

ANGUS COUNCIL

Policy Statement on the Licensing of Sexual Entertainment Venues (“SEV Policy Statement”)

Section 45C of the Civic Government (Scotland) Act 1982

Contents

- 1. Introduction**
- 2. Legislation**
- 3. Which Premises will require a Licence?**
- 4. How to apply for a Licence or Waiver**
- 5. Policy**
- 6. Objections and Representations**
- 7. The General Presumption**
- 8. Sensitive Premises**
- 9. Premises with Other Licences (Alcohol and Public Entertainment)**
- 10. Occasional Use Exemption**
- 11. Waivers**
- 12. Renewal Application**
- 13. Revocation of Licence**
- 14. Consultation**

Appendices:

- 1. Definitions**
- 2. Application Form**
- 3. Additional information to be submitted with Application**
- 4. Note of Procedure for Application Process**
- 5. Statutory Criteria including Grounds for Refusal**
- 6. Mandatory Conditions**
- 7. Consultation Respondents**

1. Introduction

- 1.1 The Air Weapons and Licensing (Scotland) Act 2015 introduced a number of changes to the Civic Government (Scotland) Act 1982. One of the changes had the effect of removing adult entertainment from the scope of the Public Entertainment and Liquor Licensing regimes and introducing a new, separate licensing regime for Sexual Entertainment Venues. This regime is discretionary, and it is for individual local authorities to determine whether such a regime is introduced.
- 1.2 Angus Council have determined that it is appropriate for Sexual Entertainment Venues (SEVs) to be licensed in order that performers and customers are protected by a regulated environment. The Council believe that introducing this regime promotes securing public safety and preventing crime and disorder.
- 1.3 Angus Council's key aims in licensing SEV's are to:-
 - Prevent public nuisance, crime and disorder
 - Secure public safety
 - Protect children and young people from harm
 - Reduce violence against women

The Council's view is that if SEVs are not licensed in Angus, the activities would be unregulated and due to not being controlled, could have a detrimental impact on public safety, local businesses and those involved in these types of activities.

2. Legislation

- 2.1 The legislative provisions in relation to SEVs are contained within sections 45A to 45F and also Schedule 2 of the Civic Government (Scotland) Act 1982. This legislation can be viewed freely online:-

<http://www.legislation.gov.uk/ukpga/1982/45/contents>

- 2.2 The legislation provides that an SEV Licensing Regime will only come into existence where a local authority makes a resolution expressing that they agree to the introduction of such a regime. It is open to local authorities to decide against the regulation of SEVs which would allow such premises to operate within such an area.
- 2.3 On the 12th August 2020, Angus Council made a Resolution under sections 45B(1) and 45B(2) of the 1982 Act. The Resolution stated that a licensing

regime for SEVs would come into effect from 12th August 2021. Accordingly, it is the position that SEVs are regulated within the area of Angus.

This policy has been prepared in accordance with the legislation which states that where a Resolution has been passed, the local authority must produce and publish a policy in relation to the licensing of SEVs within their local authority area.

3. Which Premises will require a Licence?

- 3.1 A Licence will be needed for any SEV unless the rules about Occasional Use of Waivers apply. An SEV is 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”¹.
- 3.2 “Premises” includes any “building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted”².
- 3.3 A list of definitions contained within the legislation has been included at **Appendix 1**. This includes definitions for the following terms:
 - “Sexual Entertainment”
 - “Display of Nudity”
 - “Audience”
 - “Organiser”
 - “Financial Gain”
- 3.4 Sex shops and sex cinemas will not be considered to be “Sexual Entertainment Venues”. These types of premises are defined separately within the legislation.
- 3.5 Premises where sexual entertainment is provided on an occasional basis only will not be considered premises which require a licence if the use is infrequent to an extent where the occasional use rules apply. This is further explained later in the policy.
- 3.6 Generally, an SEV licence will be required unless the rules in relation to occasional use and waivers apply.
- 3.7 A Waiver would be applied for where a premises which requires an SEV licence wants to apply to be exempt from having to obtain the SEV licence. This would require to be applied for on an ongoing basis.

¹ Section 45A(2) Civic Government (Scotland) Act 1982

² Section 45A(3)(b) Civic Government (Scotland) Act 1982

4. How to Apply for a SEV Licence or a Waiver

- 4.1 The application must be made in writing and must be made in the form of the Application Form provided at **Appendix 2**.
- 4.2 You must also provide additional information and plans which are described at **Appendix 3**.
- 4.3 Within **Appendix 4**, there is a note of the procedure to be followed by the Applicant and it also includes a note of what will happen with each application when received by the Council. This includes information about who will be consulted when an application is made and what happens afterwards.
- 4.4 The Council will advertise and consult third parties in relation to any application made. Third Parties are able to make representations or objections in relation to the application.
- 4.5 All applications for the waiver, grant or renewal of SEV licences will be referred to the Civic Licensing Committee for determination. This will also include applications for variations, transfers or changes of names although this may be reviewed in the future. No licences will be granted using delegated authority.
- 4.6 An application for an SEV licence will not be determined by the Committee until the applicant has completed the full application procedure, made payment of the fee and submitted all applicable documentation.
- 4.7 In deciding whether or not to grant or renew a licence or Waiver, the Civic Licensing Committee will consider each application on its own merits and will take into account:
 - Any objections or representations
 - This Licensing Policy Statement
 - The Statutory Criteria (**See Appendix 5**)
 - Scottish Government Guidance
 - Any other relevant considerations.
- 4.8 In relation to waivers, any establishment that would normally require a licence under the provisions of the Civic Government (Scotland) Act 1982 is unlikely to be granted a waiver other than in exceptional circumstances. They will approach a Waiver application with the presumption that it should be refused since the Council has resolved to licence such premises. The applicant will be expected to attend the Civic Licensing Committee

hearing and seek to rebut that presumption. The Committee is unlikely to consider it would be appropriate to permit a waiver from the requirements to hold an SEV licence, particularly as the legislation allows an Occasional use exemption.

