

Agenda item	6
Report no	HLC/003/22

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 18 January 2022

Report title: Sex Entertainment Venues

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive summary

- 1.1 This report seeks approval for a public consultation on the Council's draft policy on the Licensing of Sex Entertainment Venues and seeks the views and comments of the Committee on said policy.

2. Recommendation

- 2.1 This Report invites the Committee to:

- (i) Consider and comment on the draft SEV policy detailed at **Appendix 1** of this report and specifically provide comment on the following questions:
 - a. What should the relevant localities be within Highland?
 - b. What is the appropriate number of SEVs that can operate within each locality?
- (ii) Determine whether the duration of an SEV licence should be no longer than 1 year;
- (iii) Determine whether the length of waiver should be no longer than 1 year;
- (iv) Determine whether any further consultees should be added to the list of application consultees.
- (v) Consider instructing the Principal Solicitor to undertake a second public consultation on the draft Sexual Entertainment Venue Policy Statement as detailed in **Appendix 1** of this report;

3. Background

- 3.1 On 26 April 2019, the Air Weapons and Licensing (Scotland) Act 2015 ("the 2015 Act") introduced new provisions into the Civic Government (Scotland) Act 1982 ("the 1982 Act") to allow local authorities to decide whether they wish to licence sex entertainment venues (SEVs). This new licensing regime provides local authorities with the power to determine whether they wish to licence SEVs, whether to limit their numbers and to determine individual licence applications. However, these powers are not mandatory and will only apply where they are adopted by local authorities.

3.2 The Committee, at its meeting on 26 October 2021, passed a resolution to licence SEVs in the Highlands from 1 January 2023. The Committee took the view that given the lack of an existing regime to regulate sex entertainment venues and the concerns raised in respect of trafficking, the rights of performers and the objectification and safety of women by way of public consultation, it was imperative that any existing SEV operator and any future operators were carefully scrutinised.

3.3 Section 45C of the 1982 Act requires that where a local authority has passed a resolution under section 45B (1) that a licensing regime for SEVs will have effect in their area, they will then be required to prepare and publish an SEV policy statement. The statement should consider the appropriate areas for the operation of an SEV, how many SEVs are appropriate, the impact of SEVs within an area having regard to the relevant licensing objectives. The reasons for this policy decision should also be detailed. Developing an application process together with the relevant forms and guidance would also be considered as part of the policy process.

4.0 Relevant Locality

4.1 With reference to paragraph 9(7) of Schedule 2 of the 1982 Act, “relevant locality” means:

- a. the locality where the premise is located; and
- b. that in relation to a vehicle or vessel or stall, it is any locality, where it is desired to use it as a sex establishment.

Wide discretion is afforded to the local authority to determine the relevant locality and the appropriateness of SEVs within these areas. In terms of the legislation, there is no requirement to have fixed or pre-determined boundaries. The following options are open to the Committee to consider:

Option 1

The Committee could decide not to break down the local area into discrete localities (e.g., ward areas) and simply set a maximum number of SEVs within the Highland area. (For example, the Committee could set a maximum number within the local authority area of 1). Where an application is submitted by an applicant, the question of “relevant locality” can be decided based on the facts of the individual application and the Committee’s policy would outline what other factors or criteria will be considered by the Committee when considering an application.

These criteria could include (but is not limited to):

- the existing character and function of the area
- 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

At present this approach has not been adopted by any other local authorities in Scotland.

Option 2

Alternatively, the Committee could decide to pre-determine the relevant localities. This can be done in several ways. The following approaches are suggested by Officers and have been adopted by other local authorities in Scotland:

- a. use the 21 ward areas within the Highland area as relevant localities;
- b. mirror the approach adopted by the Highland Licensing Board Policy, which creates two localities within Highland:
 - the northern locality (comprising The Highland Council Wards 1 to 11)
 - the southern locality (comprising The Highland Council Wards 12 to 21)
- c. use the 9 locality areas that coincide with the 9 locality areas used by Highland Community Planning Partnership (e.g., Badenoch & Strathspey, Caithness, Inverness, Easter Ross, Lochaber, Mid Ross, Nairn and Nairnshire, Skye Lochalsh and West Ross and Sutherland).

4.2 The initial consultation considered whether there were any areas within the Highlands that were compatible or incompatible with SEVs.

In terms of whether there were any areas within the Highlands that would be appropriate for an SEV, 210 respondents (48%) believed that there were no appropriate areas in the Highlands for an SEV to be located. 76 (17%) respondents suggested that Inverness or the City Centre was the most appropriate location, while 52 (11%) respondents suggested town centres such as Thurso, Wick, Caithness, Fort William and Aviemore were appropriate locations. Further suggestions for appropriate locations were provided by 51 (12%) respondents and include the following:

- Anywhere in the Highlands
- Late night economy areas.
- Industrial or rural areas
- Nightclubs
- Secluded areas

4.3 In addition, Officers have also carried out a mapping exercise that considers a wide range of issues including:

- the location of schools;
- the location of places of worship;
- the location of heavily residential areas;
- the location of other services focussed on supporting children and young people;

4.4 Attached at Appendix 2 of this report are a series of colour coded maps detailing the Highlands, including larger scale maps of the City Centre and main towns. The maps show, by area, the main usage of land as well as the locations of specific buildings identified in paragraph 4.3 above.

4.5 Should the Committee decide to license SEVs, the mapping exercise will then assist Members, as part of the licensing policy if the Committee decides that the relevant locality should be pre-determined and the maximum limit of SEVs within each relevant locality.

5.0 Maximum Number of SEVs

5.1 The local authority must set the number of SEVs permitted in their area and for each relevant locality. The basis of this limit is that the local authority is entitled to refuse an application for the grant or renewal of a Licence on a number of grounds, including:

"that the number of SEVs in the local authority's 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 their area or that locality"

5.2 During the initial consultation conducted between the 17 August 21 to 21 September 21 the question of what an appropriate number of SEVs would be, if the Committee were minded to pass a resolution to licence SEVs was considered. There was a broad range of views with regards to the setting of limits on SEV premises in the city generally, and in certain localities. Some responses argue that there should be no SEVs, and that the limit should thus be set to zero. Others argued that there is no need for a limit.

5.3 A limit would give the Council an element of control in relation to the scale of SEV activity, both now and in the future. The consultation responses demonstrated that views on what any limit should be are polarised. Some have advocated that a zero limit should be introduced, which would create a rebuttable presumption against any SEV licences being granted. Other respondents clearly favour no limit being introduced on the number of premises.

5.4 299 (51%) respondents believed that the Committee should set a maximum number for SEVs in the Highlands. Of the 299 responses received, 209 respondents did not specify what that number should be, and 90 respondents provided additional comments which suggested that no SEV within the Highland's should be tolerated. Respondents provided some of the following reasons for this position:

- All SEV venues are contrary to the advancement of women's equalities.
- They encourage an increase in crime.
- They negatively impact on the character of the region.
- They increase the risk of exploiting vulnerable women and girls by means of trafficking and should not be tolerated at all within the Highlands.

