

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 20 MAY 2021

LICENSING OF SEXUAL ENTERTAINMENT VENUES

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**ABSTRACT**

The purpose of this report is for the Civic Licensing Committee to consider and approve its Sexual Entertainment Venue (SEV) Licensing Policy Statement.

**1. RECOMMENDATION**

It is recommended that the Committee:-

- (i) Consider the summary of the consultation responses at **Appendix 1** to this report and determine;
  - a. that the general presumption is that there will be zero Sexual Entertainment Venues in Angus and in each of the relevant localities;
  - b. that there should be 4 relevant localities and that these localities should coincide with the localities used by the Angus Community Planning Partnership as per Section 7.3 of the draft Policy;
  - c. that there will be a Sensitive Premises Presumption based on:
    - i. the sensitive premises listed at para 8 of the Policy;
    - ii. no SEV within 800m of sensitive premises
  - d. whether section 10.4 of the Draft Licensing Policy Statement should be amended to say that the “operator must inform the Council and Police Scotland prior to using this exemption;
  - e. a maximum duration period of 1 year for a SEV licence and for a Waiver of SEV Licence.
- (ii) consider and approve the final draft Policy (Appendix 2) for publication subject to any amendments the Committee wish to make after consideration of the consultation responses, and instruct the Director of Legal and Democratic Services to publish the final Policy online no later than 15<sup>th</sup> July 2021 together with a copy of the Resolution dated 12 August 2020;
- (iii) determine that applications in relation to SEV Licences will be made through this Committee following formal consultation and recommend to Angus Council that the Standing Orders of Angus Council be amended accordingly;
- (iv) determine that the fee for an SEV Licence (new grant and renewal) should be set at £834.

**2. LEGAL**

- 2.1 Under the Civic Government (Scotland) Act 1982, once a local authority has passed a resolution under section 45B(1) to introduce a licensing regime for Sexual Entertainment Venues, it is required to prepare and publish a Policy Statement (section 45C). Angus Council resolved to licence SEVs on 12 August 2020, with effect from 12 August 2021. Members agreed to consult on the draft Policy Statement at its meeting in January 2021. This report is required to consider the results of the public consultation on the draft Policy and to agree a final Policy for publication.

- 2.2 The final policy, together with the resolution of 12 August 2020, must be published no later than 28 days before 12 August 2021 (i.e. 15<sup>th</sup> July 2021).
- 2.3 Members should note that each application received for an SEV licence in Angus will be considered on its own merits. The Policy creates rebuttable presumptions, a statement on how applications will be considered which applicant may be able to overturn if they provide information and evidence to the contrary, to the satisfaction of this Committee.

### **3. CONSULTATION**

- 3.1 The consultation in relation to the policy was advertised online on the Angus Council Have Your Say section of its website as well as on the Council's social media including Facebook and Twitter. Additionally, various parties were written to so that they were alerted to the consultation and these parties included Police Scotland, Violence against Women Partnerships, Angus Woman's Aid, Angus Community Planning Partnership, Community Councils, the Angus Child and Adult Protection Committees, Elected Members and the NHS. The questions consultees were asked to consider are contained within **Appendix 3**.
- 3.2 There were a total of 5 responses received in relation to the consultation and a summary of these responses is included at **Appendix 1**.

In terms of the responses, the three organisational responses largely supported the standard conditions proposed in the draft Statement of Licensing Policy and many of the suggestions in terms of conditions had already been reflected in the Draft Policy. There were requests for some additional standard conditions to be included and these have been introduced to the Draft Policy Statement within this report. It will be a matter for members to determine whether these should be included within the final policy.

There were two responses received from members of the public and these responses have been acknowledged. These did not provide detailed comments in relation the Policy Statement but did make clear their opposition to SEVs being present in Angus. Members can bear such comments in mind when setting the general presumption number of premises.