- 4.9 Any licence or waiver granted will be subject to Standard Conditions. These Conditions have been outlined within **Appendix 6**. The Committee may impose additional conditions if required to fulfil the licensing objectives.
- 4.10 Licences will be granted for a duration of 1 year but can be granted for a shorter period if the Council deems this appropriate³. The Licence document will display the Expiry date and it will be the responsibility of the licence holder to ensure that they renew their licence on time. No reminder letter will be issued to the licence holder.

5. **Policy**

- 5.1 The legislation in relation to SEVs was introduced by the Scottish Parliament and relates to two Scottish government policies:
- “Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls”; and
 - “Human Trafficking and Exploitation Strategy”
- 5.2 In preparing this statement, the Council has fulfilled its duties⁴ to:
- Consider the impact of the licensing of SEVs in their area, having regard, in particular to how it will affect the objectives of:
 - Preventing public nuisance, crime and disorder
 - Securing public safety
 - Protecting children and young people from harm
 - Reducing violence against women
- 5.3 In preparing this statement, the Council is required to consult such persons or bodies they consider appropriate. The list of such persons is contained within **Appendix 7**.
- 5.4 In fulfilling its duties, the Council has consulted with consultees and the general public and has also considered how it can exercise its functions so as to advance the statutory objectives. The primary purpose of this Policy

³ Paragraph 12, Schedule 2, Civic Government (Scotland) Act 1982

⁴ Section 45C(3) Civic Government (Scotland) Act 1982

Statement is to ensure that Angus Council promotes these objectives in exercising its licensing functions.

- 5.5 The conditions which will be applied to each licence seek to enable the Council to ensure that the objectives are being upheld. The Council will furthermore have the ability to add in additional conditions to a licence. In doing this, the Council must have regard to how the additional conditions relate to the Mandatory conditions set out in the 1982 Act, Regulations, Orders or other instruments set out in terms of the Act.
- 5.6 The Council will take into consideration all material provided by the applicant as part of the application process and all other relevant factors either because they are relevant specifically to the application or relevant in terms of the legislation.

6. Objections and Representations

- 6.1 Third parties are able to make objections and representations in relation to the application for grant or renewal of an SEV. They are also able to do this in relation to Waiver applications.
- 6.2 Any objection or representation made should be specific and state clearly the legal ground for the objection or representation. The grounds are set out in the Civic Government (Scotland) Act 1982 at Schedule 2, paragraphs 9(4) to 9(6).
- 6.3 Any objection or representation which is not specific or where the legal ground is not stated clearly as set out in the Civic Government (Scotland) Act 1982 at Schedule 2, paragraphs 9(4) to 9(6) is unlikely to be accepted as a valid objection or representation.
- 6.4 A petition is unlikely to be accepted as a valid Objection or Representation as it does not allow the Council to understand individual complaints or know whether they are relying on a legal ground to make the objection or representation. Furthermore, it may not be possible for the Council to know clearly who has signed the petition. The Council will place more weight on objections and representations received from those directly impacted by the presence of an SEV and who live or work within the locality.
- 6.5 The applicant is entitled to fair notice of complaints and the objector should expect to be able to answer questions in relation to the complaint if there are factual disputes involved.

- 6.6 The objections and representations must relate directly to the Civic Government (Scotland) Act 1982 legislation and must relate to the application for an SEV.
- 6.7 The Council will make the final decision in relation to whether the SEV licence is granted based on all of the circumstances and after considering the merits of the application.

7. The General Presumption

- 7.1 The Council is required to set the number of SEVs permitted in their area and for each relevant locality.⁵
- 7.2 The basis of this limit is that the Council is entitled to refuse an application for the grant or renewal of a Licence on a number of grounds including:
- o *"that the number of SEVs in the Relevant Locality at the time the application is made is equal to or exceeds the number which the Local Authority consider is appropriate for that locality"*
- 7.3 The Council has determined that there are 4 relevant localities in their area, coinciding with the 4 "Locality Areas" used by the Angus Community Planning Partnership. These localities are also used in the Alcohol Licensing Policy Statement under the Licensing (Scotland) Act 2005. These are:
- (1) Arbroath
 - (2) Brechin and Montrose
 - (3) Carnoustie, Monifieth and Sidlaw
 - (4) Forfar and Kirriemuir
- 7.4 Further information regarding the localities including area maps can be found online:
- https://www.angus.gov.uk/community_empowerment/planning_for_the_future/planning_for_the_future_of_angus/locality_plans
- 7.5 Following consultation and balancing respective interests, the Council has accordingly determined that the appropriate number of SEVs in Angus and in each locality area is zero. This is a rebuttable presumption. Each application will be determined on its own merits.

⁵ Section 45B(6)(e)(ii)(a) and Schedule 2, Paragraph 9(5A) Civic Government (Scotland) Act 1982

8. Sensitive Premises

8.1 The presumption of refusal will be regarded as being enhanced if the proposed SEV is within 500m of the following Sensitive Premises:-

- schools, play areas, nurseries, parks, swimming pools and other sports facilities
- cinemas, theatres and concert halls
- libraries and museums
- Premises likely to be frequented by people under 18 or families
- public buildings including Council offices
- retail shopping areas
- residential areas
- places of worship, celebration or commemoration
- community centres
- services focussed on supporting women, children and young people, such as women's refuges
- services focussed on supporting people with substance abuse issues, mental health issues, or other vulnerable people
- historic buildings or tourist attractions
- roads, footpaths and other access routes to any of the above

8.2 In determining whether or not the Sensitive Premises Presumption applies, the Council will also have regard to:

- (a) Whether any SEVs are already operating, or have operated, in the Relevant Locality (whether under a SEV Licence, under the 'Occasional Exemption', or with a Waiver);
- (b) Whether there have been reports to the Police or Home Office of incidents within the Relevant Locality (whether or not leading to prosecution or conviction) of human trafficking or exploitation, or breaches of immigration laws by the Applicant or anyone else concerned with the proposed SEV;
- (c) Whether there have been reports to the Police of incidents within 400 metres of the proposed SEV (whether or not leading to prosecution or conviction) of crime or anti-social behaviour.
- (d) The existing character and function of the area in which the SEV is to be located; and
- (e) The views of residents and other relevant interested parties as far as is possible.

