**Licensing of Sexual Entertainment Venues**

**Introduction**

Highland Council is the licensing authority for Highland in relation to a wide range of activities. The responsibility of licensing activities under the Civic Government (Scotland) Act 1982 (“the 1982 Act) falls within the remit of the Licensing Committee (“the Committee").

Following recent legislative changes by the Scottish Government to the 1982 Act, the Committee will now be given the power to decide whether to licence sex entertainment venues in Scotland. These changes were introduced because of concerns raised about the lack of control of adult entertainment activities. These changes seek to provide greater local control over the impact of SEVs by allowing local authorities to decide where SEVs can be located, how many can operate in any given area. It also provides the Committee with the ability to assess the impact of an SEV on a local community, ensure the safety of performers and customers and improve standards in the industry.

This new licensing regime is not mandatory, which means that the Committee has the option to decide whether to regulate activities taking place in SEVs, that fall within the meaning of sexual entertainment. If the Committee chooses to license SEVs, it must determine how many SEVs can operate within their area and each relevant locality. It will also be responsible for preparing and publishing a policy statement that considers how SEVs will operate.

**What is an SEV?**

Section 45A (2) of the 1982 Act defines SEVs 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".*
For the purposes of this definition:

***‘audience’*** includes an audience of one;
***‘financial gain’*** includes financial gain arising directly or

indirectly from the provision of sexual entertainment;

***‘organiser’***  means  either  the  person  who  is  responsible  for  the
management of the premises or the organisation or management of
the  sexual  entertainment  or  where  that  person  exercises  that
responsibility  on  behalf  of another  person  (whether  by virtue  of
a contract of employment or otherwise), that other person;

***‘premises’***includes any vehicle, vessel or stall but does not include
any private dwelling to which the public is not admitted;

***‘sexual  entertainment’*** means  any  live  performance  or  any  live
display of nudity which is of such a nature, ignoring  financial gain,
must be reasonably assumed to be provided solely or principally for
the purpose of sexually stimulating any member of the audience;

***“display of nudity”***means: in the case of a woman, the showing of
(to any extent and by any means) her nipples, pubic area, genitals or
anus; and, in the case of a man, the showing of (to any extent and by
any means) his pubic area, genitals or anus.

**Current Position**

Currently, there is no legal requirement for SEVs to be licensed in Scotland. If the SEV sells alcohol, then, at present the premises would only require a licence known as a premise licence to sell alcohol. As this licence relates to matters that are linked to the sale of alcohol, the Committee is unable to regulate any of other activities by way of a premise licence. This position has been confirmed by the Court of Session.

**Licensing of SEVs**

If the local authority decides to licence SEVs, the Committee must pass a resolution for SEV licensing to have effect in their area. If the Committee resolves not to licence SEVs, there will be no requirement to obtain a licence to operate as an SEV.

In considering whether to pass a resolution to licence SEVs, the Committee should consider a range of issues such as:

* whether there are any sexual entertainment venues already operating;
* the location of schools;
* the location of places of worship;
* the location of heavily residential areas;
* the location of women’s refuges and shelters and other services focused on supporting women, children and young people;
* whether there have been incidents involving anti-social behaviour, sexual assaults, prostitution or more minor harassment reported in any particular area;
* whether there have been incidents of human trafficking or exploitation locally; and
* whether their decision is proportionate and justifiable having regard to other relevant legislation such as EU Services Directive, the Regulatory Reform (Scotland) Act 2014 and the Convention rights of SEV operators.

The Committee is required to set the number of SEVs permitted in their area and for each relevant locality. The Act defines relevant locality as “the locality where the premise is located; and in relation to a vehicle, vessel or stall, it is any locality where they wish to use it as a sex establishment”.

A local authority which chooses to licence SEVs is obliged to publish a SEV policy statement. If the Committee after the consultation and evidence gathering process decides to pass a resolution to licence SEVs, a draft SEV policy statement would be subject to a separate consultation process.

Local authorities who pass a resolution to licence SEVs must periodically determine the appropriate number of SEVs for both their area and for each relevant locality within their area. Such determination would be made after a period of consultation.

There are various grounds for refusal of a SEV licence grant or renewal

application under the 1982 Act, including that the number of SEVs in the

local authority area or 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.

**Seeking your Views**

At the meeting of the Committee on 3 August 2021, the Committee agreed to instruct the Principal Solicitor to carry out a public consultation into the licensing of SEVs in Highland to help inform the Committees decision whether to licence SEVs.

In particular, the Committee is seeking views on:

* whether a licensing regime should be adopted to license and regulate SEVs.
* what the appropriate number of SEVs in Highland should be, if SEVs were to be licensed; and
* if the Committee were to decide to pass a resolution to license SEVs, what matters should be taken into consideration in the development of an SEV policy statement.

This current, initial consultation is an important first stage in determining whether or not SEVs in Highland should be licensed and for the possible development of an SEV licensing policy statement.

The Committee is therefore seeking your views on a range of issues associated with SEVs. it is particularly keen to hear about the impact SEVs have upon residents in relation to where they live; upon retailers and business in areas in their immediate vicinity.

**How to Respond**

You can respond to this consultation by clicking the link **below**

<https://forms.office.com/r/UG1sEkAKQk>

Your response should be received no later than **21 September 2021,** in order to ensure that your views are considered as part of the consultation exercise.