5.5 91 (21%) respondents believed that the Committee should not set a maximum number for SEVs.

The following response was provided from United Voices of the World (UVW), a union representing performers in clubs across Scotland:

"Our main concern is with the Council considering setting the appropriate number of SEVs to zero and thus closing the already established SEV in Inverness as well as potentially minimising any future opportunity for an SEV business to open within Highlands which in turn may affect employment opportunities for women within the council boundaries and the more worrying effect of driving the stripping industry underground. This, in turn, precludes any worker in illegal workplaces from accessing representation in order to bargain for better working conditions. In addition, unregulated stripping venues are likely to run without appropriate working conditions, which could otherwise be written into the Standard Conditions section of SEV licences. United Voices of the World feels that one of the most effective ways of reducing harm in the workplace is the right for workers to organise collectively, access trade union representation and enter collective bargaining conversations with their bosses."

5.6 55 (12%) respondents believed that the maximum number of SEVs should be set to zero; Of the respondents who wished the SEV limit to be set at 0, some of the reasons provided for this position were as follows:

- SEVs are intrinsically negative and problematic.
- Setting the limit to zero will prevent crime and putting minors at risk.
- A stand against the exploitation of women and girls needs to be taken.
- SEVs are not compatible with the aims of protecting young people and reducing violence against women

The following organisations also provided their response:

Inverness Women's Aid

It is my belief that SEVs are entirely negative and should not be allowed to open in any areas. They are severely detrimental to the often-vulnerable women who work in them and can lead to other forms of sexual exploitation. I believe that the council should be working on a zero-licensing model which would enable them to effectively outlaw such enterprises.

Resist Porn Culture

Please adopt a zero policy, SEVs are sexist and discriminate under the equal opportunities act, the conditions the women work in and the way they are treated by staff and consumer are appalling. No woman should be objectified in this day and age. Women in general are often subjected to violence and or sexual harassment by men who visit these establishments and this increases within the vicinity of SEVs.

5.7 Determining whether a limit on the number of SEVs is necessary

5.8 The tension between potentially licensing SEVs, including permitting a number to operate, and these concerns are specifically addressed in the guidance to licensing authorities by Scottish Government which states:

"Whilst recognising the conflict between this definition and the licensing of SEV, this guidance will help to ensure that such activities take place in safe and regulated environments. When deciding whether to licence, and whether to limit, SEV in their area, local authorities will need to consider the interaction with their own local policies and strategies, as well as the legal implications around limiting a legitimate business activity to minimise the risk of legal challenge. (for example, under ECHR or on grounds of reasonableness)".

5.10 Therefore, the Committee will have to balance the competing views and determine whether it is, on balance, necessary and proportionate to set a limit of zero. If Committee is not persuaded that a limit of zero is necessary, it is recommended that a limit of one SEV should be considered. The limit of one reflects the premise currently operating on Academy Street in Inverness. By setting a limit of one, the Committee would be in a position to control the numbers of SEVs beyond any limit agreed and would allow the Committee to reflect on any potential concerns raised, should applications be received in future which would increase the number of SEVs beyond one. As with any licensing policy, new operators would be entitled to make a case for being an exemption to that number limitation and the Committee can therefore determine where the balance should be struck. The Council would also have the option of periodically reviewing the policy and any number limitation if required.

6.0 Duration of Licence

6.1 The Civic Government (Scotland) Act 1982 provides that a SEV licence shall last for 1 year, but this can also be for such other period as the Council sees fit. Officers recommend that a SEV licence should last for 1 year and require renewal at the end of the 1-year period.

6.2 The Council must determine the duration of a waiver which is an exemption from the requirement of obtaining a SEV licence. A waiver application will only be granted in exceptional circumstances and will be approached on the presumption that it should be refused. The Committee is unlikely to consider it would be appropriate to permit a waiver from the requirements to hold a SEV Licence, particularly as the legislation allows an occasional use exemption. Officers have recommended that the waiver should last for a maximum period of 1 year as it coincides with the normal period of a SEV licence.

6.3 However, the Council may set the duration of a waiver as it sees fit.

The Civic Government (Scotland) Act 1982 requires the Council to produce a list of application consultees whom applicants would need to notify when making an application. Officers have proposed a list at Annex E for your consideration.

7.0 Fees

7.1 Further consideration in respect of Fees will be brought to the Committee following the public consultation in respect of the draft SEV policy.

8.0 Financial Implications

8.1 There are no financial implications arising directly from the consultation process. If the Council decide to pass a resolution, Officers will be required to undertake the exercise of determining the relevant fees associated with an SEV application process.

9.0 Equality Act Implications

9.1 The Committee ought to have regard to their obligations in terms of the Equality Duty under the Equality Act 2010. An Equalities Impact Assessment was completed in relation to the passing of the Resolutions by Officers and is attached at Appendix 3. This Assessment will be updated in relation to the approval of the Licensing Policy Statement.

Date: 6 January 2022

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Background Papers: Appendix 1- Draft SEV Policy
Annex A-Certificate of Compliance
Annex B- Privacy Statement
Annex C- Standard Conditions
Annex D-Application Form
Annex E- Application Procedure and List of Application Consultees
Appendix 2- Mapping Exercise of Wards in Highlands
Appendix 3-Equality Impact Assessment

Licensing Policy Statement

Sex Entertainment Venues

DRAFT



Contents

Foreword	2
Background to Licensing SEVs	3
Purpose of the Policy	3
Defining Sexual Entertainment Venues.....	4
Venues that are not defined as SEVs in terms of the 1982 Act.....	5
Making an Application	5
Notice of Application	5
Objections and Representations	6
Consideration of Late Objections	7
Determination of an Application	7
Appropriate Number of SEVs within the Highland Area	9
Character and Vicinity of Relevant Locality.....	9
Suitability of Premises	10
Waivers	10
Stag and Hen Parties.....	10
Occasional Use.....	11
Renewal	12
Variation	12
Revocation	12
Conditions.....	13
Right to Appeal	13
Equality	13
Fees.....	13

Foreword

This policy statement is the fourth one published by the Highland Licensing Committee as required in terms of the Civic Government (Scotland) Act 1982.

Consultation on the draft policy statement took place during the period from [insert date] to [insert date].

A report providing details of comments received from consultees and consideration given to those comments was considered at the meeting of the Highland Licensing Committee which was held on [insert date]. A copy of the report is available on-line at ***.

This finalised version of the policy statement incorporates amendments which were approved by the Licensing Committee on [insert date] in response to comments received.

