

Consultation:-

Sexual Entertainment Venue Licensing

- 1.1** Changes to the Civic Government (Scotland) Act 1982 allow the Council to introduce a new licensing regime for sexual entertainment venues ('SEV's'). As a result of these changes, the Licensing Committee can now decide whether SEV's in the Council's area should be licensed.
- 1.2** As it is a discretionary licensing regime, it is for local authorities to determine whether they wish to license SEV's. If a local authority chooses to license SEV's, it must determine what the appropriate number of SEV's should be in its area, and the appropriate number within each relevant locality within its area.

What is a Sexual Entertainment Venue?

- 2.1** The 1982 Act defines an SEV 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.*

- 2.2** 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' in relation to the provision of sexual entertainment in premises, means:-

- (a) the person ('A') who is responsible for
- (i) the management of the premises, or
 - (ii) the organisation or management of the sexual entertainment, or
 - (iii) where 'A' 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; and

“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.

- 2.3** However, the 1982 Act provides that premises where sexual entertainment is provided on no more than 4 occasions in a twelve month period are not to be treated as a SEV.

Current Position

- 3.1** At present there is no legal requirement for SEV’s to be licensed in Scotland. If the premises in which the sexual entertainment is taking place sells alcohol then, at present, the premises would only require a Premises Licence under the Licensing (Scotland) Act 2005.
- 3.2** Officers were authorised to carry out a public consultation and evidence gathering process in order to establish views on the following:
- (a) whether SEV’s in West Dunbartonshire should be licensed;
 - (b) if licensed, what the appropriate number of SEV’s for West Dunbartonshire should be; and
 - (c) if licensed, what should be included in an SEV licensing policy statement.

Potential Impact

- 4.1 If following the consultation and evidence gathering process the Committee decides to license SEV's, the 1982 Act requires the local authority to pass a resolution in order for SEV licensing to have effect in its area. If such a resolution is passed, all SEV's in West Dunbartonshire would require to apply for an SEV licence under the 1982 Act in order to operate.
- 4.2 If the Committee does not adopt the discretionary power available to it under the 1982 Act to license SEV's, these venues would not require to be licensed and could continue to operate without any direct regulation from the local authority.
- 4.3 A local authority which chooses to licence SEV's must publish an SEV licensing policy statement. If the Committee after the consultation and evidence gathering process decides to pass a resolution to license SEV's, a draft policy statement would be the subject of a further, formal consultation.
- 4.4 If the local authority were to pass a resolution to license SEV's they must review the appropriate number of SEV's for both their area and for each relevant locality within their area periodically following further consultation.
- 4.5 There are various grounds for refusal of a SEV licence grant or renewal application under the 1982 Act. This includes a refusal on the grounds that the number of SEV's 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.

- 4.6 Further information on the licensing provisions relating to sexual entertainment venues is available in Guidance published by the Scottish Government at the following link:

<https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/pages/1/>

Seeking Your Views

- 5.1** The Committee has agreed that a consultation and evidence gathering process be undertaken to seek views on the licensing and regulation of SEV's, with the purpose of determining whether SEV's should be licensed within West Dunbartonshire.
- 5.2** In particular, the Committee is seeking views on:
- Whether a licensing regime should be adopted to license and regulate SEV's;
 - What the appropriate number of SEV's in West Dunbartonshire, or localities within West Dunbartonshire, should be, if SEV's were to be licensed; and
 - If the Committee were to decide to pass a resolution to license SEV's, what matters should be taken into consideration in the development of an SEV policy statement. As detailed above, a draft SEV policy statement would be subject to a separate consultation process.
- 5.3** Consultation is an important first stage in determining whether or not SEV's in West Dunbartonshire should be licensed and if so, responses will assist in the development of an SEV licensing policy statement if required.