Members are asked to keep in mind that, in terms of the legislation, conditions ought to be necessary and proportionate. Standard conditions are required to be such which can be applied to every premises which receives a licence. The committee will have the opportunity to consider each application on its own merits and add Additional Conditions where required.

### **4. FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from this report. The proposed fee should be set at a level which allows the authority to meet its cost. The proposed fee is the same level as a Public Entertainment Licence fee for entertainment with capacities of 10000+ which is considered to involve a similar level of work for officers in terms of processing applications.

### **5. HUMAN RIGHTS IMPLICATIONS**

There are no Human Rights issues arising directly from this Report. There are no SEVs in Angus currently and the Council is not aware of any proposal for an SEV, so the adoption of a Resolution will not prejudice any existing businesses or worker.

### **6. EQUALITIES IMPLICATIONS**

An Equality Impact Assessment (EIA) has been carried out, as some of the content of the policy may highlight issues relating to protected characteristics. The EIA is contained within **Appendix 4** of the 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:** Lynsey Kimmitt, Solicitor

**EMAIL DETAILS:** [LEGDEM@angus.gov.uk](mailto:LEGDEM@angus.gov.uk)

**SUMMARY OF CONSULTATION RESPONSES**

**1. Two email responses from members of the public stating**

- a. “Why do we have to have them at all!” (Jennifer Edwards)
- b. “I am against any SEV being established in Angus. If people wish to have Sexual Entertainment they can do so readily over the internet” (Brian Batson, Forfar)

Neither of these emails contained any further comments or information.

**2. Police Scotland**

A response to the consultation was received by letter dated 3 May 2021 and contained the following comments:

- “Police Scotland recognises the value of the policy statement and supports ‘appendix 6 – Standard Conditions’. These conditions provide protection to workers and customers, in a safe, regulated environment.”
- “It is possible that Sexual Entertainment Venues may increase criminality in the area. Police Scotland requests that consideration be given to 10.4 of the policy statement, ‘Occasional Use (‘the 4 in a year exemption’), be changed to *‘the operator must inform the Council and Police Scotland prior to using this exemption’*. This amendment would work towards mitigating reports of anti-social behaviour within and around such premises.”

**3. Angus Violence Against Women Partnership (AVAWP)**

A response to the consultation was received by email dated 6<sup>th</sup> May 2021 and contained the following comments:-

**General Comments in relation to the licensing Objectives:-**

**Securing public Safety**

- “Academic research has linked lap-dancing to trafficking, prostitution and an increase in male sexual violence against both the women who work in the clubs and those who live and work in their vicinity. There is also evidence to suggest that the use of lap-dance clubs by human traffickers as a tool for grooming women into prostitution; the clubs also normalise the idea of paying for sexual services.”
- “Not only is there evidence to show that a significant proportion of the women who work within them experience violence and harm there is growing evidence to suggest that there is also the wider impact of the licensing of sex entertainment venues (SEVs) on women’s sense of safety and well-being in a location. (Patiniotis, Jackie & Standing, Kay. (2012).”
- “Women and Girls already experience street harassment and are scared to work around their own at night as this link to a report from the government evidences <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/70109.htm>

and the link here to the everyday sexism project which further supports this <https://everydaysexism.com/>"

- "The Fawcett Society and the Lilith Project in its 2007 report, Inappropriate Behaviour: Adult Venues and Licensing in London, the Lilith Project showed how current licensing policy helps to foster the illusion that all women are sexually available, in a culture in which a rape is reported every 34 minutes, and 26% of people believe that an "inappropriately" dressed woman is "asking for it"."
- "However the risk is not just an academic view or one held by women as a gendered issue or issue of safety but there is real evidence of risk; in the London borough of Camden after four lap dancing venues opened The Metropolitan police data showed that there was a 33% increase in rape and a 55% increase in indecent assault.( 72 rapes and 162 indecent assaults in the borough in 1998-99, and 96 rapes and 251 indecent assaults in 2001-02) and this is just what was reported as we know that reporting of rape and sexual violence is notoriously low."

