

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 20 MAY 2021

LICENSING OF SEX SHOPS

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**ABSTRACT**

The purpose of this report is to note that the sex shop licensing regime will come into effect in August 2021 and to approve appropriate fees and forms relating to applications.

**1. RECOMMENDATION**

It is recommended that the Committee: -

- (i) note that Angus Council made the Resolution contained within **Appendix 1** on 12 August 2020 and that prior notice of this Resolution was given and circulated in the Courier newspaper 28 days with no representations being received;
- (ii) note that the licensing of sex shops will come into effect from 12 August 2021;
- (iii) note that applications for sex shop licences will be processed in accordance with the provisions of Schedule 2 of the Civic Government (Scotland) Act 1982;
- (iv) determine that the fees relating to applications for a sex shop licence be charged in accordance with those set out in **Appendix 2**;
- (v) determine that applications for licences should be made in accordance with the application forms contained within **Appendix 4**.

**2. REPORT**

- 2.1 Section 45 of the Civic Government (Scotland) Act 1982 contains provisions which allow local authorities to issue licences in respect of business operating as sex shops. This Committee determined at its meeting on 31 October 2019 to recommend to Angus Council to make a resolution requiring such businesses to obtain this licence. A link to report 360/19 is contained [here](#).
- 2.2 Notice of the proposed Resolution was circulated in the Courier newspaper for a period of at least 28 days prior to Angus Council making a determination in respect of the Resolution. No representations were received. Accordingly, Angus Council determined to make the Resolution. In terms of the legislation, such a Resolution cannot come into effect until at least 9 months after it being made. In this instance, the Council determined that the Resolution should come into effect after 12 months to coincide with the licensing of Sexual Entertainment Venues being introduced.
- 2.3 Prior to the licensing system coming into effect, the Committee is being asked to approve and set the fees for applications relating to sex shop licence applications. A proposed fee table for consideration has been provided at **Appendix 2**.

**3. FINANCIAL IMPLICATIONS**

There are no financial implications arising directly from this Report. In terms of the fee set, in terms of the legislation, this should be set at a level where the authority can recover its cost. The proposed fee is in line with applications for less complex Public Entertainment Licences

and is considered to be equal in terms of amount of work required. This fee should be kept under review as with other Civic Licensing fees to ensure that the fee charged is appropriate.

4. **HUMAN RIGHTS IMPLICATIONS**

There are no human rights issues arising directly from this Report.

5. **EQUALITIES IMPLICATIONS**

An Equalities Impact Assessment was completed at the time of the Council making a resolution and has been contained at **Appendix 3** for information. The Committee's decision in relation to this report does not affect the Assessment made previously and no update is required.

**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)

**RESOLUTION**

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

- a. The use of any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles

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

**Made on 12 August 2020 by Angus Council**

**FEE TABLE**

New Grant	£389
Renewal	£389

**EQUALITY IMPACT ASSESSMENT**

**EQUALITY IMPACT ASSESSMENT**

**SCREENING DOCUMENT**

**Name of Proposal**

Requiring Sex Shops to be Licensed

**Lead Department/Service**

Legal Services

What is the aim of the proposal?

The aim of the proposal is to require the activity of using premises, vehicles, vessels or stalls as a sex shop to be licensed.

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 sex shops to be licensed since 1996. This is the first time the Council has considered whether to require sex shops to be licensed.

**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 sex shop to be licensed. This is not a mandatory requirement.

### Step 2

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

It is considered that the licensing of sex shops (and the conditions imposed on the granting of licences) would reduce the risk of sexual exploitation and trafficking of all persons and particularly women.

### 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 sex shops (and the conditions imposed on the granting of licences) would reduce the risk of sexual exploitation and trafficking of all persons and particularly women.

Gender Re-assignment  \_\_\_\_\_

Pregnancy/maternity  \_\_\_\_\_

Marriage and civil

Partnership

\_\_\_\_\_

Race

\_\_\_\_\_

Religion and belief

\_\_\_\_\_

Sexual orientation

\_\_\_\_\_

#### 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 X      No

If yes, give details

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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?

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 sex shops will be monitored.

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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: David Thompson**

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**Position: Manager – Legal Team 1**

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**Date: 10 March 2020**

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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)

**APPLICATION FORM**

PLEASE TICK FOR

(Before completing application form please refer to Sex Shop Licence Notes)

**ANGUS COUNCIL**

**Grant**

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982**

**or**

**APPLICATION for SEX SHOP LICENCE**

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

<p>5. (a) Full Name of Premises/Business</p> <p>Address of Registered or principal office (including post code)</p> <p>(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>9. Details of articles to be sold on premises</p>	

<p>10. Please provide details of opening times</p>	<table border="1"> <thead> <tr> <th data-bbox="882 100 1117 134"></th> <th data-bbox="1117 100 1340 134">Opening</th> <th data-bbox="1340 100 1546 134">Closing</th> </tr> </thead> <tbody> <tr> <td data-bbox="882 134 1117 291">Monday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 291 1117 448">Tuesday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 448 1117 604">Wednesday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 604 1117 761">Thursday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 761 1117 918">Friday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 918 1117 1075">Saturday</td> <td></td> <td></td> </tr> <tr> <td data-bbox="882 1075 1117 1518">Sunday</td> <td></td> <td></td> </tr> </tbody> </table>		Opening	Closing	Monday			Tuesday			Wednesday			Thursday			Friday			Saturday			Sunday		
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<p>11. Have you ever been refused a Sex Shop 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>12. 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>
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13. 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):-

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**

**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.....	
Date of Decision	Decision	Expiry Date	Number of Licence and Date of Issue	Return of Certificate of Compliance	