This policy will be reviewed regularly and revised when necessary

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1. Background to Licensing SEVs

1.1 On 26 April 2019, the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”) introduced new provisions into the Civic Government (Scotland) Act 1982 (“the 1982 Act”) to allow local authorities to decide whether they wish to licence sexual entertainment venues (SEVs) within their local authority area.

1.2 Prior to the introduction of these provisions, there was no requirement to licence SEVs and therefore local authorities did not have the ability to regulate activities that fell within the definition of sexual entertainment. Following concerns raised about the lack of control in relation to adult entertainment activities, together with the Court of Session’s refusal to allow licensing boards to regulate these activities through legislation that regulated the sale of alcohol, a separate licensing regime was introduced.

1.3 Section 76 of the 2015 Act introduces a specific licensing regime into the 1982 Act that allows local authorities to determine whether to licence SEVs within their local authority.

1.4 On 26 October 2021, the Highland Council resolved to pass a resolution under section 45B (1) to gain regulatory control of SEVs through a licensing regime with effect from 1 January 2023. This policy will apply to the whole of the Highlands.

1.5 The adoption of the resolution under section 45B(1) of the 1982 Act allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.

1.6 The Council must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of SEVs. The policy will have regard as to how it will affect the objectives of:

- Preventing public nuisance, crime and disorder
- Securing public safety
- Protecting children and young people from harm
- Reducing violence against women

1.7 The policy will also provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing Committee when determining an application.

2. Purpose of the Policy

2.1 This Policy provides guidance for potential applicants, existing licence holders and members of the public on the licensing of SEVs.

2.2 It must be made clear from the outset that the Committee does not take a moral stance on SEVs in adopting this Policy. The Committee recognises that the Scottish Government has made it lawful for SEVs to operate and for a Local Authority to licence SEVs. It is the Committee's role to regulate such venues in accordance with the law.

3. Defining Sex Entertainment Venues

3.1 Section 45A (2) of the Civic Government (Scotland) Act 1982 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 and where it is the sole or principal purpose of sexual stimulation of members of the audience”.

‘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; 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 and anus.

3.2 This definition would apply to the following forms of entertainment as they are commonly known:

- lap dancing;
- pole dancing;
- table dancing;
- strip shows;
- peep shows and
- live sex shows.

It must be noted that the above list is not exhaustive and does not include private dwellings to which the public are not admitted. Decisions to license premises as SEVs shall depend on the content of the entertainment provided and not the name it is given. As such each case will be considered on its own merits by the Local Authority as the Licensing Authority.

4. Venues that are not defined as SEVs in terms of the 1982 Act

4.1 The 1982 provides that there are various venues that do not fall within the definition of an SEV and are listed as follows:

A sex shop as defined in the 1982 Act.

Premises at which sexual entertainment is provided on a particular occasion if:

- a. Sexual entertainment has not been provided on more than 3 occasions which fall wholly or partly within the period of 12 months ending with the start of the particular occasion;
- b. Each continuous period during which sexual entertainment is provide on the premises is to be treated as a separate occasion; and
- c. Where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.

Other premises exempted by an order of the Scottish Ministers. (It should be noted that no premises have currently been exempted by such an order).

5. Making an Application

5.1 All applicants for the grant, variation, renewal of a SEV licence must complete the SEV application form. The application should be submitted to [insert] together with the appropriate fee. ANNEX A ("Application Procedure & List of Application Consultees") sets out the procedure that must be followed by each applicant when applying for an SEV licence, including notifying those parties on the List of Application Consultees.

5.2 The 1982 Act allows the Council to issue a licence for a maximum period of one year. A licence can also be issued for a shorter period if it is deemed appropriate.

6. Notice of Application

6.1 Under the terms of the 1982 Act, all applicants who apply for an SEV licence must, (unless the local authority consents to dispense with this requirement) advertise their application, in the local newspaper, no later than 7 days before the application is lodged with the local authority. A copy of the advert must be submitted to the local authority.

6.2 The applicant must also, where the application is in respect of premises, display a notice for a period of 21 days from when the application has been lodged, on or near the premises in a place where the public can reasonably read the notice.

6.3 The Committee, under the 1982 Act can determine the persons or bodies who the applicant must send a copy of the SEV application to. The applicant must send a copy of the application to these persons or bodies no later than 7 days after the date of the application. A copy of the application form can be found at ANNEX B of this Policy. The applicant must provide a certificate to the Local Authority confirming that they have complied with this. The certificate can be found at ANNEX C.

In terms of the 1982 Act the Committee may agree that the applicant sends a copy of the application to the following:

6.4 In terms of the consultees, the Local Authority will send a copy of any applications received to the following consultees:

- Highland Council's Building Standards;
- Highland Council's Environmental Health;
- Highland Council's Planning Department
- NHS Scotland;
- Police Scotland; and
- Scottish Fire and Rescue Service.

7. Objections and Representations

7.1 The 1982 makes provision for any member of the public to submit an objection or representation to a SEV licence application.

Objections must be in writing (email is acceptable), specify the grounds for objection, the name and address of the person making the objection and be provided to the Local Authority no later than 28 days after the later of:

- a) The date the application was made to the Local Authority;
- b) The date the newspaper article was first given; or
- c) If the date detailed in any notice which has to be re-advertised on request of the Local Authority.

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal set out in the 1982 Act. The relevant grounds for refusal are detailed at paragraph 9 of this Policy.

Objectors should note that moral objections will not be considered by the Committee as these do not relate to grounds of refusal set out in the 1982 Act.

Objections will be considered by the Committee when considering an application.

All objections or representations received by the Local Authority to a SEV application will be sent to the applicant. The Privacy Statement detailing how your personal data is used can be found at ANNEX D.

8. Consideration of Late Objections

- 8.1 Although the Local Authority is under a duty to consider any objections made within 28 days of the application as detailed in para 7, it does have discretion to hear late objections *provided* it is satisfied with the reasons for lateness. Where a late objection has been received, it will be passed to the applicant to enable them to consider the objection in case the Committee determine to hear the late objection. The Committee are responsible for determining whether an objection or representation that is not received within the 28-day period stipulated by the 1982 Act, will be considered as part of an SEV application.
- 8.2 Where petitions are received from members of the local public, they are unlikely to be accepted as a valid objection or representation as it does not allow the Local Authority to understand individual complaints or know whether they are relying on a legal ground to make the objection or representation. Furthermore, it may not be possible for the Council to know clearly who has signed the petition. The Council will place more weight on objections and representations received from those directly impacted by the presence of an SEV and who live or work within the locality.

