
To: Regulatory Functions Board

On: 22nd May 2019

Report by: Director of Finance and Resources

Heading: Sexual Entertainment Venue Licensing

1. Summary

- 1.1 The purpose of this report is to advise the Board of the introduction of the provisions of the Air Weapons and Licensing (Scotland) Act 2015 relating to the licensing of sexual entertainment venues (SEVs). These provisions came into force on 26th April 2019 and allow the Council to introduce a licensing regime in respect of these venues.
- 1.2 The Board is asked to note the commencement of these provisions and authorise officers to carry out a public consultation to help the Board determine (i) whether a system of licensing should be introduced and, (ii) if so, what limit on the number of these premises should apply and what should be included in any SEV policy statement.
- 1.3 Separately, other provisions of this legislation were brought into force at the same time, which allow the Council to license theatres as a type of public entertainment. This is a result of the existing theatre licensing provisions in the Theatres Act 1968 being repealed.
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2. Recommendations

- 2.1 The Board is asked to:

- 2.1.1 Authorise officers to carry out a public consultation and evidence gathering process in order to establish views on the following:
- (a) whether sexual entertainment venues in Renfrewshire should be licensed and, if so, what the appropriate number of these venues, in Renfrewshire or specified parts of Renfrewshire, should be; and
 - (b) if these venues are to be licensed, what should be included in a sexual entertainment venue licensing policy statement;
- 2.1.2 Approve the list of consultees for initial consultation, as detailed at Appendix 1;
- 2.1.3 Note the position regarding the licensing of theatres as set out at section 4 of this report; and
- 2.1.4 Otherwise note the contents of the report.
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3. **Background to SEV Licensing**

- 3.1 The Scottish Parliament passed legislation in 2015, the Air Weapons and Licensing (Scotland) Act 2015, which included a provision giving local authorities a power to license sexual entertainment venues. A commencement order has now been made, bringing the provisions into force on 26th April 2019.
- 3.2 The new legislation allows, but does not require, the Council to introduce a licensing system for “sexual entertainment venues” (“SEVs”). While the Licensing Board already consider whether such premises are suitable for a liquor licence, the courts have been clear that the liquor licensing system is for the purpose of regulating the sale of alcohol and cannot extend to other matters. The new legislation therefore seeks to allow Councils to directly license and regulate these venues and to control the number of these premises in their area if they wish to do so.
- 3.3 The type of venues that can be regulated under the new provisions are 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” includes any live performance or display of nudity provided solely or principally for the purpose of sexually stimulating the audience. Premises at which this entertainment occurs no more than four times within any 12 month period would not require an SEV licence.
- 3.4 As a result of the definitions summarised at Paragraph 3.3, premises beyond traditional lap dancing clubs could be affected by the new provisions: for example, premises which allow events to be held occasionally with performances which include nudity.

Procedure

- 3.5 Should the Board decide to introduce a system of licensing for SEVs, then, from one year after a Resolution is made to that effect, these premises will need to obtain a licence from the Council to continue to operate.
- 3.6 If the Council decides to license these premises, the Board will also have to agree and publish a detailed policy at least a month before the new licensing system comes into operation. In preparing this policy statement, the Board must consider the impact of the licensing of these 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. The Council must consult such persons or bodies as it considers appropriate in doing so. The Board will have to set a maximum number of these premises within Renfrewshire or any specific areas identified within it.
- 3.7 At present, it is understood that there are no dedicated premises within Renfrewshire providing sexual entertainment, but there are premises which have traded until recently and retain the benefit of a liquor licence. Any premises providing sexual entertainment on more than four occasions within a 12 month period would in the future be prevented from doing so if the Board were to decide upon a numerical limit of zero, applicable either throughout Renfrewshire or in the locality of those premises.
- 3.8 The Scottish Government have recently completed guidance to assist local authorities in deciding whether to license these venues. The Guidance (which is available at <https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/pages/3/>) underlines the importance of gathering evidence to justify any decision to license.
- 3.9 Accordingly, in order to gather evidence, it is recommended that an initial consultation exercise is undertaken, allowing consultees and members of the public a reasonable period to respond. It is anticipated that the initial consultation would be carried out over a period of eight weeks.
- 3.10 This consultation would be designed to assist the Board as to whether a Resolution should be made and, if so, what numbers limits may be appropriate. It would also help officers to formulate a draft of the required policy statement in due course. The gathering of evidence at this initial stage will also be of assistance to the Board in considering what conditions of licence might be appropriate prior to the introduction of any new licensing regime. A list of proposed consultees for the consultation is attached at Appendix 1. The public will also be encouraged to respond with their views.
- 3.11 Following the initial consultation, officers will bring a further report to the Board to allow them to reach a decision as to whether to introduce an

SEV licensing regime. Should the Board then make a decision to license these premises, officers will then require to prepare a draft policy statement for further consultation.

- 3.12 The final version of the policy statement requires to be agreed and published at least 28 days before any Resolution to license SEVs is due to take effect.

Additional Information

- 3.13 While the Board is not required to license these venues, the Council will have no regulatory control over the sexual entertainment aspects of these premises if no Resolution is made. As such, any SEV premises would be able to operate without any direct regulation from the Council as the licensing authority.

- 3.14 A decision to license, and limit the number of, these venues may affect the ability of hotels, clubs and other venues to provide for party nights at which “sexual entertainment” within the meaning of the new legislation is provided, provided that they offer this entertainment more than four times within a 12 month period.