How to Respond

- 6.1 Appendix A sets out further considerations and seeks your views as to whether SEV's should be licensed.
- 6.2 Appendix B sets out considerations which would be taken into account when considering what the appropriate number of SEV's should be within West Dunbartonshire, or parts of West Dunbartonshire, and seeks your views on these matters.
- 6.3 Appendix C relates to the possible development of an SEV licensing policy statement and standard licence conditions, if SEV's were to be licensed and regulated, and seeks your views.
- 6.4 Your response does not have to cover every issue listed as you may choose to respond to any aspect depending upon your individual or collective area of interest or experience. Where possible, please provide any evidence you may have in support of your response.

6.5 Your response should be sent (preferably by email) to:

By Email: licensing@west-dunbarton.gov.uk

or alternatively:

By Post: Peter Hessett
Chief Officer
Regeneration and Regulatory
West Dunbartonshire Council
16 Church Street
Dumbarton
G82 1QL

6.6 Please indicate in your response the capacity in which you are responding.

6.7 Your response should be received no later than **22 October 2021** in order to ensure that your views are considered as part of the consultation exercise.

What Happens Next?

- 7.1** Once the consultation deadline has passed, the responses will be collated and reported to the Licensing Committee, who will consider the responses received and assess the evidence available. If considered appropriate, the Committee may agree to make a resolution to license these venues. If a resolution is passed, an SEV draft policy statement will be issued for further consultation.

Further Information

- 8.1** The local authority intends to publish a summary of responses received to the consultation exercise – this will include your name if you submit a response.
- 8.2** If you would like further information on the consultation exercise or to discuss any other aspect of the approach to SEV Licensing, please contact:

Raymond Lynch, Solicitor (Section Head -Licensing)

Email: raymond.lynch@west-dunbarton.gov.uk

or

Robert Mackie, Senior Officer (Licensing Services)

Email: robert.mackie@west-dunbarton.gov.uk

A

Appendix A: Should SEVs be licensed?

- A1.** When determining the appropriate numbers of SEV's and which localities (if any) would be suitable for SEV's to be located, the local authority may consider:
- Whether there are any SEV's already operating in the locality and how they operate;
 - The character of the locality, e.g. principally residential, night-time economy, etc.;
 - The location of schools, places of worship, women's refuges or other services focused on supporting women, children and young people, and supported accommodation and recovery units, and any businesses or charities operating in the nearby vicinity;
 - Whether the locality is of historical or cultural importance;
 - The effect these venues have on local communities (relating to the licensing objectives explained in full at Appendix C.3);
 - Whether the locality contains premises or areas which are frequented by children, young persons or families for example parks, libraries or swimming pools; and
 - Whether there have been incidents involving anti-social behavior, sexual assaults, prostitution or more minor harassment reported within the locality.
 - Whether there have been incidents of human trafficking or exploitation locally.
 - The views of residents and other interested persons as far as possible

QUESTIONS WE ARE SEEKING VIEWS ON:

- Do you think SEVs in West Dunbartonshire should be licensed? If so, why?
- What impact, if any, do you think SEVs currently have on the community?
- Do you think there would be positive/negative impacts on SEV operators or workers if they were licensed? If yes, please explain what you think these would be?
- Do you think there would be positive/negative impacts on the communities and surrounding vicinity to SEVs if they were licensed? If yes, please explain what you think these would be?
- If SEVs were to be licensed, do you think the location of SEVs is an important consideration? Please explain your answer.

B

Appendix B: If SEVs are to be licensed, what should the appropriate number be?

- B1** If the Committee were to pass a resolution to licence SEV's, they have to determine and publicise the number of SEV's that they consider appropriate for the local authority area and each relevant locality within it. When reaching this decision, the Committee would be required to take specific local circumstances into consideration when determining the appropriate number of SEV's.
- B.2** The Committee would be required to review the set number of SEV's deemed appropriate from time to time and update this if necessary.
- B.3** The number, taking into account ECHR and the grounds of reasonableness, can be set below the current number of SEV's or even at nil.