#### Protecting Children and Young People from harm

- "AVAWP believes that if this is granted then the distance of 500m away from a school or sensitive location is not far enough away and that this should be extended to at least ½ mile 800 m away."

#### Reducing Violence against women

- "AVAWP believes that such SEV are in direct contradiction of our policy on commercial sexual exploitation, the Scottish Government's Equally Safe Strategy and the UN Declaration on the Elimination of Violence Against Women, particularly articles 1 – 3. AVAWP recognises the harm done to women and girls by sexual violence, abuse and exploitation. By setting the number of licenses they will grant at **zero (0)** the licensing committee would make significant steps forward to ensure that their approach to gender based violence is in line with national and local strategy and policy. Furthermore, it reinforces and demonstrates the aspirations for Angus as a whole by demonstrating a commitment towards equalities and makes evident that they take seriously their obligations under the public sector equality duty."

#### Comments on Conditions:

"Conditions should be focused on protecting the women contracted as lap dancers and should include:

- *rules to be displayed at appropriate locations within the venue of customer conduct that is deemed acceptable e.g. customers to remain fully clothed at all times*
- *list of full names, dates of birth, nationality and contact details (address or telephone number) for all performers to be available on the premises for immediate production if requested by Police or local authority officers.*
- *ensure immigration status is in order and performers have not been the victims of human trafficking*
- *employment of security guards*
- *use and storage of CCTV*
- *provision of hygienic changing facilities and a toilet with access to hot water exclusively for the use of the performers*
- *set break times for performers*
- *the provision of a break room exclusively for the use of the performers*
- *performers to be escorted by security to nominated taxi or to their car at end of shift*
- *No full nudity – performers must be partially clothed in performance area and performers to remain clothed out with performance area*
- *no physical contact between performers and customers with a distance of 1 metre*
- *no private secluded booths or areas*
- *customers are to be fully clothed at all times*
- *license holder to ensure customers do not offer payment in return for sexual favours*

- license holder to ensure customers do not offer any form of contact details to performers
- license holder to ensure no one engages in any unlawful activity within SEV
- no photographs or video recordings to be taken.”

4. **Women’s Rape and Sexual Abuse Centre, Dundee and Angus (WRASAC)**

A response to the consultation was received by email dated 7<sup>th</sup> May 2021 and contained the following comments:-

**General Comments in relation to the licensing Objectives:-**

Securing public Safety

“A vast and thorough scope of data for the surrounding vicinity of any SEVs should assess historical and current rape and sexual assault charges, prostitution and incidents of human trafficking and exploitation.

Licensing SEVs impacts women’s sense of safety and well-being in a location and a significant proportion of the women who perform within them are subjected to violence and harm. (Patiniotis, Jackie & Standing, Kay. (2012). The introduction of SEVs to an area compounds the street harassment and fear women and girls already have to be alone at night, which is documented here: <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/70109.htm>. Further evidence is supported by the Everyday Sexism Project: <https://everydaysexism.com/>

The Fawcett Society and the Lilith Project in its 2007 report, *Inappropriate Behaviour: Adult Venues and Licensing in London*, demonstrates the insidious way current licensing policy engenders the illusion of women being available sexually in a culture in which a rape is reported every 34 minutes, and 26% of people believe that an "inappropriately" dressed woman is "asking for it".

Lewis (2002) completed a straw poll to ascertain the opinions of women living and working nearby to the strip club chain *Spearmint Rhino* in Sheffield City Centre. Lewis spoke to twenty seven women who were asked about the links between lap dancing and prostitution; the effects on the relationships of men and women; effects of the club on the area of Sheffield and the sexual objectification of women. The majority of women did not support the club and they believed it had a detrimental effect on women, men’s attitudes and the community. Further support of these opinions is neatly encapsulated in The Metropolitan Police’s data following the opening of four lap dancing venues in Camden: There was a 33% increase in rape and a 55% increase in indecent assault. It is likely there were higher numbers of rapes and assaults since the reporting of these crimes is notoriously low.

