

# North Lanarkshire Council

## Report

### Finance and Resources

approval  noting

Ref AA/PG

Date 27/11/19

### Sexual Entertainment Venues Licensing

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#### Executive Summary

The purpose of this report is to inform Committee of the licensing provisions for Sexual Entertainment Venues ("SEV") and to seek Committee approval in the carrying out of a public consultation on the licensing of Sexual Entertainment Venues in North Lanarkshire.

#### Recommendations

Members are asked to:-

- (1) Note the contents of this Report;
- (2) Approve a public consultation in order to gather evidence on
  - (a) whether SEVs in North Lanarkshire should be licensed and, if so, what the appropriate number of such venues should be; and
  - (b) if it is decided to licence such venues, what information should be included in a SEV licensing policy statement.

#### The Plan for North Lanarkshire

Priority Enhance participation, capacity, and empowerment across our communities

Ambition statement (14) Ensure the highest standards of public protection

#### 1. Background

- 1.1 The key aims of civic licensing are the preservation of public safety and order and the prevention of crime. The Air Weapons and Licensing (Scotland) Act 2015 amended the Civic Government (Scotland) Act 1982 to the extent that local authorities are able to licence SEV if they wish to do so. The legislation permits, but does not require, the Council to introduce a licensing regime for SEVs. Such venues were not previously subject to a specific licensing regime, discretionary or otherwise, however, the provisions of the Licensing (Scotland) Act 2005 applies to the extent that venues require a Premises Licence if alcohol is sold.

- 1.2 The scope and impact of the adult entertainment regime has been subject to Scottish Government scrutiny in recent years. A Working Group convened in 2005 made a number of recommendations aimed at improving standards in the industry and safeguarding the interests of performers and customers. The recommendations stopped short of introducing direct local authority regulation over SEVs, on the basis that local licensing boards could regulate adult entertainment by way of the existing alcohol licensing regime. In 2011, a Court of Session case held that the 2005 Act was limited to the regulation of the sale of alcohol and that local authorities could not seek to use the alcohol licensing regime to regulate matters beyond the scope of that regime. A Scottish Government consultation entitled 'Consultation on Regulation of Sexual Entertainment Venues' was issued in July 2013. The consultation invited view on the establishment of a licensing regime for sexual entertainment venues.
- 1.3. The Council's response to the consultation was supportive of a specific licensing regime for sexual entertainment and it was recognised that the licensing of SEVs involves specific considerations that are only applicable to those establishments. The Council felt that having a discretionary regime solely for the purpose of licensing SEVs would ensure that the activity is properly and effectively regulated. This led to the introduction of a specific, discretionary licensing regime for SEVs. The regime allows local authorities to consider local circumstances in setting the number of permitted SEVs with their area and enables appropriate control and regulation to be exercised in respect of these venues. Such a regime requires to be considered in the context of the promotion of gender equality, and the regime seeks to balance the freedom of individuals to engage in legal employment with the right of local authorities to exercise appropriate control and regulation of adult entertainment venues in their area.
- 1.4. The premises that can be regulated under the new provisions are those in which sexual entertainment is provided before a live audience for, or with a view to, the financial gain of the organiser. The statutory definition of "sexual entertainment" includes "any live performance and any live display of nudity provided solely or principally for the purpose of sexually stimulating any member of the audience". Premises where this entertainment occurs on no more than four dates within a twelve month period do not require a SEV licence. The statutory definition covers premises that offer such entertainment on a restricted basis as well as premises that are dedicated venues providing sexual entertainment as one of their primary functions.
- 1.5 Local authorities who choose to license SEVs require to publish a policy statement developed in consultation with relevant interest groups. It must also pass a resolution for SEV licensing to take effect in its area. In considering whether to pass a resolution an authority should consider whether they wish to control SEVs, even if there is no such premises operating in their area. If there is no resolution in place, then no licence is required to operate an SEV and SEVs would operate without direct regulation from the local authority. New SEVs could also come into operation and sexual entertainment in these venues would remain largely unregulated. If a resolution is passed, existing and new SEV would require a license and would therefore be directly regulated by the local authority. Where a licence were granted, licence conditions would help reduce the risk of criminality such as human trafficking and prostitution and help safeguard the wellbeing of performers, customers and the wider community.