- 8.3 The Sensitive Premises Presumption is a rebuttable presumption. Each application will be determined on its own merits.

9. Premises with Other Licences (Alcohol Licences or Public Entertainment)

- 9.1 If a premises is licensed under the Licensing (Scotland) Act 2005, it is not enough for that premises to state that "Adult Entertainment" is permitted. If such entertainment is being provided, an SEV licence will be required.
- 9.2 If a premises which is licensed for the sale of alcohol is organising "sexual entertainment" (as defined in the legislation) to take place within the premises, they will need to obtain an SEV licence. Their alcohol premises licence will only cover the sale of alcohol.
- 9.3 If the premises take a booking where "sexual entertainment" might happen, that premises should advise those booking that such entertainment is prohibited. An SEV licence is required if "sexual entertainment" is provided (or allowed to be provided) by or on behalf of the organiser.⁶
- 9.4 If "sexual entertainment" happens on premises where no SEV has been obtained and there has been no Waiver granted, the Premises Manager and Premises Licence Holder can be prosecuted for not having an SEV licence. This could also result in the premises and personal licences being reviewed by the Angus Licensing Board. Such a review could result in licences being suspended or revoked.
- 9.5 It is also not sufficient for Adult Entertainment to be licensed under a Public Entertainment Licence.
- 9.6 All of the above within this section of the policy is subject to the Occasional Use Exemption which is noted within the next section of the Policy.

10. Occasional Use ("the 4 in a year exemption")

- 10.1 There will be some occasions where a premises may not require to apply for an SEV licence. It is possible for premises to be used for "sexual entertainment" for a proposed event which doesn't exceed the duration of 24 hours as long as the premises hasn't been used for "sexual entertainment" on **not more than 3 previous occasions** in the past 12

⁶ Section 45A(5) Civic Government (Scotland) Act 2005

months.⁷ This means that a fourth occasion within 12 months is permitted but any more than this would not.

- 10.2 Each occasion must last no more than 24 hours. If any occasion lasts more than 24 hours, each period of 24 hours will be deemed to be a separate occasion.⁸
- 10.3 The rule does not relate to the calendar year and therefore, to work out how many occasions have taken place, you must count back 12 months from the last occasion.
- 10.4 You do not have to tell the Council or Police Scotland that you are using the 4 in a year exemption but you may wish to advise the Licensing Department at Angus Council of this by way of good practice. If you do this, you would simply advise that you are going to be booking "sexual entertainment" within the premises and that you are relying on the Occasional Use exemption. If you do this, please provide details of the premises so that this can be noted accurately. There is no fee for this.

11. Waivers

- 11.1 The Council can allow premises to book "sexual entertainment" without a licence. There is no fee for a Waiver application.
- 11.2 For at least 21 continuous days before applying to the Council the operator must display a "Notice of Application" at or near the proposed Premises stating that they are proposed to be used as a Sexual Entertainment Venue, and stating:
 - the proposed dates of operation, and
 - the proposed times of operation.

After that period, the operator must give the Council a Certificate of Display confirming display for that period.

Both the Notice of Application and Certificate of Display are available for download from the Angus Council website.

- 11.3 The Application for a Waiver:

⁷ Section 45A(9) Civic Government (Scotland) Act 1982

⁸ Section 45A(10) Civic Government (Scotland) Act 1982

- must be in writing
- must contain a copy of the Site Notice
- must contain the same information and include a Layout Plan and Location Plan as if the operator was applying for a Licence (See **Appendix 3**).

11.4 The Council will

- copy the Application for a Waiver to the Police, and
- put a public notice on its website.

11.5 An application for a Waiver or Licence will be considered at a meeting of the Civic Licensing Committee. The Committee will not entertain the Application until the Committee has the Certificate of Display.

11.6 The Council can grant a Waiver if they consider that to require a Licence would be unreasonable or inappropriate. The Committee will take into account:

- any Objections or Representations
- this Licensing Policy Statement
- Scottish Government Guidance
- Any other relevant considerations

11.7 The Civic Licensing Committee will consider each Application on its merits but it's general position is that waivers will only be granted in exceptional circumstances. It will approach a Waiver Application with the presumption that it should be refused. The Applicant should attend the Committee hearing and seek to rebut that presumption. The Council is unlikely to consider it would be appropriate to permit waiver from the requirements to hold a SEV Licence, particularly as the legislation allows an Occasional Use exemption.

11.8 If a Waiver is granted, it will be granted for the duration of 12 months.

11.9 The Waiver will have the same conditions that an SEV licence would have (See **Appendix 6** for Standard Conditions). The only condition which will not apply and will be altered will be in relation to the requirement to display a Notice. This difference has been noted within the Appendix.

11.10 Police Scotland will be advised where a Waiver has been granted.

- 11.11 It is not possible to apply for Renewal of a waiver. Once it expires, the premises can only be used if a further Waiver is granted or if an SEV licence is obtained.
- 11.12 A Waiver can be terminated by the Council and the Council will tell Police Scotland if the Waiver is terminated.