QUESTIONS WE ARE SEEKING VIEWS ON:

- Taking into account the factors referred to above, what do you think the appropriate number of SEV's should be for the various localities within the local authority area:
 - (a) residential areas;
 - (b) rural areas;
 - (c) industrial areas;
 - (d) late night economy areas;
 - (e) the town centres; and
 - (f) West Dunbartonshire as a wholeWhere possible, please explain your answer
- What localities, if any, within West Dunbartonshire do you consider would be an appropriate location for an SEV?
- What localities, if any, within West Dunbartonshire do you consider would be appropriate for the location of an SEV? (please describe the area as clearly as possible and explain your answer where possible)

C

Appendix C: Developing a policy on the licensing and regulation of SEVs

- C.1** If the Committee were to pass a resolution to license SEV's, they would require to develop and publish an SEV policy statement which would provide the public with a clear indication of the Committee's policy with regards to the licensing and regulation of SEV. A draft SEV policy statement would be the subject of a future consultation.
- C.2** The Committee must have regard to its policy statement when exercising its functions in relation to the licensing of SEV's. It is also required, from time to time, to review the policy statement, revise it as appropriate and publish the revised statement.
- C.3** When preparing an SEV policy statement, the 1982 Act provides that a local authority must consider the impact of the licensing of SEV's in their area, having particular regard to how it will affect the objectives of:
- preventing public nuisance, crime and disorder;
 - securing public safety;
 - protecting children and young people from harm; and
 - reducing violence against women.
- C.4** In addition to preparing an SEV policy statement, the Committee may develop licence conditions, i.e. specific requirements that the licence holder must comply with or risk having their licence suspended or revoked. The Committee would have the authority to attach standard conditions for all licences granted for SEV's, and also to impose individual conditions to licences. If the Committee were to impose standard conditions for SEV licences, these would be set out within the SEV policy statement.
- C.5** The following examples are all potential standard conditions which could be adopted as part of the SEV policy statement, should the Committee pass a resolution to licence SEV's:
- *list of full names, dates of birth, nationality and contact details (address or telephone number) for all performers to be available on the premises for immediate production if requested by Police or authorised local authority officers;*
 - *ensure immigration status is in order and actively seek to identify performers who may have been the victim of human trafficking;*

- *employment of security guards;*
- *use and storage of CCTV;*
- *provision of hygienic changing and showering facilities and a toilet with access to hot water exclusively for the use of the performers;*
- *set break times for performers;*
- *the provision of a break room exclusively for the use of the performers;*
- *performers to be escorted by security to nominated taxi or to their car at end of shift;*
- *access to medical checks and sexual health advice to be provided on site;*
- *the licence holder to ensure performers remain clothed out with performance area;*
- *the licence holder to ensure no physical contact between performers and customers;*
- *the customers to be informed of rules of customer conduct that is deemed acceptable e.g. customers to remain fully clothed at all times, and these rules to be displayed at appropriate locations within the venue. Licence holders to ensure customers do not seek sexual favours or offer performers payment in return for sexual favours;*
- *the licence holder to ensure that customers do not to offer or ask for any form of contact details from performers; and*
- *the licence holder to ensure no photographs or video recordings are taken of the performers.*

C.6 The purpose of imposing standard conditions for SEV licences is to help protect the safety and wellbeing of performers, customers and the wider public.

QUESTIONS WE ARE SEEKING VIEWS ON:

- Whether you believe that imposing standard conditions to SEV licences would assist in safeguarding the wellbeing of performers, customers and the wider public?
- Whether you think that any of the example standard licence conditions noted above should be adopted as policy and included as standard conditions in SEV licences? Where possible, please could you explain your answer.
- Are there any other standard licence conditions that you think would be relevant?
- Can you make any other suggestions as to how the Committee could adequately address the licensing objectives within an SEV policy statement, these being:
 - Preventing public nuisance, crime and disorder
 - Securing public safety;
 - Protecting children and young people from harm;
 - Reducing violence against women