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## 2. Report

- 2.1 There are currently no known premises within the North Lanarkshire area providing sexual entertainment in terms of the statutory definition. If an SEV licensing regime is introduced then a resolution would require to be made. The effect of that resolution would be that premises wishing to provide such sexual entertainment within their premises would require to obtain an SEV licence from the Council. If such a resolution were to be passed, the date on which the licensing scheme comes into operation must not be before the expiry of a period of one year beginning with the day the resolution is passed.
- 2.2 If, following the public consultation, Committee was minded to licence SEVs in the North Lanarkshire area, the Council will require to publish a detailed policy statement at least 28 days before the new licensing system comes into operation. The policy statement would require to consider, in particular, the impact of the SEV licensing regime in the area, having regard to how it will affect the licensing objectives of (a) preventing public nuisance, crime and disorder; (b) securing public safety; (c) protecting children and young people from harm, and (d) reducing violence against women.
- 2.3 The legislation permits local authorities to decide upon a numerical limit of zero SEV premises in their area, however, there would require to be an evidential basis for this. The Scottish Government has recently issued guidance to assist local authorities in deciding whether to licence such venues. This guidance will require to be taken into consideration when determining any policy or resolution. Given that there requires to be an evidential basis in relation to any SEV licensing regime, the proposed consultation will help inform the decision on whether to introduce such a regime in North Lanarkshire, and if so, the number of licences to be issued and what should be included in the policy statement. The guidance can be accessed here:- <https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/pages/1/>
- 2.4 The proposed consultation will gather evidence on a range of issues detailed in the guidance including:-
- the number of premises currently operating within the area,
  - the location of such premises and proximity to schools, places of worship, residential areas and organisations supporting victims of gender based violence,
  - the effect that such venues may have on the local community in terms of the licensing objectives,
  - whether there have been any incidents of sexual assaults, anti-social behaviour or prostitution reported in the area,
  - whether there have been any incidents of human trafficking or exploitation in the area.
- The consultation would invite views from members of the community in addition to interested parties including elected members, community councils, Police Scotland, Scottish Fire and Rescue Service, NHS Lanarkshire, North Lanarkshire Adult and Child Protection Committees, organisations providing support to victims of Gender Based Violence and internal Council departments.
- 2.5 The proposed consultation would run for a period of 8 weeks to allow consultees an opportunity to respond. Responses to the consultation will assist Committee in deciding whether an SEV licensing regime should be introduced and, if so, the numbers of licences to be issued and matters to be addressed in a policy statement. If

Committee were to introduce an SEV licensing regime, a draft policy statement would be put out to further consultation.

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### **3. Equality and Diversity**

#### **3.1 Fairer Scotland Duty**

The Fairer Scotland Duty is not applicable.

#### **3.2 Equality Impact Assessment**

While it is not considered necessary at this stage to carry out an Equality Impact Assessment, it should be noted that the Guidance, referred to above, contains, at paragraphs 17 to 27, an outline of the relationship between the Guidance and a number of national strategies relating to a range of rights and freedoms of individuals including “Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls” and the “Trafficking and Exploitation Strategy”. Accordingly, these will require to be taken into account in determining any actions arising from the consultation process.

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### **4. Implications**

#### **4.1 Financial Impact**

None at this stage. Should a resolution to licence SEVs be adopted, Committee will require to set a licence fee.

#### **4.2 HR/Policy/Legislative Impact**

The consultation will provide an evidential basis for Committee to determine whether to introduce an SEV regime.

#### **4.3 Environmental Impact**

There is no environmental impact.

#### **4.4 Risk Impact**

None.

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### **5. Measures of success**

5.1 Improving economic opportunities and outcomes.

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### **6. Supporting documents**

No appendices



**Head of Legal and Democratic Solutions**