The proliferation of lap-dancing clubs is correlated with trafficking, prostitution and an increase in male sexual violence against women in the clubs and those who work and live in the surrounding area. Evidence suggests human traffickers exploit these environments to groom women into prostitution which the club provides further space for by normalising paying for sexual services.”

Protecting children and young people from harm

“A SEV which is 500 metres from a school building, or other sensitive location, could be visible from the building or in the surrounding areas when children and young people are going to and from school, during their breaks and at lunch time. This line of reasoning warrants the proposed distance of 500 metres to be extended further than 800 metres.”

Reducing violence against women.

“Women’s Rape And Sexual Abuse Centre (WRASAC) policies and values align with the Scottish Government’s Equally Safe Strategy and the definition of Violence Against Women (VAW), which includes prostitution, pornography, trafficking, lap-dancing, stripping, pole-

dancing and table-dancing as forms of commercial sexual exploitation which all disproportionately affect women. SEVs create spaces for violence against women and the abuse and the imbalance of male power and privilege to thrive. The harmful existence of SEVs promotes men's entitlement to women's bodies under the guise of fantasy, entertainment and even culture. The commodification and objectification of women's bodies as disposable, reductive entities further perpetuates the injustices and the subordinate status women occupy in society today. Bindel (2004) *Study and Report on Lap dancing* documents the findings from observations and interviews in six of Glasgow's into lap dancing and table dancing clubs. Conclusions revealed the buying and selling of sexual services does exist in some lap dancing clubs and dancers are subjected to humiliation and sexual harassment frequently from customers and the staff and management in the clubs."

#### Comments on number of SEVS

"Angus Council could be auspicious in extending the frontiers of national and local policies currently adopted by setting the number of SEVs permitted in the area and each of the localities to zero. This would promote a shift in societal attitudes towards viewing SEVs as locations which cultivate and condone violence against women."

#### Comments on conditions

- "Current licensing conditions are inadequate"
- "Working conditions and terms of employment of lap dancers are exploitative"
- "Further conditions should demonstrate protecting and safeguarding women who are contracted as lap dancers:
  - Rules should be displayed upon entry to the venue, in all performance areas and in the toilet facilities. Rules should reflect customer conduct e.g. Customers should remain fully clothed at all times and no touching. Violating rules will lead to automatic ejection.
  - A list of full names, dates of birth, nationality and contact details (address or telephone number) for all performers are to be available on the premises for immediate production if requested by Police or local authority officers.
  - Performers must have pre-settled or settled immigration status and checks should be completed to ensure performers have not been subjected to nor have they been the victims of human trafficking.
  - Security guards must be employed by the SEV and hold a valid and up to date Security Industry Authority (SIA) licence.
  - Installation and storage of CCTV.
  - Provision of hygienic changing facilities and a toilet with access to hot water exclusively for the use of the performers.
  - Set break times for performers and a space exclusively for performers to have their breaks.
  - Performers are to be escorted by security to a taxi or to their car at the end of their shift.
  - No full nudity – performers must be partially clothed in the performance area and performers are to remain clothed outside of the performance area.
  - No physical contact between performers and customers with a distance of 1 metre.
  - No private secluded booths or areas.
  - Customers are to be fully clothed at all times.
  - The license holder and the security guards are to ensure customers do not offer payment in return for sexual favours.
  - The license holder and the security guards are to ensure customers do not offer any form of personal contact details or business cards to the performers.
  - The license holder and the security guards are to ensure no one engages in any unlawful activity within and on the grounds of the SEV.
  - Photography and video recordings are strictly prohibited.
  - Clubs should have regular covert visits to ensure the club is adhering to the conditions."

**Draft Policy**

**ANGUS COUNCIL**

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

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



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## 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 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 12<sup>th</sup> 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 12<sup>th</sup> 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”<sup>1</sup>.