12. Renewal of Licences

- 12.1 If a licence holder applies for renewal of an SEV licence before the expiry date, the licence will remain in effect until a final decision on the Renewal application has been made.⁹
- 12.2 If the expiry date has already passed when the applicant makes a renewal application, this will be treated as an Application for a new grant of licence unless the following conditions are met:-
- The application is made no later than 28 days after the expiry date; **and**
 - The council is satisfied that there is good cause to accept a late application.
- 12.3 The applicant should state in writing if there is good reason to accept the late application.
- 12.4 The procedures for a Renewal Application are the same as they are for a New Grant of a Licence, but the Licence is not guaranteed to be renewed - the Local Authority is not obliged to grant a renewal. The Council will take into account the operation of the Premises during the previous Licence period(s), and any allegations of offences and/or breaches of Licence Conditions.
- 12.5 Unlike Applications for the grant or renewal of other types of Licence, Applications for the grant or renewal of SEV Licences will be referred to the Licensing Committee, and Delegated Powers will not be used.

13. Revocation of Licence

- 13.1 The Council may at any time revoke a Licence under the legislation on the basis that:-
- a) If one of the grounds of refusal applies (See **Appendix 5**)
 - b) If in their opinion, any of the grounds relating to the fitness of the Licence Holder or anyone involved with the licence apply;

⁹ Paragraph 12 (3) Schedule 2 Civic Government (Scotland) Act 1982

c) If a condition of the licence has been contravened.

14. Policy- Consultation

- 14.1 Consultation on this document took place between **22 March and 4 May 2021**. This Policy Statement was published on **X** July 2021. The Policy, including the zero SEV policy, will be kept under review and revised if appropriate by Supplementary Policy Statements. The Policy will be applied unless or until so revised. It may also be subject to legislative change.
- 14.2 Angus Council adopted the Policy at the meeting of its Civic Licensing Committee on **X** May 2021.
- 14.3 Any comments you may wish to make on this Policy can be submitted by email to lawlicensing@angus.gov.uk
- 14.4 Copies of the Policy Statement will be available for public inspection, during normal office hours, free of charge at Angus House, Orchardbank Business Park, Forfar, DD8 1AN.
- 14.5 Copies of this Policy Statement will also be available on the Council's website.
- 14.6 Any personal information collected will be held in accordance with the requirements of data protection legislation.

Appendix 1: Definitions

“premises” – *any building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted*

“SEVs” – *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” –

(a) *any live performance, or*

(b) *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).

“Display of nudity” -

(a) *in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,*

(b) *in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.*

“Audience” – *this can include just one person so one to one performances are included within the scope of the legislation and would require a licence.*

“organiser”- (a) *the person (“A”) who is responsible for—*

(i) *the management of the Premises, or*

(ii) *the organisation or management of the sexual entertainment,*

or

(b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person"

"financial gain" - *Financial Gain" includes Financial Gain arising directly or indirectly from the provision of the sexual entertainment*

Appendix 2 – Application Form for Grants or Renewals
 (Before completing application form please refer to Sexual Entertainment Venue Notes and Policy)

ANGUS COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

PLEASE TICK FOR

Grant

or

Renewal

APPLICATION for SEXUAL ENTERTAINMENT VENUE LICENCE

<p>1. Where the applicant is a partnership or a company go to question 4. Full name of applicant (including any former name, where applicable)</p>	
<p>2. Home address (including postcode) Telephone Number/Mobile Number E-mail Address (Mandatory)</p>	
<p>3. Applicant's date and place of birth</p>	
<p>Where the applicant is an individual go to question 6</p>	
<p>4. Where the applicant is a company or partnership:- Full name of company or partnership</p>	
<p>5. (a) Full Name of Premises/Business Address of Registered or principal office (including post code) (b)</p>	

<p>(b) Names, private addresses and dates of birth of all directors, partners or other persons responsible for management of the company or partnership</p> <p>(continue on separate sheet if necessary):-</p>	
<p>6. Full name(s), address(es) and date(s) of birth of any employee(s) or agent(s) who will carry on day-to-day management of the activities to be covered by the licence.</p> <p>(continue on separate sheet if necessary):-</p>	
<p>7. Address of the premises for which a licence is required.</p>	
<p>8. Description of Premises</p> <p><i>Within the description, please specify what type of premises it is – e.g building, vehicle, vessel etc</i></p> <p><i>Please also specify if the whole premises is to be licensed and, if not, please include a layout plan which details which parts are to be licensed.</i></p> <p><i>Please refer to Appendix 3 of Licensing Policy to ensure you provide all applicable information.</i></p>	

<p>9. Security arrangements on the premises</p> <p><i>Please include as much information as possible and please specifically detail any CCTV arrangements and numbers of SIA door staff. Please refer to Appendix 3 of Licensing Policy to ensure you provide all applicable information.</i></p>	
<p>10. Description of activities to be carried on the premises</p> <p><i>Please specify what form of sexual entertainment will be provided e.g lap dancing</i></p> <p><i>Please refer to Appendix 3 of Licensing Policy to ensure you provide all applicable information.</i></p>	

	Opening	Closing
<p>11. Please provide details of times for which the Sexual Entertainment Licence is required (please note that the licensable activity is only permitted at these times if granted)</p> <p><i>(Please note that if alcohol is to be sold at the premises, you will require to obtain the applicable liquor licence. Please also note that you should ensure that all other licences and consents are obtained (e.g Planning, Building Standards)</i></p> <p><i>Please refer to Appendix 3 of Licensing Policy to ensure you provide all applicable information.</i></p>	<p>Monday</p> <p>Tuesday</p> <p>Wednesday</p> <p>Thursday</p> <p>Friday</p> <p>Saturday</p> <p>Sunday</p>	
<p>12. Have you previously held a Sexual Entertainment Venue Licence within any area of the UK?</p>	<p>YES / NO</p> <p>If yes, please provide details of the area of the UK, dates and duration of the licence and reasons for no longer being licensed (if applicable)</p>	