Next Steps

- 3.15 The Board is asked to authorise officers to undertake a consultation and evidence gathering process. Throughout the consultation, evidence will be sought on a range of matters relating to the licensing and regulation of SEVs, in line with the Scottish Government Guidance, including:-

- Information on the number of these premises currently operating and how any premises operate
- Location of these, particularly in relation to: residential areas; schools; places of worship; women’s refuges/ shelters; services supporting children and young people; supported accommodation and recovery units, and any businesses or charities operating in the nearby vicinity
- The effect these venues have on local communities, particularly with reference to the above licensing objectives set out at Paragraph 3.6 of this report
- Whether there have been any incidents such as sexual assaults, anti-social behaviour or prostitution reported in a particular area
- Whether there have been incidents of human trafficking or exploitation locally
- The views of residents and other interested persons as far as possible
- Input from the Human Trafficking Unit at Gartcosh

4. Theatres

- 4.1 Until now, theatres have required a licence under the provisions of the Theatres Act 1968, but the licensing provisions within that legislation will be repealed with effect from 27th January 2021.
- 4.2 As a result, a change has now been made to the provisions of the Civic Government (Scotland) Act 1982 to allow the Board to decide whether to license theatres under their Public Entertainment Licensing Resolution. Any change to this policy, to include theatres, would however require a statutory process to be followed prior to any decision to license theatres being made.
- 4.3 The Council's existing Public Entertainment Licensing Resolution currently covers various activities, including pop concerts and other live performances, as well as musical shows. It would be open to the Board, following upon the required statutory process, to add theatres specifically to the list. There are no premises currently licensed as theatres within Renfrewshire. Should the Board wish to review the terms of its current Public Entertainment Licensing Resolution in view of this change, officers would bring a further report to a future meeting of the Board.

Implications of the Report

1. **Financial** - nil
2. **HR & Organisational Development** – nil
3. **Community/Council Planning** –
 - Our Renfrewshire is safe – The objectives of the sexual entertainment venue licensing regime which the new legislative provisions allows to be introduced include protecting children and young people from harm and reducing violence against women
 - Building strong, safe and resilient communities – Should the Board determine in due course to license sexual entertainment venues, the Council will be able to exercise regulatory control over these venues.
4. **Legal** – as detailed in the report
5. **Property/Assets** – nil
6. **Information Technology** - nil
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report

because at this stage the recommendation is for initial consultation, to seek views from consultees on (i) whether these premises should be licensed and (ii) how any SEV regime to be introduced might be implemented. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

- 8. **Health & Safety** – nil.
- 9. **Procurement** – nil.
- 10. **Risk** – No current risks have been identified, given that the recommendation at this stage is for initial consultation on the possible implementation of a licensing regime.
- 11. **Privacy Impact** – nil.
- 12. **Cosla Policy Position** – n/a

List of Background Papers - none

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LIST OF CONSULTEES

1. All Renfrewshire Community Councils
2. All Renfrewshire Council Directors
3. All Renfrewshire Council Elected Members
4. All Renfrewshire (liquor) Premises Licence Holders
5. All Renfrewshire Tenants' Associations (per A. Millar, Tenant Liaison Officer)
6. All Scottish Youth Parliament Members
7. Asist
8. Barnardo's
9. Capability Scotland
10. CEDAR
11. Chief Executive, Renfrewshire Council
12. Children First
13. Civic Licensing Standards Officers
14. Diocese of Paisley, Diocesan Office, Ingle Street, Paisley
15. Disability Resource Centre
16. Diversity and Equality Alliance Renfrewshire (DEAR Group)
17. Dr. M. Ishaq, University of the West of Scotland
18. Enable
19. Engage Renfrewshire
20. Federation of Local Associations in Renfrewshire
21. General Secretary, Scottish Trades Union Congress, 333 Woodlands Road, Glasgow
22. GMB Sex Workers' Union
23. Human Trafficking Unit, Scottish Crime Campus, Gartcosh
24. I Am Me
25. International Committee on the Rights of Sex Workers in Europe (ICRSE)
26. LGBT+ Renfrewshire
27. Ms. A. Mullin, Church of Scotland Committee on Education
28. NHS Greater Glasgow and Clyde
29. PACHEDU
30. Paisley Action of Churches Together
31. Paisley First
32. Paisley Presbytery, Church of Scotland (Rev. Dr. McEnhill)
33. Paisley YMCA
34. Police Scotland
35. Quarriers
36. RAMH
37. Reaching Older Adults in Renfrewshire
38. Renfrewshire Access Panel
39. Renfrewshire Adult Protection Committee
40. Renfrewshire Alcohol and Drugs Partnership
41. Renfrewshire Chamber of Commerce
42. Renfrewshire Child Protection Committee
43. Renfrewshire Community Planning Partnership Executive

44. Renfrewshire Community Safety Hub
45. Renfrewshire Council Head of Communities and Public Protection
46. Renfrewshire Council Head of Policy and Commissioning
47. Renfrewshire Council Head of Regeneration
48. Renfrewshire Council Youth Services
49. Renfrewshire Effort to Empower Minorities
50. Renfrewshire Evangelical Alliance of Churches
51. Renfrewshire Health and Social Care Partnership
52. Renfrewshire Learning Disabilities Service
53. Renfrewshire Interfaith Group
54. Renfrewshire Polish Association
55. Renfrewshire Rising
56. Renfrewshire Reconnection
57. Renfrewshire Women's Aid
58. Renfrewshire Youth Voice
59. Say Women
60. Scot-Pep
61. Scottish Fire and Rescue Service
62. Sex Worker Advocacy and Resistance Movement (SWARM) Collective
63. Soroptomist Paisley
64. Umbrella Lane
65. West of Scotland Regional Equality Council (WSREC)
66. Women and Children First
67. You First Advocacy

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