- 3.2 “Premises” includes any “building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted”<sup>2</sup>.
- 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 “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.

#### **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 The applicant 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:

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<sup>1</sup> Section 45A(2) Civic Government (Scotland) Act 1982

<sup>2</sup> Section 45A(3)(b) Civic Government (Scotland) Act 1982

- 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 appropriate<sup>3</sup>. 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 duties<sup>4</sup> 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 Statement is to ensure that Angus Council promotes these objectives in exercising its licensing functions.

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<sup>3</sup> Paragraph 12, Schedule 2, Civic Government (Scotland) Act 1982

<sup>4</sup> Section 45C(3) Civic Government (Scotland) Act 1982

- 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.<sup>5</sup>
- 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:
- *“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

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

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](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.

## 8. **Sensitive Premises**

8.1 The presumption of refusal will be regarded as being enhanced if the proposed SEV is within 800m 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.<sup>6</sup>

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 months.<sup>7</sup> 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.<sup>8</sup>

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.

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<sup>6</sup> Section 45A(5) Civic Government (Scotland) Act 2005

<sup>7</sup> Section 45A(9) Civic Government (Scotland) Act 1982

<sup>8</sup> Section 45A(10) Civic Government (Scotland) Act 1982

## OR (TO BE DETERMINED BY COMMITTEE)

The licence holder must inform Police Scotland and the Council prior to using this exemption. Please simply advise that you are going to be booking “sexual entertainment” within the premises and that you are relying on the Occasional Use exemption. 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:
- 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.<sup>9</sup>
- 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;
  - c) If a condition of the licence has been contravened.

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<sup>9</sup> Paragraph 12 (3) Schedule 2 Civic Government (Scotland) Act 1982

#### **14. Policy- Consultation**

- 14.1 Consultation on this document took place between **22 March and 7 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](mailto: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*



<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](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](mailto: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 Civic Licensing Committee members 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). No private secluded booths or areas will be made available on the premises.

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 ensure that Performers are always partially clothed when in the performance area;

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

6.7. 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 with a distance of at least 1 metre being observed at all times;*
- (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, wherever 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**

### **Respondents**

Members of the public

Police Scotland

Women's Rape and Sexual Abuse Centre, Dundee and Angus

Angus Violence Against Women Partnership

### **Consultation sent to**

All Community Councils within Angus

Angus Alcohol and Drug Partnership

NHS

Barnardos

Angus Women's Aid

All Elected Members within Angus Council

GMB Scotland (Performers' Union)

USW (Performers' Union)

Angus Adult Protection Committee

Angus Community Planning Partnership

## CONSULTATION QUESTIONS

The Scottish Government has introduced legislation giving Council's a discretionary power to licence Sexual Entertainment Venues (SEVs) in their area. Angus Council's Civic Licensing Committee passed a resolution in August 2020 to licence SEVs in Angus. The powers to licence SEVs will come into force on 12 August 2021.

### **What is a Sexual Entertainment Venue?**

A Sexual Entertainment Venue (SEV) is defined as any premises at which sexual entertainment is provided before a live audience, and the most common examples are lap dancing or strip clubs. However, the definition is sufficiently wide to cover other premises where sexual entertainment is provided. Premises where sexual entertainment is provided on no more than 4 occasions in a twelve-month period are not to be treated as a sex entertainment venue e.g. premises that cater for the occasional stag or hen do.

### **Policy Statement Consultation**

The Council is looking for views in respect of the formation of its Sexual Entertainment Venue (SEV) Licensing Policy Statement. A copy of the draft policy is available on the Council's website.

The Civic Licensing Committee will consider views together with the draft policy and application process during May 2021. The Council would therefore welcome views in relation to the draft policy. We would be grateful to receive views in relation to the content of this policy in general.

The Council would particularly welcome views which have regard to the following objectives:-

- Preventing public nuisance, crime and disorder
- Securing public safety
- Protecting children and young people from harm; and
- Reducing violence against women.

