution then an exercise will need to be undertaken in respect of determining fees associated with the SEV application process.

#### **6. HUMAN RIGHTS IMPLICATIONS**

There are no Human Rights issues arising directly from this Report. A full equalities impact assessment will require to be carried out as part of any future SEV policy development resulting from the consultation and evidence gathering process.

**NOTE:** No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this report.

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**Proposed Consultation Questions**

It is proposed to provide background information to the legislation with the consultation paper and put forward the following questions:-

1. Should Angus Council require Sexual Entertainment Venues to be licenced?
2. What impact do you consider a Sexual Entertainment Venue might have (such as on you or on the area you live)?
3. If the Council decide to require Sexual Entertainment Venues to be licensed, what matters should be taken into consideration in developing a Sexual Entertainment Venue Policy Statement?

Consider whether to make a resolution to licence sexual entertainment venues (local authorities may wish to seek the views of local people; businesses and Police Scotland prior to deciding whether to pass a resolution)

- Licensing can take effect no earlier than one year from the date the resolution is passed.
- No resolution means no requirement for SEV operators to obtain a licence

If a decision is taken to licence SEV

- Develop a policy statement in consultation with relevant stakeholders, including violence against women partnerships, child protection committees and community councils.
- Engage with any existing SEV operators to ensure they are aware of what action they will need to take.

Publish the resolution and policy statement no later than 28 days before the date that the resolution comes into effect.

Determine and publish a list of who is to receive a copy of an application from the SEV licence applicant.

Consider all applications received by the date specified in the resolution to licence SEV under the procedure set out at Schedule 2 of the Civic Government (Scotland) Act 1982. In granting or refusing SEV licence applications ensure that the competing interests of individuals alongside those of the community have been fairly considered and appropriately balanced.

Periodically review the number of SEV determined, policy statement and list of who is to receive a copy of an application.