<p>13. Have you ever been refused a Sexual Entertainment Venue Licence in this area or any other area of the UK?</p>	<p>YES / NO</p> <p>If yes, please provide details of reasons for the refusal and date of refusal:</p>
<p>14. Since being born have you or anyone named in this application lived outside of the UK for a continuous period of 12 months or more?</p>	<p>YES / NO</p> <p>If you have answered yes, please provide details of all of the countries in which you or the named person have lived and the dates involved. Please continue on a separate sheet if required. For each country you have lived, in the last 10 years, you are required to provide a Criminal Record Check. Please refer to the guidance for further details of the documentation you are required to prove.</p>
<p>15. State below particulars of any convictions of or offences committed by the applicant or any person(s) named in questions 4 and 5 overleaf. Please note that these may be discussed and considered in public by the Civic Licensing Committee. Convictions which are spent under the Rehabilitation of Offenders Act 1974 do not have to be included but may also, in certain circumstances, be referred to by the Committee:- (continue on separate sheet if necessary):-</p>	

Name of Person	Date	Court	Offence	Sentence/Fine

DECLARATIONS:-

1. (a) The applicant, declares that in accordance with paragraph 7(4) of Schedule 2 of the Civic Government (Scotland) Act 1982, the applicant shall, for a period of 21 days **commencing with the date on which this application was submitted to the Council**, display at or near the premises so that it can conveniently be read by the public, a notice complying with the requirements of paragraph 7 of the said Schedule.

OR

- (b) The applicant declares that they are unable to display a notice of this application at or near the premises because they have no rights of access or other rights enabling them to do so, but that the applicant has taken the following steps to acquire the necessary rights, namely:- (here specify the steps taken)

but has been unable to display the notice.

Delete part (a) or (b) as appropriate. **Where declaration (a) is made there must be produced to the Council as soon as possible after the expiry of the 21 day period a Certificate of Compliance with paragraph 2(2) of the said Schedule.**

2. The information you have provided on this Application form, and from supporting documentary evidence – where applicable, will be processed by Angus Council (the “data controller”) for the purposes of the General Data Protection Regulation and the Data Protection Act 2018 (UK GDPR) in order to process your Licensing Application.

For the purpose of dealing with your application, we will share your information in accordance with the Civic Government (Scotland) Act 1982, other licensing legislation and with relevant internal services of Angus Council.

The Council may also check information provided by you, or information about you provided by a third party such as NHS Tayside, Scottish Fire and Rescue Service, Scottish Ambulance Service and Police Scotland with other information held by us. We may also get information from those third parties or share your information with them in order to check its accuracy, prevent or detect crime, protect public funds or where required by law.

Please note that you should read this service specific Privacy Notice in conjunction with the council's Full Privacy Statement which is accessible on the council's website at:

https://www.angus.gov.uk/council_and_democracy/council_information/information_governance/angus_council_full_privacy.

Data Protection Act 2018

The information on this form may be held on an Electronic Register which may be available to members of the public on request.

PLEASE NOTE – IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Criminal Law (Consolidation) (Scotland) Act 1995 Section 44(2)(b)

I understand that Angus Council are permitted to accept applications for the grant or renewal of this licence; objections or representations; and notifications of any change to the licence, by means of electronic communication. Applications, objections, representations or notifications can be sent to the Council by email to LAWlicensing@angus.gov.uk.

I permit Angus Council to give notice and provide reasons in relation to granting, refusing, renewing, changing, altering, varying, suspending, and revoking the licence by means of email. I authorise the email address provided by me on this application to be used for this purpose.

I declare that the particulars given on this form are correct to the best of my knowledge and belief. The applicant authorises the use of the information provided for the above purposes and hereby makes application to Angus Council for the grant or renewal of the licence applied for.

**Date..... Signature of Applicant
(or agent if applicable)**

Capacity/Position in company (if not otherwise stated) (e.g. partner, employee)

.....

Address of Agent
(if applicable)

.....

.....

NOTES

1. To be lodged with the Service Leader – Legal & Democratic, Angus Council, Forfar together with the appropriate lodging fee. The application will not be processed without payment of the appropriate fee.

2. Any person who in, or in connection with, the making of this application makes any statement which he knows to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £2,500.

FOR OFFICE USE ONLY

Date, Amount and Receipt Number		Date Passed to Consultees		Date Observations Received	
				Police.....Fire.....	
				Finance.....ECP.....	
				Planning.....	
				Adult Protection Services.....	
				Community Council.....	
Date of Decision	Decision	Expiry Date	Number of Licence and Date of Issue	Return of Certificate of Compliance	

Appendix 3 – Additional Information to be supplied when applying for a licence

Anyone applying to the Council for the grant or renewal of a SEV Licence (or a Waiver removing the need to be licensed) should make a written Application to the Licensing Committee, setting out:

1.Particulars of Applicant

The full name, date of birth and place of birth of both:

- the owner of the Premises

- the Premises Manager

Where the owner is a partnership or company:

- the full name, date of birth and place of birth of all the people involved in the management or control of the partnership or company

- if the Applicant is a company, copies of the Memorandum and Articles of Association of the company

- if the Applicant is a partnership, a certified copy of the partnership deed

In relation to all of these people (the owner, Premises Manager and other persons) there should be statements:

- (a) of what experience (if any) the person has had in operating SEVs or Premises Licensed for the sale of alcohol anywhere in the United Kingdom.

- (b) Subject to the Rehabilitation of Offenders Act 1974 (as amended by the Management of Offenders (Scotland) Act 2019), of any unspent convictions or alternatives to prosecution relating to that person;

- (c) any administrative penalties under legislation relating to Social Security or Immigration relating to that person;

A copy of any other licences for the Premises, vehicle, vessel or stall (for example, any Premises Licence under the Licensing (Scotland) Act 2005).

2. Layout Plan

The Application should include a Layout Plan at scale 1:100 (or more detailed). This should include a legend explaining the scale used and the symbols used.