The Council would also welcome views in relation to the specific questions noted below if possible.

### **Additional Questions:**

1. The Council is required to set the number of SEVs permitted in their area and for each relevant locality. By setting a number, this means that when any future applications are received, the assumption will be that the application is refused if there are already that number of premises within the area and locality. The applicant will then be able to present their application to the Committee in order to rebut that presumption of refusal.

The Council has identified four localities:

- a. Arbroath
- b. Brechin and Montrose
- c. Carnoustie, Monifieth and Sidlaw
- d. Forfar and Kirriemuir

It is possible for the Council to set the number of SEVs permitted in the area and localities to zero and the draft Policy Statement is currently drafted in this way pending views being received from consultees.

The Council would welcome views on what this number should be for the area and each locality and the reasons why.

2. Standard conditions have been included within the policy. The Council will always have the option to add in additional conditions when applications are determined on a case by case basis. Your views would be welcome in relation to whether any additional standard conditions should be considered for such premises if they were to exist in Angus.
3. The Council is able to include within its Policy a statement which specifies that SEVs should be a certain distance away from "Sensitive premises". The types of premises currently identified include:
  - a. schools, play areas, nurseries, parks, swimming pools and other sports facilities
  - b. cinemas, theatres and concert halls
  - c. libraries and museums
    - Premises likely to be frequented by people under 18 or families
  - d. public buildings including Council offices
  - e. retail shopping areas
  - f. residential areas
  - g. places of worship, celebration or commemoration
  - h. community centres
  - i. services focussed on supporting women, children and young people, such as women's refuges
  - j. services focussed on supporting people with substance abuse issues, mental health issues, or other vulnerable people
  - k. historic buildings or tourist attractions
  - l. roads, footpaths and other access routes to any of the above

The Council would welcome views on whether any other types of premises should be considered for inclusion on this list. Views would also be welcome in relation to how far SEVs, if permitted, should be from such premises. The Policy is currently drafted to make this 500m.

If you are providing a response, please send this by email to [lawlicensing@angus.gov.uk](mailto:lawlicensing@angus.gov.uk) and provide your full name with a note of which town in Angus you live closest to. Please note that any response you provide will be presented to the Civic Licensing Committee and will form part of papers which will be in the public domain. Your email address will be redacted from such papers so will not appear. It will not be possible to entertain anonymous submissions. Please provide any response by 4 May 2021.

**EQUALITIES IMPACT ASSESSMENT**

**EQUALITY IMPACT ASSESSMENT**

**SCREENING DOCUMENT**

**Name of Proposal** Preparing a Policy Statement for the licensing of Sexual Entertainment Venues

**Lead Department/Service** Legal Services

What is the aim of the proposal?

We are required under the Civic Government (Scotland) Act 1982 to conduct a public consultation on the proposed Licensing Policy for Sexual Entertainment Venues.

Is this a new or a review of an existing policy, procedure, function or report?

The Civic Government (Scotland) Act 1982 has permitted local authorities to require sexual entertainment venues to be licensed since 2019. The Council determined in August 2020 to licence Sexual Entertainment Venues and is required to consult on and introduce a licensing policy. This is a new policy introduced as a result of a new licensing regime.

**Screening Process**

**1.** Has the proposal already been assessed for its impact on age; disability; gender; gender re-assignment; pregnancy/maternity; marriage and civil partnership; race; religion and belief; and sexual orientation? **If yes, go to 1 a. If no, go to 1 b.**

**1 a.** Unless there have been significant changes, no further action is required. **Please add your name, position and date below at 3.**

**1 b.** Does the proposal involve or have consequences for the people the council serves or employs?

**If yes, go to 2. If no, go to 1 c.**



**1 c. Please state why not**

**The proposal is not relevant and no further action is required. Sign and date below at 3.**

**2. Is the proposal relevant to one or more of the protected characteristics? If yes, go to 2 a. If no, go to 2 b.**

**2 a. Proceed to Step 1 of the Full Equality Impact Assessment on page 2.**

**2 b. Please state why not**

**The proposal not relevant and no further action is required. Add your name, position and date below at 3.**

**3. Name:**

\_\_\_\_\_

**Position:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

## FULL EQUALITY IMPACT ASSESSMENT

### Step 1

Are there any statutory legal requirements affecting this proposal? If so please describe.