9. Determination of an Application

- 9.1 All applications for the grant of a SEV licence, where there have been objections and/or representations received, will be determined by the Licensing Committee at a hearing. If no valid objections or representations to these types of application are received, then they will be determined by the Licensing Team exercising delegated powers. Valid objections to any application will be considered by the Licensing Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Committee's procedure for hearings, which is available from the Licensing Team. Late objectors, provided the objection is not based on moral grounds, will be invited to attend any hearing of the Committee to determine the application and their objection may be brought into proceedings if the Committee is satisfied with the reasons for lateness.
- 9.2 The 1982 Act provides six mandatory grounds for refusing a SEV licence and four discretionary grounds for refusal/refusal to renew a SEV licence. Each application will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse an application **MUST** be relevant to one or more of the following grounds:
- 9.3 Specific mandatory grounds for refusal of a licence are set out in paragraph 9 of schedule 2. An SEV licence cannot be granted:

- a. to a person who is under the age of 18;
- b. to a person who has been disqualified where that person:

- i. has held a licence that has been revoked by the same local authority area, within a period of 12 months, beginning from the date that the licence was revoked;
 - ii. has been convicted of operating an SEV or sex shop without a licence;
 - iii. has employed any person who they know would not be granted a licence under paragraph 9 (3) of the 1982 Act.
 - iv. has contravened a condition within the licence;
 - v. has permitted anyone under the age of 18 to enter the SEV or sex shop;
 - vi. has made a false or reckless statement in relation to the grant or renewal of a licence.
 - vii. has failed (without reasonable excuse) to allow an enforcement officer or police officer to enter, inspect or search the premise.
- c. to a person who is not resident in the UK or was not resident 6 months immediately before the date that an SEV application was made.
 - d. to a body corporate that was not incorporated in the United Kingdom.
 - e. to a person who has been refused the grant or renewal of an SEV licence by the same local authority, within a 12-month period, beginning from the date that the application was made. The refusal must relate to the same premises, vehicle, vessel or stall detailed in the initial application; or
 - f. to a person other than a natural person, if any director, partner or a person who is responsible for the management of the premise, stall or vessel, has been refused the grant or renewal of a licence by the same local authority.

9.4 The discretionary grounds of refusal for a SEV licence that are referred to in the 1982 Act are –

- a. that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b. that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- c. that the number of SEVs in the Local Authority's area or relevant locality at the time the application is made is equal to or exceeds the number which the Local Authority consider is appropriate for their area or that locality;
- d. that the grant or renewal of the licence would be inappropriate, having regard-
 - i. to the character of the relevant locality; or
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

10. Appropriate Number of SEVs within the Highland Area

- 10.1 Under para 9, discretion is given to the Local Authority to refuse an application on the basis that the number of establishments, in the relevant locality at the time the application is determined *“is equal to or exceeds the number which the Local Authority consider is appropriate for their area or that locality”*.

The term “relevant locality” referred to under discretionary grounds (c) and (d) is defined within the 1982 Act and means:

- (a) in relation to premises, the locality where it is situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a SEV.

- 10.2 The Local Authority is able to determine that the appropriate number for a locality is nil and has the discretion to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Local Authority’s control. That being the case, each application will be considered on its own merits at the time the application is submitted to the Local Authority.

- 10.3 [The Committee considers that[Insert the Committees decision regarding relevant locality and the reason for the decision].

11. Character and Vicinity of Relevant Locality

- 11.1 In considering whether the grant, renewal or variation of the licence would be inappropriate given the vicinity in which the SEV premises operates, the Committee shall consider the existing character and function of the area. Due regard will be given to the following:

- a. Whether the premises are situated in a residential area;
- b. Whether there are any schools and other places of education near the vicinity of the premises;
- c. Whether there are any places of worship in that vicinity;
- d. Whether there are other relevant businesses or charities operating in the area e.g., homelessness shelters, women’s refuges, supported accommodation, recovery units;
- e. Whether there are certain landmarks or facilities in the vicinity (e.g., historic buildings, sports facilities, cultural facilities, family leisure facilities, play areas or parks, youth facilities, retail shopping areas, and places used for celebration of commemoration.
- f. Whether there have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area; and
- g. Whether there have been incidents of human trafficking or exploitation in that area

The Council will consider relevant locality on a case-by-case basis, taking into account the particular circumstances of each application.

12. Suitability of Premises

- 12.1 Under the 1982 Act the Council has the discretion to refuse applications relating to SEVs if it is considered that the grant or renewal of the licence would be unsuitable, having regard to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 12.2 It is expected that when an application for a SEV licence is made, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

13. Waivers

- 13.1 The Committee can grant a Waiver if they consider that to require a Licence would be unreasonable or inappropriate. The Committee will take into account:
- Any objections or representations
 - The Highland Licensing Committee's Licensing Policy Statement
 - Scottish Government Guidance
 - Any other relevant considerations.

The Committee will consider each Application on its own merits; however, the applicant will be expected to demonstrate exceptional circumstances which justify why the licensing requirement should be waived. The Council is unlikely to consider it would be appropriate to permit waiver from the requirements to hold a SEV Licence, particularly as the legislation allows an Occasional Use exemption.

The Applicant is required to complete the Waiver application detailed at ANNEX E and submit their application to the Council. Any Waiver will be subject to the Standard Licence Conditions.

14. Stag and Hen Parties

- 14.1 If Customers in a Public House or other Premises with an alcohol licence under the Licensing (Scotland) Act 2005 themselves arrange a 'stripogram', the Premises need a SEV Licence (The Premises Licence covers the sale of alcohol. It does not cover Sexual Entertainment).

IMPORTANT TO NOTE: It is not enough for the Operating Plan in the Premises Licence to state that "Adult Entertainment" is permitted.

- 14.2 If the Premises accept a booking for a Stag Party, Hen Night or any other event where "Sexual Entertainment" might happen, the staff should tell the Customer that "Sexual Entertainment" is prohibited.
- 14.3 A SEV Licence is needed if: -

"Sexual Entertainment" is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the Organiser (Section 45A(5) of the 1982 Act). Please see the definition of 'Organiser' detailed at paragraph 3.

If "Sexual Entertainment" happens on Premises without a SEV Licence or a Waiver:

- a) both the Premises Manager and the Premises Licence Holder can be prosecuted for not having a SEV Licence;
- b) the Licensing Board can review the Premises Licence, and revoke or suspend it, on the basis that the Premises Licence Holder is not a fit and proper person having regard to the Licensing Objectives of "preventing crime and disorder" and "protecting and improving public health"; and
- c) the Licensing Board can review the Premises Manager's Personal Licence and revoke, suspend or endorse it, on a similar basis. They can only avoid the possibility of these sanctions if they actively try to stop the Customers or if the "Occasional Use" exemption applies.

A Public Entertainment Licence for premises used as a place of public entertainment does not cover Sexual Entertainment.

IMPORTANT TO NOTE: It is not enough for an Organiser to hold a Public Entertainment Licence. A SEV Licence is needed if Sexual Entertainment is to be provided or allowed to be provided.