The Layout Plan should describe the Premises, including

- (a) the extent and dimensions of the external and internal walls of the Premises;
- (b) the location and names of any streets surrounding the Premises from which members of the public have access to the Premises;
- (c) the location and width of each point of access to and egress from the Premises;
- (d) the location and width of any other escape routes from the Premises;
- (e) the location of any equipment used for the detection or warning of fire or smoke or for fighting fires;
- (f) the location of any steps, stairs, elevators or lifts on the Premises;
- (g) the layout of rooms and features of the Premises (such as stages, bars, cloakrooms, performance areas, and dressing rooms);
- (h) the extent of the public areas outlined in blue;
- (i) the staff-only areas outlined in red;

- (j) the location of any toilets on the Premises (identified as male, female or disabled as appropriate);
- (k) the location and field of view of any CCTV camera;
- (l) drawings showing the front elevation as proposed including any proposed signage, advertising and window display;
- (m) for any stage or raised area, the location and height relative to the floor;
- (n) the position of any ramps, lifts or other facilities for the benefit of disabled people.

3.Location Plan

The Application should include a Location Plan at scale 1:1,500 (or more detailed). This should include a legend explaining the scale used and the symbols used. The Location Plan should:

- cover an area with a radius of not less than 1,000 metres from the boundary of the Premises, showing the Premises in relation to surrounding streets and buildings;
- identify Sensitive Premises in that area (defined in Part X of the Policy Statement).

4.Premises etc.

The Application must state in writing:

- (a) the address of the Premises
- (b) the date(s) and time(s) that Sexual Entertainment will be provided, on each day of the week;

- (c) the type(s) of Sexual Entertainment proposed
- (d) the minimum ages of the Performers;
- (e) The numbers of people who will be on the Premises at any one time:
 - Customers (this will be the 'Customer capacity' figure stated in the Licence or Waiver);
 - Performers
 - Stewards
 - Other staff
- (f) The arrangements proposed for stewarding
- (g) Confirmation that no-one aged under 18 will be allowed on the Premises while Sexual Entertainment is being provided

5.Planning Permission

The Applicant should ensure that they have complied with Planning related issues. The application will be sent to our Planning department who will be able to pick up on any outstanding issues.

6.Permitted Hours

The Applicant must state what days and times it is proposed that the Premises should be open to the public. The Council may restrict these.

Appendix 4 – Note of Application Process

When an Applicant asks the Council for the grant or renewal of a SEV Licence, the Applicant must do the following :-.

Before lodging the Application

The Applicant must ask the Council:

- (a) to specify a newspaper to be used for publication of an advertisement, or
- (b) to dispense with the requirement to publish a newspaper advertisement (in which case the Council will publish notice of the Application electronically).

If the request is (b), the Applicant should specify why newspaper advertisement is thought not to be appropriate.

When making the Application

- (a) The Application must be in writing and must contain the information set out in **Appendix 3**;
- (b) The Application should be accompanied by the prescribed fee. The fee will not be reduced or refunded if the Application is refused or the Licence is granted for less than was requested. The fee is **X**
- (c) The Applicant must display a "Notice of Application" (in the form prescribed below) on or near the Premises in a place where the Notice can conveniently be read by the public. This Notice must be displayed for 21 days, beginning with the date of the Application (Schedule 2, Paragraph 7(4)).

After making the Application

The Applicant must

- (a) not later than 7 days after the date of the Application:

Unless the Council has dispensed with newspaper advertisement, publish an advertisement in the newspaper circulating in the Council area previously specified by the Council; the advertisement must be in the prescribed form (see "Notice of Application" below). If the Council has dispensed with

newspaper advertisement, the Council will publish such a Notice electronically not later than 7 days after the date of the Application.

- (b) not later than 7 days after the date of the Application:
give the Council a certificate confirming that this has been done;
- (c) Where the application is in respect of a premises, notice of it shall in addition be displayed for 21 days, beginning with the date of the application, on or near the premises in a place where the notice can conveniently be read by the public.
- (c) as soon as possible after the expiry of the period of 21 days for display of the Site Notice:
give the Council a Certificate stating that he/she has complied with the requirement to display the Site Notice, and a copy of the Site Notice.
- (e) if relevant, as soon as possible after newspaper publication:
give the Council one complete copy of the newspaper containing the advertisement of the Application.

Notice of Application

If displayed at or near the proposed SEV the Notice must be

- on A4-sized paper (or larger)
- printed legibly or typed in black ink
- in a font size of 16 points or larger
- arranged so as to ensure that it remains legible throughout the public notice period (for example, laminated or attached to the inside of a clear window facing out)

This Notice is prescribed by the Council under Schedule 2, Paragraph 7(7).

"Licensing of Sexual Entertainment Venues
Civic Government (Scotland) Act 1982 (as modified by Section 76 of the Air Weapons and
Licensing (Scotland) Act 2015)

On [date of lodging] an Application was made to Angus Council by [Applicant's Name] for the

[delete as appropriate]

Grant of a Licence

Renewal of a Licence

Waiver of the need to have a Licence

for a "Sexual Entertainment Venue" at

[Address of Premises].

Anyone wishing to state an Objection or Representation about this proposal must do so

- in signed writing (an email is not enough);
- specifying the grounds of Objection or Representation;
- specifying the name and address of the person making it;
- stating whether or not the person consents to the name and address being given to the Applicant;

The possible grounds for refusal of a Licence are stated in 1982 Act, Schedule 2, Paragraph 9(5).

The letter must be sent to:

The Clerk to the Licensing Committee
Angus Council
Orchardbank Business Park
Forfar
DD8 1AN

The Council will advise the Applicant of the general terms of any letter received, but will not reveal the sender's name or address unless the sender consents. The Council will assume that the sender does not consent unless the sender positively states otherwise. If the sender does not consent, the Council will redact the letter before sending it to the Applicant.

The sender will be invited to the meeting of the Licensing Committee which decides the Application.

An Objection or Representation can only be accepted if it is received by the Council within 28 days of the date of publication (if it has been posted by Registered or Recorded Delivery post to the Council so as to arrive by that date, it will be accepted as being in time even if it arrives later).