Section 45 of the Civic Government (Scotland) Act 1982 permits the Council to require persons who propose to use premises as a sexual entertainment venue to be licensed. Since the Council determined to introduce the licensing regime, it is required under this legislation to prepare and publish a policy statement. It is required by the legislation to consult with the public in relation to its content.

### Step 2

What data/research is available to assess the likely impact of the proposal?

It is considered that the licensing of sexual entertainment venues (and the conditions imposed on the granting of licences) would reduce the risk of sexual exploitation and trafficking of all persons and particularly women. This is based on Scottish Government policy and research.

The public are being consulted on in relation to the content and in particular, women's groups have been consulted on to assess the impact on them.

### Step 3

Is there any reason to believe the proposal could affect people differently due to their protected characteristic ie age; disability; gender; gender re-assignment; pregnancy/maternity; marriage and civil partnership; race; religion and belief; and sexual orientation? Please **place a cross** in each box that applies, and give details alongside.

Age  \_\_\_\_\_

Disability  \_\_\_\_\_

Gender  X the licensing of sexual entertainment venues (and the conditions imposed on the granting of licences) would reduce the risk of sexual exploitation and trafficking of all persons and particularly women. The Policy determines the conditions and approach to granting licences so may have an impact on this.

Gender Re-assignment	<input type="checkbox"/>	_____
Pregnancy/maternity	<input type="checkbox"/>	_____
Marriage and civil		
Partnership	<input type="checkbox"/>	_____
Race	<input type="checkbox"/>	_____
Religion and belief	<input type="checkbox"/>	_____
Sexual orientation	<input type="checkbox"/>	_____

**Step 4**

Is there evidence to suggest that any part of the proposal could unlawfully discriminate against people? If so, how?

No

**Step 5**

Can the proposal be seen to favour one section of the community?

Yes X      No

or deny opportunities to another?

Yes      No X

If yes, please give details

The proposal, if approved will reduce the risk of sexual exploitation and trafficking of all persons and particularly women.

**Step 6**

Does the proposal advance or restrict equality?

Yes  No

If yes, give details

The proposal advances equality in that it will reduce the risk of sexual exploitation and trafficking of all persons and particularly women.

**Step 7**

Are there any other actions which could have been taken to enhance equality of opportunity?

If so please state

No

**Step 8**

Based on the work you have done, rate the level of relevance being allocated to this proposal.

High  Medium  Low  Unknown

**Step 9**

If during **Steps 3 - 6** there has been an adverse impact identified, consider whether this can be justified.

Yes  No

If yes please give details.

N/A

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If no, consider alternative ways of delivering the proposal to minimise negative impact or eliminate unlawful discrimination. Give details of the changes to be made to the proposal.

**Step 10**

Do you need to carry out a further impact assessment?

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Yes  No

If yes, what actions do you need to take?

**Step 11**

Make arrangements to monitor and review the impact assessment.

If approved, the licensing of sexual entertainment venues will be monitored and any amendments to the policy will be monitored from this perspective.

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**Step 12**

Publish impact assessment.

Where will the Equality Impact Assessment be published?

Council website

Please state your name, position and date, and forward this pro forma either to your designated Equality Impact Assessment Co-ordinator, or if it refers to a committee report, it should be forwarded with the report to committee services.

**Name: Lynsey Kimmitt**

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**Position: Solicitor**

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**Date: 27.04.2021**

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**For additional information and advice please contact:**

the Equalities Officer - Tel: 01307 476058 or E-mail: [Equalities@angus.gov.uk](mailto:Equalities@angus.gov.uk)