15. Occasional Use

15.1 Premises can be used for Sexual Entertainment for a proposed event (not exceeding 24 hours) if the Premises have been used for Sexual Entertainment on not more than 3 previous occasions in the past 12 months (Section 45A(9) of the 1982 Act).

15.2 Each occasion can last no more than 24 hours. If your Premises operate as a Sexual Entertainment Venue for more than a 24-hour period, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion (Section 45A(10) of the 1982 Act).

15.3 The rule applies to a rolling year, not the calendar year running from 1st January to 31st December. To know whether a particular date can be used, count back 12 months from that date, and ask:

"Have the Premises been used for "Sexual Entertainment" on three or fewer occasions in this period?"

If the answer is "no", the exemption applies, and the Premises do not need a Licence. You might send a letter to the Council and the Police.

15.4 If the answer is "yes", the exemption does not apply, and the Premises need a Licence. You do not have to tell the Council or the Police that you are using the 4-in-a-year exemption, but you can write to the Licensing Office in advance using our Occasional Use Exemption Letter detailed at ANNEX F.

15.5 **IMPORTANT NOTE:** It will help to show that you do not need a Licence if you have already sent an Exemption Letter to both the Council's Licensing office and the Police. You can send this letter

for one occasion, or more than one occasion. There is no fee for using the Exemption or sending the Exemption Letter.

16. Renewal

16.1 If a licence holder applies for renewal of an SEV licence before the expiry date, the licence will remain in effect until a final decision on the Renewal application has been made.

Where the expiry date has already passed when the applicant makes a renewal application, this will be treated as an Application for a new grant of licence unless the following conditions are met: -

- The application is made no later than 28 days after the expiry date; and
- The council is satisfied that there is good cause to accept a late application.

16.2 The applicant should state in writing if there is good reason to accept the late application. The procedures for a Renewal Application are the same as they are for a New Grant of a Licence, but the Licence is not guaranteed to be renewed - the Local Authority is not obliged to grant a renewal.

16.3 The Local Authority will take into account the operation of the Premises during the previous Licence period(s), and any allegations of offences and/or breaches of Licence Conditions.

17. Variation

17.1 At any time, the holder of a SEV licence can apply to the Local Authority to vary the terms of the licence.

17.2 There is no requirement to advertise a variation however, the Local Authority will consult with the consultees as detailed in para 6.4 above.

18. Revocation

18.1 The Council may at any time revoke a Licence if certain grounds under paragraph 13(1) of Schedule 2 of the 1982 Act are established.

These grounds are:

- a. If one of the grounds of refusal applies
- b. If in their opinion, any of the grounds relating to the fitness of the Licence Holder or anyone involved with the licence apply;
- c. If a condition of the licence has been contravened.

18.2 Before any revocation take place, the licence holder will ordinarily be given the opportunity to be heard before the Committee. However, in certain circumstances and in accordance with the 1982 Act, a licence can be revoked without a hearing with immediate effect, where appropriate justification is provided.

19. Conditions

- 19.1 When issuing an SEV licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as are specified at the time the licence is issued either in the form of conditions specific to the individual (referred to as special conditions) or standard conditions applicable to all SEVs. Both the Local Authority's standard conditions and any special conditions are subject to any Mandatory Conditions prescribed by Scottish Ministers under Section 45E of the 1982 Act.
- 19.2 The relevant standard conditions detailed in ANNEX G shall apply to every licence granted, varied, renewed or transferred by the Local Authority.
- 19.3 In the event of a conflict arising between the standard conditions and the special conditions, the special conditions will prevail.
- 19.4 Where the proposed SEV has a Premises Licence under the Licensing (Scotland) Act 2005, all reasonable care will be taken to ensure that the SEV licence conditions does not conflict with the conditions detailed in the Premises Licence.

20. Right to Appeal

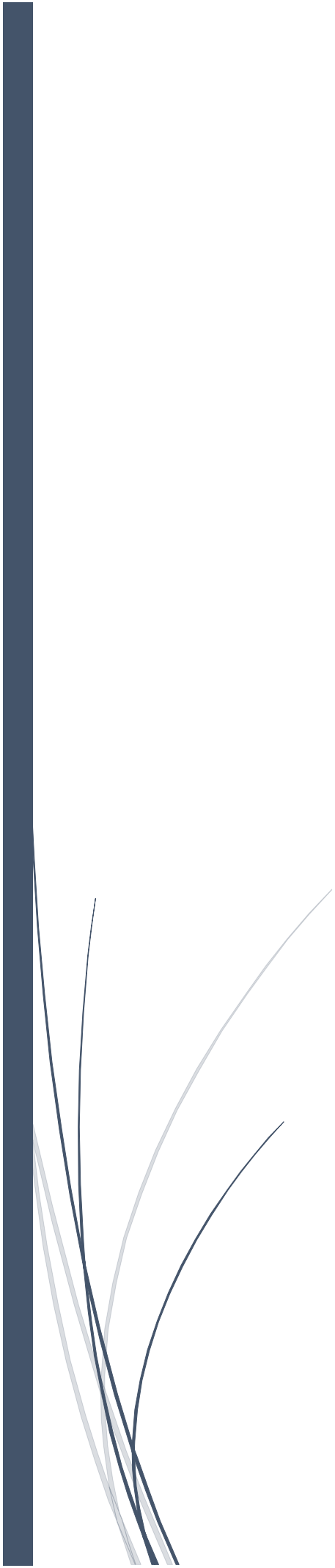
- 20.1 An appeal against the decision of the Highland Licensing Committee in respect of the grant, renewal, variation or refusal of a licence must be made to the Sheriff Court within 28 days of the decision being made.

21. Equality

- 21.1 The 2010 Act introduced a new public sector equality duty which requires public authorities, including the Committee, to try and eliminate discrimination; promote equality and good relations across a range of protected characteristics.
- 21.2 Prior to the Committee implementing this Policy an equality impact assessment was undertaken. This can be viewed using the following link [\[to be inserted once decision made\]](#).

22. Fees

- 22.2 The application process involves paying a non-returnable application fee, which covers the costs of administering the SEV licensing regime. The fees are reviewed annually against any rise in the Local Authority's costs of administering the licence regime.
- 22.2 The appropriate fees for applications can be found at [\[insert annex here\]](#) of the Policy and on the Council's Website.

A thick, dark blue vertical bar is positioned on the left side of the page. From the bottom of this bar, several thin, light blue lines extend upwards and outwards, creating an abstract, grass-like or reed-like pattern.

Sex Entertainment Venue Licence Application Procedure and List of Consultees

Highland Licensing Committee

Annex D –Application Procedure and List of Application

Grant or Renewal for an SEV Licence

When an Applicant asks the Council for the grant or renewal of a SEV Licence, the Applicants must complete the following: -

Before lodging the Application

The Applicant must ask the Council:

- (a) to specify a newspaper to be used for publication of an advertisement, or
- (b) to dispense with the requirement to publish a newspaper advertisement (in which case the Council will publish notice of the Application electronically).

