

ANGUS COUNCIL

ANGUS COUNCIL – 12 AUGUST 2020

RECOMMENDATION TO PASS RESOLUTION: SEX SHOP

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The Civic Licensing Committee met on 31 October 2019 and determined, subject to a period of time for representations from the public, to recommend to Angus Council that a Resolution be passed with the effect of commencing a licensing regime in relation to premises operating as sex shops.

1. RECOMMENDATION

It is recommended that the Council:

- (i) note Item 9 of the minute of the Civic Licensing Committee meeting which took place on 31 October 2019 contained within Appendix 1;
- (ii) note that a draft Resolution and Notice was placed in the Courier inviting representations from the public between 31 January 2020 and 28 February 2020;
- (iii) note that no representations were received in relation to the draft Resolution and Notice;
- (iv) pass the Resolution contained within Appendix 2 which will come into effect one year from today's date.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Local Outcomes Improvement Plan 2017 2030:

- An enhanced, protected and enjoyed natural and built environment
- Safe, secure, vibrant and sustainable communities.

3. BACKGROUND

Section 45 of the Civic Government (Scotland) Act 1982 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 Council has not yet resolved to issue licences for sex shops. 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. If there was a proposal to open such a premises in Angus, the current position is that a licence would not be required. If a Resolution is passed then, once the Resolution comes into effect, any new sex shops premises would require a licence prior to opening.

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.

The Civic Licensing Committee was asked to consider this discretionary licence in response to the new provisions relating to Sexual Entertainment Venues which came into force during April 2019. While these regimes are separate, it is appropriate to consider both regimes given that they fall under the same part of the legislation and bear some relevance to each other.

4. CURRENT POSITION

The Civic Licensing Committee first considered this matter in October 2019 and, after considering [report 360/19](#), agreed to recommend to Angus Council that a Resolution be passed. Prior to this recommendation being made, the Committee agreed 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. Representations were invited to be submitted within 28 days of the Notice. The last day for representations was 28 February 2020. No representations were received and accordingly the Committee's recommendation is being presented to the Council.

In terms of the legislation, the Resolution cannot come into effect any earlier than nine months after the passing of the Resolution. It is suggested that this come into effect one year from the date of passing the resolution so that it comes into effect on the same date as the licensing regime for Sexual Entertainment Venues, in the event that Council agree to pass the Resolution in relation to those premises. The Civic Licensing Committee will require to approve application forms and fees in relation to the regime. All of this work will be done during the period between the passing of the Resolution and it coming into effect.

5. FINANCIAL IMPLICATIONS

There will be a resource implication in terms of staff time in relation to establishing a new licensing regime. This time is being met from the existing budget for Civic Licensing.

If the Resolution is passed then an exercise will require to be undertaken in respect of determining fees associated with the Sex shop licence application process to cover the costs of this process. This will be determined by the Civic Licensing Committee.

6. HUMAN RIGHTS IMPLICATIONS

At present, there are no sex shops within Angus and there is no current proposal to open such a premises within Angus so the passing of a Resolution will not prejudice any existing businesses or workers.

NOTE: The background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to a material extent in preparing the above report are:

- Report No. 360/19

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List of Appendices:

Appendix 1
Appendix 2

EXTRACT MINUTE OF MEETING OF THE CIVIC LICENSING COMMITTEE HELD IN THE TOWN AND COUNTY HALL, FORFAR ON THURSDAY 31 OCTOBER 2019 AT 10.45AM

9. LICENSING OF SEX SHOPS

There was submitted Report No 360/19 by the Director of Legal and Democratic Services asking the 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.

The Committee agreed:-

- (i) to note that the Civic Government (Scotland) Act 1982 permitted local authorities to require sex shops to be licensed;
- (ii) to note that the Civic Licensing Committee had not yet resolved to issue licences in respect of sex shops and that Angus Council did not currently have any such businesses within its local authority area; and
- (iii) to recommend to Angus Council that it passes a resolution to require sex shops to be licensed and instructs 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.

PROPOSED RESOLUTION:

That Angus Council has, having consulted with the Chief Constable, resolve in accordance with section 45(1) of the Civic Government (Scotland) Act 1982, to adopt a Resolution that with effect from one year after the making of this Resolution the following activity, viz:-

- a. The use of 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

shall require to be licensed by Angus Council in accordance with the provisions of Schedule 2 of the Act and shall be regulated by those provisions.