The Council is entitled (but not obliged) to accept a late letter if there is a sufficient reason why it was not made in time, so if the person sends a late letter it should explain what the sufficient reason(s) is/are. There is no guarantee that the Council will accept a late letter. If a letter is sent late then there is the possibility that the Council will already have decided on the Licence Application. The Council cannot review decisions on the basis of late letters.

Procedure in the Council

The Council's Licensing Office will notify all Councillors of the Application.

If the Council has dispensed with the requirement on the Applicant to publish a newspaper advertisement, the Council will publish the "Notice of Application" (above) on its website for at least 21 days.

Appendix 5 – Statutory Criteria including Grounds for Refusal

1. These are stated in the Civic Government (Scotland) Act 1982, Schedule 2, Paragraph 9.

There are two types of Grounds of Refusal:

- (a) Mandatory Grounds of Refusal: if these exist, the Council automatically refuses the Licence Application - it has no choice (see "Mandatory Grounds of Refusal" below);

 - (b) Discretionary Grounds of Refusal: these are possible reasons for the Council to grant or refuse a Licence, so the Council will hold a Hearing attended by the Licence Applicant, the Police, and anyone who has stated objections or representations (such as local residents), and after hearing from everyone the Council will decide whether or not to grant the Licence (see "Discretionary Grounds of Refusal" below);
2. The legislation sometimes refer to a "Sex Shop" instead of a "Sexual Entertainment Venue". The reason for this is that the 1982 Act has always had a system of licensing "Sex Shops", and when the new provisions about "Sexual Entertainment Venues" were to be introduced, the Scottish Parliament did this by modifying the existing system rather than by creating a separate system. This was done by Section 45B(6)(a) of the 1982 Act, which is:

"(a) references to a Sex Shop are to be read as references to a Sexual Entertainment Venue"

Mandatory Grounds of Refusal

These are set out in Paragraph 9(3). Because the legislation says "A licence under this Schedule shall not be granted ...", the Council has no choice. They must refuse the Application if any of these apply:

- (a) the Applicant is under the age of 18;

- (b) the Applicant is disqualified from holding a SEV Licence;
- (c) the Applicant has been convicted of an offence relating to the enforcement of SEV Licensing legislation;
- (d) the Applicant has not resided in the United Kingdom for at least 6 months (or, if a Company, is not registered in the U.K.);
- (e) the Applicant has been refused a SEV Licence in the past 12 months.

Discretionary Grounds of Refusal

These are in Paragraphs 9(4) to 9(6). See Annex I ("Objections and Representations").

In determining whether or not the Applicant or anyone associated with the Applicant is a fit and proper person to hold the Licence, the considerations for the Council will include:

- a) The relevant knowledge and experience possessed by that person;
- b) Any evidence of the operation of any existing or previous licence(s), whether or not relating to SEVs, including any licence held in any part of the United Kingdom;
- c) Any Objections or Representations.

Appendix 6 – Standard Conditions

Status of Conditions

Both the Standard Conditions and any Special Conditions are subject to any Mandatory Conditions prescribed by the Scottish Ministers under Section 45E.

Any SEV Licence may also be subject to additional conditions as determined by the Council in relation to a particular SEV licence.

Any SEV Licence will have the following Standard Conditions made by the Council under Section 45F.

Definitions

"Performer" - a person who is engaged to provide "Sexual Entertainment";

"Customer" - a person who is on the Premises but does not work for the Organiser;

"Premises Manager" - a natural person (not a company or partnership) so named on the Licence (or an "Acting Premises Manager" authorised under Condition 11). The Premises Manager is treated as a Joint Holder of the Licence and will be named in the Licence document.

1. Records and copy documents

1.1. Where these Conditions require the keeping of records and copy documents, these must be kept in writing or on computer.

1.2. The Licence-Holder must ensure that at all times:

- these things are available for viewing by the Police, the Civic Licensing Standards Officer, and any other authorised Council officer on request;

- there is a member of staff who is able to access these things, display them (if on computer or television monitor), and make copies.

1.3. Where these Conditions require that records and copy documents should be kept, these things should be kept for 12 months beginning:

- (a) if relating to a Performer or other member of staff, when that person **stopped** working on the Premises;
- (b) if relating to a Customer, when that person was admitted to or excluded from the Premises;

or, if less, 12 months after the event recorded.

Those records and copies shall be available to the Police, the Civic Licensing Standards Officer, and any other authorised Council officer on request at all times;

2. Notices

Where these Conditions require the display of a Notice, Licence or other document, that thing must be

- on A4-sized paper (or larger)
- printed legibly or typed in black ink
- in a font size of 16 points or larger
- placed in a conspicuous and well-lit place where all Customers, Performers and staff can easily read it.

3. Incident log

The Licence-Holder must keep an incident log of:

- (a) all alleged crimes reported to the venue;
- (b) all ejections of Customers;
- (c) any complaints received from anyone;
- (d) any incidents of disorder;
- (e) seizures of drugs or offensive weapons;
- (f) any faults in the CCTV system or searching equipment or scanning equipment;
- (g) any refusal of the sale of alcohol;
- (h) any visit by the Council, Police Scotland or any other statutory service;
- (i) any breach of licence conditions reported by a Performer.

4. CCTV

4.1. There must be continual CCTV coverage while the Premises are open to the public of:

- (a) all areas inside the Premises (not just performance areas) and
- (b) of the areas outside the Premises near any Customer entrance to the Premises.

4.2. The CCTV must make recordings capable of providing pictures of evidential quality in all lighting conditions and must allow for facial recognition.

4.3. CCTV recording equipment, tapes or discs shall be kept in a secure environment under the control of the Licence-Holder or Premises Manager.

4.4. The CCTV recordings shall be retained for at least thirty (30) days (and, if requested by the Police, for such longer period or until such event as they specify).