If the request is (b), the Applicant should specify why newspaper advertisement is thought not to be appropriate.

When making the Application

- (a) The Application must be in writing and must contain the information set out in Annex E (“Required Information”); it can be submitted by post to: Licensing Department, Perth and Kinross Council, 2 High Street, Perth, PH1 5Ph or by email to civillicensing@pkc.gov.uk
- (b) The Application should be accompanied by the prescribed fee. The Civic Government (Scotland) Act 1982 permits the authority to set a reasonable fee as the authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the council in exercising their functions under the Act. The fee will be reviewed annually in line with a review of licencing fees and will be incorporated within the list of Civic Licensing Fees. The fee will not be reduced or refunded if the Application is refused, or the Licence is granted for less than was requested.
- (c) The Applicant must display a **“Notice of Application”** (in the form prescribed below) on or near the Premises in a place where the Notice can conveniently be read by the public. This Notice must be displayed for 21 days, beginning with the date of the Application (Schedule 2, Paragraph 7(4) of the Civic Government (Scotland) Act 1982).

After making the Application

The Applicant must:

- (a) not later than 7 days after the date of the Application:
 - send a copy of the Application to each person or body listed below (see 1.5 “List as determined by the Council under Schedule 2, Paragraph 7(C) of the Civic Government (Scotland) Act 1982”);

- (b) not later than 7 days after the date of the Application:
give the Council a certificate confirming that this has been done;
- (c) not later than 7 days after the date of the Application:
Unless the Council has dispensed with newspaper advertisement, publish an advertisement in the newspaper circulating in the Council area previously specified by the Council; the advertisement must be in the prescribed form (see “Notice of Application” below). If the Council has dispensed with newspaper advertisement, the Council will publish such a Notice electronically not later than 7 days after the date of the Application.
- (d) as soon as possible after the expiry of the period of 21 days for display of the Site Notice:
Give the Council a certificate stating that he/she has complied with the requirements to display the Site Notice, and a copy of the Site Notice.
- (e) if relevant, as soon as possible after newspaper publication
give the Council one complete copy of the newspaper containing the advertisement of the Application.

List as determined by the Council under Schedule 2, Paragraph 7(3C) of the Civic Government (Scotland) Act 1982:

- Police Scotland
- Scottish Fire & Rescue Service
- Perth & Kinross Council – Adult and Child Protection Services
- Perth & Kinross Council – Education Services
- Perth & Kinross Council – Environmental Health Service
- Local Churches/Places of Worship
- Community Council

The Application and all supporting documents should be sent to the Community Council for the area where the Premises are.

Notice of Application

If displayed at or near the proposed SEV the Notice must be:

- on A4-sized paper (or larger)
- printed legibly or typed in black ink
- in a font size of 16 points or larger
- arranged so as to ensure that it remains legible throughout the public notice period (for example, laminated or attached to the inside of a clear window facing out)

This Notice is prescribed by the Council under Schedule 2, Paragraph 7(7) of the 1982 Act.

Licensing of Sex Entertainment Venues

Civic Government (Scotland) Act 1982

On [date of lodging] an Application was made to the Highland Council by [Applicant's Name] for the [delete as appropriate]

1. Grant of a Licence
2. Renewal of a Licence
3. Waiver of the requirement to obtain a Licence

For a Sex Entertainment Venue at

[Address of Premises]

Waivers (1982 Act, SCHEDULE 2, PARAGRAPH 5)

The Council can allow use of Premises without a Licence. There is no fee for a Waiver application.

For at least 21 continuous days before applying to the Council the operator must display a "Notice of Application" (see Annex E - "Application Procedure & List of Application Consultees") at or near the proposed Premises stating that they are proposed to be used as a Sexual Entertainment Venue, and stating:

- the proposed dates of operation, and
- the proposed times of operation.

After that period, the operator must give the Council a Certificate of Display confirming display for that period.

The Application for a Waiver:

- must be in writing
- must contain a copy of the Site Notice
- must contain the same information and include a Layout Plan and Location Plan as if the operator was applying for a Licence (See Annex F - "Required Information").

The Council will:

- copy the Application for a Waiver to the Police, and
- put a public notice on its website.

FEE PAID	£
RECEIPT NO.	
DATE RECEIVED	
RECEIVED BY (SERVICE POINT & INITIALS)	



CIVIC GOVERNMENT (SCOTLAND) ACT 1982

**APPLICATION FOR THE GRANT OR RENEWAL
OF A SEXUAL ENTERTAINMENT LICENCE**

PLEASE READ THE ATTACHED GUIDANCE NOTES BEFORE COMPLETING THIS FORM

Application is hereby made, and the necessary fee will be provided for a:

New licence

Transfer of licence

Renewal of licence

Variation of licence

APPLICANT DETAILS

This application is being made:

by or on behalf of an individual

by or on behalf of a company

by or on behalf of a partnership

Are you currently operating as a sex entertainment venue?

Yes

No

PART 1-THE APPLICANT

PLEASE COMPLETE THIS SECTION IF YOU ARE APPLYING AS AN INDIVIDUAL

Full Name:

Date of Birth:

Home Address:

Telephone Number:

Email:

PLEASE COMPLETE THIS SECTION IF YOU ARE A COMPANY OR OTHER CORPORATE BODY.

Where the applicant is a **company**, please provide us with the following details:

Full Name of Company:

Full Name of Business/Premises:

Address of Registered or Principal Office:

Post Code:

Please provide details of:

- (i) Directors
- (ii) Any person with a shareholding greater than 10% in the Applicant
- (iii) Any other person responsible for the management of the Applicant

NAME OF INDIVIDUAL	ADDRESS	POSITION

Is the Applicant a subsidiary of another company or corporate body?

Yes

No

If yes, please provide details of the company and its Directors.

NAME OF DIRECTORS	ADDRESS	POSITION

PLEASE COMPLETE THIS SECTION IF YOU ARE A PARTNERSHIP OR OTHER UNINCORPORATED BODY.

Applicant Name:

NAME OF PARTNERS	ADDRESS	POSITION

PART 2-THE PREMISE

Does the application relate to a:

Premise

Vehicle

Vessel

Stall

Where the application is a premise, please provide the relevant details for the premise for which a licence is required:

Name of Premise:

Address

Postcode:

Do you intend to use the whole premise as a sexual entertainment establishment?

Yes

No

If No, please provide advise:

- (i) what the remainder of the property will be used for? and
- (ii) who will be responsible for managing the remaining part of the property?

If your application relates to a vehicle, vessel, or stall, where do you propose to use it?

Annex B

Please provide details of the Applicant's interest in the premise, vehicle, vessel or stall. For example, owner, tenant etc.

NB. A letter of consent from the owner of the site must accompany this application.

