

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 31 OCTOBER 2019

LICENSING OF SEX SHOPS

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is for the Civic Licensing Committee to consider making a resolution in respect of the licensing of sex shops in the Angus area in terms of Section 45 of the Civic Government (Scotland) Act 1982.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) note that the Civic Government (Scotland) Act 1982 permits local authorities to require sex shops to be licensed,
- (ii) note that Angus Civic Licensing Committee has not yet resolved to issue licences in respect of sex shops and that Angus Council does not currently have any such businesses within its local authority area,
- (iii) determine whether the Committee is minded to recommend to Angus Council that it pass a resolution to require sex shops to be licensed; and
- (iv) if the Committee is minded to recommend to Angus Council that it pass a resolution to require sex shops to be licensed, instruct the Director of Legal and Democratic Services to publish in a newspaper circulating in the Angus area the terms of the proposed resolution together with a notice stating that the Council intend to make the resolution and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice.

2. REPORT

2.1 Section 45 of the Civic Government (Scotland) Act 1982 ("1982 Act") contains provisions which allow local authorities to issue licences in respect of businesses operating as sex shops. This provision has been in place since 1996 and the Angus Civic Licensing Committee has never resolved to issue licences under these provisions. There are no sex shops within the Angus local authority area and there has been no interest or queries from prospective businesses in this regard in recent memory. Many other local authorities have resolved to issue licences under these provisions. If the Committee do not resolve to issue licences for sex shops, this would have the effect that sex shops could open and operate in Angus without a licence. Thus they would be unregulated and as a result Committee would not be able to impose appropriate conditions on the premises controlling how the business is operated, such as relating to the hours of opening and closing, displays of advertisements and the visibility of the interior of the shop to passers-by.

2.2 The 1982 Act defines a sex shop as any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles. No premises, vehicle, vessel or stall shall be treated as a sex shop by reason only of its use for the exhibition of moving pictures by whatever means produced. "Sex article" is defined as meaning:-

- (a) anything intended for use in connection with, or for the purpose of stimulating or encouraging—
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and

- (b) any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and to any recording of vision or sound which
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

The above definition does not include any articles which are manufactured for use primarily for the purposes of birth control or which primarily relate to birth control.

- 2.3 The Committee is now being asked to consider this discretionary licence in light of the new provisions within the 1982 Act relating to Sexual Entertainment Venues (SEVs). While these licensing regimes fall within different provisions in the Act and are separate decisions for the Committee, it is appropriate to consider both regimes at this time given that the regimes fall within the same part of the Act and bear some relevance to each other.
- 2.4 If the Committee is minded to recommend to Angus Council that it pass a Resolution introducing licences for sex shops then the Council is required to publish in a newspaper circulating in the Angus area the terms of the proposed resolution together with a notice stating that the Council intend to make the resolution and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice. A further report will be submitted to this Committee advising of the publication of the notice and of any representations received. This report will also recommend relevant fees for the processing of sex shop licences should the Committee still be minded to recommend to Angus Council that it pass a resolution to require sex shops to be licensed. Committee is asked to note that the 1982 Act provides that any resolution of Angus Council requiring an activity to be licensed cannot take effect for a period of at least nine months from the date the resolution was made.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

4. HUMAN RIGHTS IMPLICATIONS

There are no Human Rights issues arising directly from this Report.

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.

REPORT AUTHOR: Nannette Page, Team Leader

EMAIL DETAILS: LEGDEM@angus.gov.uk