4.5. The Licence-Holder must ensure that at all times (whether or not the Premises are open to the public) there is a member of staff who is able to access CCTV recordings, display them and make copies if requested these to the Police or other officers.

5. Staff Records etc.

5.1. The Licence-Holder must, before allowing a Performer to work on the Premises, make a record of the following details of that Performer:

full name, and any alias or stage name

address

telephone number

date of birth

place of birth

5.2. If the Performer has a current Passport issued in the United Kingdom, the Licence-Holder must, before allowing the Performer to work on the Premises, keep a copy.

5.3. If the Performer does not have a current Passport issued in the United Kingdom, the Licence-Holder must, before allowing the Performer to work on the Premises, both:

(a) make a copy of the Performer's any official documents (such as Passport, Visa, EU driving licence, or National Identity Card; and

(b) contact the Home Office and obtain written confirmation that the Performer has a right to work in the United Kingdom.

5.4. In either case the Licence-Holder must keep copies of any documents inspected.

5.5. The Licence-Holder must use his/her best endeavours to actively seek to identify Performers who may have been the victim of human trafficking.

5.6. The Licence-Holder must keep a Staff Register for each day that the Premises are open to the public, recording (for each member of staff, including Performers):

- the person's name

- the person's address

- what time the person's duty started

- what time the person's duty ended.

6. Welfare of Performers

6.1. The Premises shall provide private spaces for Performers to use when not working. These spaces must have

- lockable doors
- the provision of hygienic changing and showering facilities
- a toilet with access to hot water exclusively for the use of the Performers
- prominent 'Staff Only' sign-posting.

6.2. No locks or fastenings shall be fitted to any public area of the Premises (other than toilet cubicles)

6.3. The Licence-Holder must set break times for Performers;

6.4. The Licence-Holder must arrange for Performers to be escorted by security staff to a nominated taxi or to their car at the end of shift;

6.5. The Licence-Holder must allow Performers access to medical checks and sexual health advice on the Premises;

6.6. The Licence-Holder must keep the Premises clean and tidy.

7. First Aid

7.1. The Premises must have a First-Aid Kit and this should be readily-accessible to anyone on the Premises, whether Customers, Performers or other staff.

7.2. A member of staff (not a Performer) qualified in First Aid should be on duty in the Premises at all times that they are open to the public.

8. Stewards

The Licence-Holder must, before allowing a steward to work on the Premises, make a copy of his/her SIA authorisation and keep it. All stewards must hold current SIA authorisations.

9. Customers

9.1. The Licence-Holder must display on the exterior of the Premises at each Customer entrance, in a position where they may be easily read by people outside the Premises, Notices stating:

"This is a Sexual Entertainment Venue. No-one under 18 can enter. The Premises are monitored by CCTV. The Premises are licensed by Angus Council."

9.2. The Licence-Holder must display within the Premises, at each Customer entrance, Notices stating:

"Rules for Customers

Any Customer breaking any of these rules will be excluded from the Premises and barred permanently.

(a) *there must be no physical contact between Customers and Performers;*

- (b) *Customers must not enter any 'staff-only' area*
- (c) *Customers must remain fully clothed at all times;*
- (d) *Customers must not seek sexual favours or offer Performers payment in return for sexual favours;*
- (e) *Customers must not offer their contact details to Performers or ask for any form of contact details from Performers;*
- (f) *Customers must not engage in any unlawful activity on the Premises;*
- (g) *Customers must not take photographs or video recordings of the Performers (whether they consent or not);*

9.3. The Licence-Holder must eject any Customer who breaks any of these rules and bar him/her from the Premises permanently.

9.4. The Licence-Holder must keep a written record of the name, address and date of birth of any Customer ejected and barred, with the date and time the Customer was ejected and the reason for this.

10. Age Limit

10.1. No person under the age of 18 years of age (whether a Customer or a Performer) shall be admitted to or allowed on the Premises.

10.2. Before admitting a Customer to the Premises, the Licence-Holder must carry out the same age verification processes which are required before alcohol is sold on Premises Licensed under the Licensing (Scotland) Act 2005.

10.3. The Licence-Holder must keep a written record of the name, address and date of birth of any person who is refused entry due to being under 18.

11. Premises Manager

11.1. The Licence will name a natural person (not a company or partnership) to be "Premises Manager".

11.2. The Premises Manager will have day-to-day responsibility for the Premises and for compliance with the Licence Conditions and any other legal obligations.

11.3. The Premises Manager must be on the Premises at all times that they are open to the public,

except that

the Premises Manager or the Licence-Holder may authorise, in writing, another natural person to be "Acting Premises Manager" for a maximum period of thirty (30) continuous days, provided that the total days authorised do not exceed sixty (60) days per calendar year (1 January to 31 December). That person will have all the responsibilities of the Premises Manager. Both the Licence-Holder and the Premises Manager will be responsible for that Acting Premises Manager.

11.4. The Licence-Holder will be held responsible for any conduct or omission by the Premises Manager or the "Acting Premises Manager".

12. Management

12.1. At all times that the Premises are open to the public, the Licence (or a copy of it certified by the Council) will be displayed prominently on the Premises.

12.2. The Premises must only be used in accordance with the Layout Plan and during the Licensed Hours stated in the Licence. The Premises must not exceed the Customer capacity stated in the Licence.

12.3. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made without the prior written approval of the Council.

12.4. The Licence-Holder must notify the Council in writing within seven days if the Licence-Holder or any person working on the Premises is charged or convicted of any crime or offence, where-ever the incident leading to the prosecution is alleged to have happened.

12.5. The Premises shall be screened from outside so that no-one outside can see inside.

12.6. The Licence-Holder shall not display outside the Premises, or on any advertising material, photographs or other images which indicate that Sexual Entertainment can be seen on the Premises.

12.7. No-one concerned in the conduct or management of the Premises (the Licence-Holder, Premises Manager, Performers and other staff) shall seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.

Appendix 7 – List of Consultees for Policy

To be completed