--

If you are a tenant, please provide the following details:

Name and Address of Landlord	
The length of the Lease	
The length of notice required to terminate the tenancy	

Is there planning permission for the use of the premise, vehicle, vessel, or stall as a sexual entertainment establishment?

Yes

No

If yes, please provide the date of the planning permission:

Is the premise, vehicle, vessel, or stall licensed under the Licensing (Scotland) Act 2005?

Yes

No

Does the Applicant intend to obtain a licence under any other legislative Act or to apply to vary an existing licence under any other Act?

Yes

No

If yes, please provide further information:

Annex B

Does the applicant intend to operate the sexual entertainment establishment in conjunction with any other licence?

Yes

No

Is customer access to the premise, vehicle or vessel or stall directly from the street?

If the answer if no, please provide further details:

Is customer access from the street to be supervised at all times the premises are open to the public?

Yes

No

If the answer if no, please provide details of your proposed door control and supervision?

Are all door supervisors to be licensed with the Security Industry Authority?

Yes

No

PART 3-OPERATION OF THE BUSINESS

What will the business be known as?

Are you currently operating the premise, vehicle, vessel or stall as a sexual entertainment establishment?

Yes

No

Is there planning permission for the use of the premise, vehicle, vessel, or stall as a sexual entertainment establishment?

Yes

No

Please provide a description of all proposed (or existing) exterior signage and images to be used.

Please provide details of the measures that are proposed (or existing signage) to prevent the interior of the premise being visible to passers-by? **Please note that a plan of the exterior showing the signage and advertising is required as part of this application.**

Annex B

What if any window displays are to be exhibited? Please indicate the size and nature of any display.

Please provide us with the details of the person(s) who will be responsible for the day-to-day management of the business at the premise, vehicle, vessel, or stall.

Please explain what measures are to be applied in respect of admissions and age restrictions and how they will be enforced?

Please provide a description of the activities to be carried out on the premises, e.g., lap-dancing, pole dancing, stage striptease etc. **Please provide a layout plan of the premise.**

Is the proposal for full nudity?

Yes

No

Annex B

Please state what if any separation between performers and audience is proposed? (e.g., performers on stage, 1 metre distance etc)

Please outline how customers will be notified of the “Code of Conduct” and how this will be monitored and enforced? **Please provide a copy of the Code of Conduct with this application.**

Please set out the system for monitoring compliance with the venue’s policy for the Conduct of Performers. Please note that the Code of Conduct for Performers must be attached to this application.

Annex B

Please describe the arrangements for CCTV and for retention of recordings.

Please provide details of your proposed arrangements for private booths or areas, including details about supervision for these areas.

Please set out the proposed system (or the existing system) for checking the age and right to work in the UK for all employees?

Please provide details of times for which the Sexual Entertainment Licence is required.

Annex B

	OPENING	CLOSING
MONDAY		
TUESDAY		
WEDNESDAY		
THURSDAY		
FRIDAY		
SATURDAY		
SUNDAY		

Please state proposals for preventing nuisance to residents and businesses in the vicinity?

Please provide details of the measures that are proposed (or in place) to promote public safety?

Please provide details of the measures that are proposed (or in place) to prevent crime and disorder?

Annex B

Please provide details of the measures that are proposed (or in place) to protect children and young persons from harm

Have you previously held a Sexual Entertainment Venue Licence within any area of the UK?

Yes

No

If yes, please provide the following details:

Annex B

Where was the licence obtained?

When was the licence obtained?

How long was the licence held for?

Do you continue to hold the licence? If you no longer hold the licence, please explain why.

Have you ever been refused a Sexual Entertainment Venue Licence in this area or any other area of the UK?

Yes

No

If yes, please provide:

Details of reasons for the refusal:

The date of refusal:

Since being born have you or anyone named in this application lived outside of the UK for a continuous period of 12 months or more?

Yes

No

If yes, please provide details of each country that you have lived in, in the last 10 years.

Annex B

Have you or the day-to-day manager ever been convicted of a criminal offence, whether in the United Kingdom or elsewhere?

Yes

No

If yes, please provide the following details

Date	Convicting Court	Offence	Penalty Imposed

SIGNATURE AND DECLARATIONS

The following declaration must be signed in all cases:

- a) If the applicant is an individual, by that individual;
- b) If the applicant is a partnership, by all individuals who are partners;
- c) If the applicant is a company, by a director or the company secretary;
- d) In any other case, by a duly authorised officer of the applicant.

The applicant, declares that in accordance with paragraph 7(4) of Schedule 2 of the Civic Government (Scotland) Act 1982, the applicant shall, for a period of 21 days commencing with the date on which this application was submitted to the Council, display at or near the premises so that it can conveniently be read by the public, a notice complying with the requirements of paragraph 7 of the said Schedule;

or

The applicant declares that they are unable to display a notice of this application at or near the premises because they have no rights of access or other rights enabling them to do so, but that the applicant has taken the following steps to acquire the necessary rights, namely: - (here specify the steps taken)

Annex B

but has been unable to display the notice.

Delete part (a) or (b) as appropriate. **Where declaration (a) is made there must be produced to the Council as soon as possible after the expiry of the 21-day period a Certificate of Compliance with paragraph 2(2) of the said Schedule. 2.**

The information you have provided on this Application form, and from supporting documentary evidence – where applicable, will be processed by the Highland Council (the “data controller”) for the purposes of the General Data Protection Regulation and the Data Protection Act 2018 (UK GDPR) in order to process your Licensing Application.

For the purpose of dealing with your application, we will share your information in accordance with the Civic Government (Scotland) Act 1982, other licensing legislation and with relevant internal services of Highland Council. The Council may also check information provided by you, or information about you provided by a third party such as NHS Highland, Scottish Fire and Rescue Service, Scottish Ambulance Service and Police Scotland with other information held by us. We may also get information from those third parties or share your information with them in order to check its accuracy, prevent or detect crime, protect public funds or where required by law.

Data Protection Act 2018

The information on this form may be held on an Electronic Register which may be available to members of the public on request. **PLEASE NOTE – IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION** Criminal Law (Consolidation) (Scotland) Act 1995 Section 44(2)(b).

I understand that Highland Council are permitted to accept applications for the grant or renewal of this licence; objections or representations; and notifications of any change to the licence, by means of electronic communication. Applications, objections, representations, or notifications can be sent to the Council by email to licensing@highland.gov.uk for the attention of the Depute Clerk.

I permit Highland Council to give notice and provide reasons in relation to granting, refusing, renewing, changing, altering, varying, suspending, and revoking the licence by means of email. I authorise the email address provided by me on this application to be used for this purpose. I declare that the particulars given on this form are correct to the best of my knowledge and belief. The applicant authorises the use of the information provided for the above purposes and hereby makes application to Highland Council for the grant or renewal of the licence applied for.

