

# PERTH AND KINROSS COUNCIL

## Licensing Committee

26 August 2021

### Licensing of Sexual Entertainment Venues – Civic Government (Scotland) Act 1982

#### Report by Head of Legal & Governance Services (Report No. 21/138)

#### PURPOSE OF REPORT

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

#### 1. BACKGROUND / MAIN ISSUES

- 1.1 The Licensing Committee agreed at a meeting held on 19 November 2020 that the Council should make a resolution to licence sexual entertainment venues (SEV) in Perth and Kinross. The Committee also agreed that the Head of Legal and Governance Services should prepare an SEV Draft Policy Statement, consult on that Policy Statement and bring a subsequent report to Committee for approval prior to 19 November 2021.
- 1.2 An initial public consultation took place between 16 January 2020 and 6 April 2020 and the results of that consultation were presented at the Licensing Committee on 19 November 2020 (Report number 20/221). The responses to that consultation have been subsequently incorporated within the draft policy statement (**see Appendix 3**). The Policy Statement was sent out for consultation between 30 June 2021 and 30 July 2021. (**See Appendices 1 and 2**). That consultation focused on three issues:
  - The number of SEVs to be permitted
  - The extent of a Sensitive Premises Presumption which in effect further controls the location of SEVs
  - The duration of licences and circumstances in which a waiver might be granted, which would allow sexual entertainment to take place without a licence.
- 1.3 The Council has a duty to consider the impact of the licensing of Sexual Entertainment Venues in its area, having regard, in particular to how it will affect the objectives of –
  - i preventing public nuisance, crime and disorder,
  - ii securing public safety,
  - iii protecting Children and Young People from harm and
  - iv reducing violence against women,

## **2. PROPOSALS**

- 2.1 The majority of those who responded were in favour of the number of sexual entertainment venues in Perth and Kinross being fixed at zero. It is therefore proposed that the general presumption is that there will be zero Sexual Entertainment Venues within the entirety of Perth and Kinross. This is a rebuttable presumption which means that applications can still be made and will be individually considered, but applicants will have to overcome that presumption.
- 2.2 There was no disagreement with the proposed list of sensitive premises set out in section 6.8 of the draft policy statement, although consultees commented that where they were of the view that the number of premises should be fixed at zero, it was not possible to envisage any distance which would be acceptable. However, it is important that the Policy Statement sets out the Sensitive Premises Presumption which can be considered if an individual application is made. It is considered that the Sensitive Premises Presumption set out in paragraph 6.8 of the draft policy statement is the most appropriate response which meets the licensing objectives set out in paragraph 1.3 above.
- 2.3 In order to ensure that the licensing objectives are met, it is proposed that licences, if applied for, would generally only be granted for 1 year, which could be renewed. It is also possible for a waiver of the requirement to have a licence to be sought. The Council may grant this if it considers that to require a licence would be unreasonable or inappropriate. It is proposed that the duration of any waiver be considered on an individual basis, and that waivers would also be considered by the Committee. It is considered that this would best meet the licensing objectives and would also ensure that the robustness of the licensing framework is also protected.
- 2.4 The Council is also required to fix a fee for applications for SEV licences. It is proposed that a fee of £1535.00 be fixed, which represents the cost of the licensing process.

## **3. CONCLUSION AND RECOMMENDATION(S)**

It is recommended that the Licensing Committee

- (i) approve the final draft Policy (Appendix 2) for publication subject to any amendments the Licensing Committee wish to make after consideration of the consultation responses, and
- (ii) instruct the Head of Legal and Governance Services to publish the final Policy online no later than 21 November 2021 together with a copy of the Resolution dated XXXXXXXX;
- (iii) determine that applications in relation to SEV Licences will be determined by the Committee;
- (iv) determine that the fee for an SEV Licence (new grant and renewal) should be set at £1,535.00.

**Author(s)**

<b>Name</b>	<b>Designation</b>	<b>Contact Details</b>
D. Gilkison	Licensing Manger	<a href="mailto:dgilkison@pkc.gov.uk">dgilkison@pkc.gov.uk</a>

**Approved**

<b>Name</b>	<b>Designation</b>	<b>Date</b>
Sarah Rodger	Legal Manager	6 August 2021

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Council Text Phone Number 01738 442573

## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	<b>None</b>
Corporate Plan	<b>Yes</b>
<b>Resource Implications</b>	
Financial	<b>Yes</b>
Workforce	<b>Yes</b>
Asset Management (land, property, IST)	<b>None</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>Yes</b>
Strategic Environmental Assessment	<b>None</b>
Sustainability (community, economic, environmental)	<b>None</b>
Legal and Governance	<b>Yes</b>
Risk	<b>None</b>
<b>Consultation</b>	
Internal	<b>Yes</b>
External	<b>Yes</b>
<b>Communication</b>	
Communications Plan	<b>None</b>

### 1. Strategic Implications

#### 1.1 Corporate Plan

1.2 The Council's Corporate Plan 2018 – 2022 lays out five outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:-

- (i) Giving every child the best start in life;
- (ii) Developing educated, responsible and informed citizens;
- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

The Licensing function supports the strategic objective 'Creating a safe and sustainable place for future generations' theme of the Corporate Plan, specifically, 'Support communities to feel safe': -

'We will work with partners to ensure all agencies will be identifying and reporting any adult concerns as well as implementing additional measures to identify people in vulnerable circumstances, so people feel safer'.

## **2. Resource Implications**

### Financial

- 2.1 There will be additional licensing revenue from application fees.

### Workforce

- 2.2 Considerable staff time has been utilised with developing a licensing regime for SEVs.

## **3. Assessments**

### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 A full equality impact assessment has been completed and it was found that the proposal advances equality in that it will reduce the risk of sexual exploitation and trafficking of all persons and particularly women through means of a robust policy and licensing regime.

### Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.5 The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

### Legal and Governance Assessment

- 3.6 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). Perth and Kinross Council resolved to licence SEVs on 19 November 2020, with effect from 19 November 2021. Members agreed to consult on the draft Policy Statement at its meeting in November 2020. This

report is required to consider the results of the public consultation on the draft Policy and to agree a final Policy for publication.

#### **4. Consultation**

##### Internal

- 4.1 Consultation exercise has been undertaken with interested parties and a list of all consultees can be viewed at Appendix 2 of this report.

##### External

- 4.2 The consultation in relation to the policy was advertised online on the Perth and Kinross Council Citizen Space – Consultation Hub, 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, Community Councils, the Perth and Kinross Child Protection Committee, Adult Protection Team, Elected Members and the NHS. See full list of consultees at Appendix 2 of this report. The questions consultees were asked to consider are contained within **Appendix 2**.

#### **1. BACKGROUND PAPERS**

- 1.1 Scottish Government Guidance on SEVs

#### **2. APPENDICES**

- 2.1 Initial consultation results (Consultation of future policy development of Sexual Entertainment Venues) – Appendix 1
- 2.2 List of consultees and responses to draft policy – Appendix 2
- 2.3 Draft Policy Statement on the Licensing of Sexual Entertainment Venues (“SEV Policy Statement”) – Appendix 3