Date.....

Signature of Applicant (or agent if applicable)

Position in Company (if applicable)

Address of Agent (if applicable)

DOCUMENTS TO ACCOMPANY APPLICATION

- | | | |
|--|------------------------------|-----------------------------|
| 1. A site scale plan (1:1250) | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 2. Drawings showing the front elevation as existing | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 3. Drawings showing the front elevation as proposed (including proposed signage, advertising, and window display). | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 4. Layout plan of premise | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

Annex B

- | | | |
|--|------------------------------|-----------------------------|
| 5. Planning permission | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 6. Certificate of lawful use or development | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 7. Copies of the memorandum and Articles of Association of the Company (if the applicant is a company) | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 8. A copy of the Partnership Deed (if the applicant is a partnership) | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 9. A copy of any other licences for the premise, stall, vehicle, or vessel. | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 10. Code of practice for performers | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 11. Rules for customers | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 12. Code of conduct for Performers | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 13. Copy of notice of application displayed on or near the premises | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 14. Copy of newspaper containing advertisement of this application | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| 15. Certificate of Compliance | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

Requirements for layout plan

The layout plan must show:

- The layout of the premises including, e.g., stage, bars, cloakroom, WCs, performance area, dressing rooms.
- The extent of the boundary of the premises outlined in red.
- The extent of the public area outlined in blue.
- Uses of different areas in the premises, e.g., performance areas, reception.
- Structures or objects (including furniture) which may impact on the ability of individuals to use exits or escape routes without impediment.
- Location of points of access to and egress from the premises.
- Any parts used in common with other premises.

Annex B

- Position of CCTV cameras.
- Where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor.
- Where the premises includes any steps, stairs, elevators or lifts, the location of the same.
- The location of any public conveniences, including disabled WCs.
- The position of any ramps, lifts, or other facilities for the benefit of disabled people.
- Any level changes at the entrance to or within public parts of the premises which may be inaccessible to disabled people.
- The location and type of any fire safety and any other safety equipment.
- The location of any kitchen on the premises.
- The location of emergency exits.

HIGHLAND COUNCIL

Civic Government (Scotland) Act 1982


Application for Grant/Renewal of a Sexual Entertainment Venue Licence Certificate of Compliance

I applicant for a Sexual Entertainment Venue Licence hereby certify that, in accordance with paragraph 7 of Schedule 2 to the above Act, a Notice has been displayed at or near the premises at
... from.....until..... containing such information as is required by paragraph 7 of Schedule 2 of the above Act.

*Where the said Notice was removed, obscured or defaced during the aforementioned period, I took reasonable steps for its protection and replacement as follows (give details and circumstances if applicable): -

Date.....

Signature.....



Sex Entertainment Venue Licence Objections and Representations

ANNEX D



Guidance on how to object or make a representation on an application for a Sexual Entertainment Venue Licence under the Civic Government (Scotland) Act 1982.

Background

These Guidance Notes contain information for individuals who wish to make representations or make objections in relation to applications for a Sexual Entertainment Venue Licence under the Civic Government (Scotland) Act 1982.

They give general guidance only and all persons seeking to make objections or representations in respect of an application are advised to seek legal advice. One of the important changes in the legislation is that any person may now object or make representations in respect of these applications. All objections or representations will be considered by the Committee unless the Licensing Committee has rejected the notice of objection or representation on the grounds that it is considered to be frivolous or vexatious. If an objection has been rejected by the Committee as frivolous or vexatious, the Committee may seek to recover expenses from the objector or person making representations.

Notices of Objection

Notices of objection must be in writing addressed to the Clerk to the Licensing Committee and must be lodged (either by email sent to licensing@highland.gov.uk or by post or hand delivery to one of the office addresses listed below) before the end of the period for objections. Applications may only be refused by the Committee if the Committee considers that one or more of the limited grounds of refusal applies to the application. If none of the grounds for refusal applies the Committee must grant the application. The grounds for refusal are as follows: -

1. that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
2. that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
3. that the number of sex shops in the relevant locality at the time the application is made is equal to or exceeds the number which the Highland consider is appropriate for that locality; (This number could be zero);
4. that the grant or renewal of the licence would be inappropriate, having regard—

- (i) to the character of the relevant locality; or
- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the layout, character or condition of the premises, vehicle, vessel, or stall in respect of which the application is made.

The Highland council does not take any moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate sexual entertainment venues, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as the licensing authority to administer the licensing regime in accordance with the law.

For this reason, objections should not be made on moral grounds or values and we will not consider such objections as relevant.

Making Representations in respect of an Application

Any person may also, by notice to the Licensing Committee, make representations in relation to an application. These should be in writing and should be lodged before the end of the period for objections or representations in relation to the particular application. Representations can be in relation to any of the following matters:

- representations in support of an application
- representations seeking modifications to the layout plan accompanying an application
- representations as to conditions which the person considers should be attached to the sexual entertainment licence.

General

The Clerk's Office will send a copy of all objections and representations received to the applicant. If the Committee receive an objection a Hearing will be held at which both the objector and the Applicant will be given an opportunity to be heard. The Committee will expect any objection to be evidence based. Please note that with the exception of objections or representations which the Committee considers to be frivolous or vexatious, the Committee is obliged to consider all objections and representations received.

Submission of Objections/Representations:

By e-mail:

Objections/Representations should be addressed to the Clerk to the Licensing Committee and may be e-mailed to licensing@highland.gov.uk before the end of the period for objections or representations in relation to the particular application: or,

By Post or Hand Delivery: Objections/Representations should be addressed to the Clerk to the Licensing Committee and may be posted or hand-delivered to the nearest area office listed below before the end of the period for objections or representations in relation to the particular application: -

Inverness, Nairn, Badenoch & Strathspey Area
Town House High Street Inverness, IV1 1JJ Tel: (01463) 785098
Caithness, Sutherland & Ross-shire Area
Council Offices Caithness House Market Place Wick KW1 4AB Tel: 01955 608214
Council Offices Main Street Golspie KW10 6RB Tel: (01408) 635205
Skye & Lochaber Area at Council Offices
Tigh na Sgìre Park Lane Portree, IV51 9GP Tel: (01478) 613824
Council Offices Charles Kennedy Building Achintore Road Fort William PH33 6RQ Tel: (01397) 707233

Your Data: Sexual Entertainment Venue licence objections and representations

[How we use your information](#)

Highland Council as the Licensing Authority collects and records information about you in order to process your objection or representation about a licensing application we have

received. If you wish to submit an objection or a representation to a licence application, it can only be considered by the Council as Licensing Authority if it: -

- in writing
- Specifies the grounds of the objection or the nature of the representation you wish to make
- States your name and address
- Is signed by you or on your behalf
- Is made within the statutory time limit (please refer to the public notice, advert or the application in each case to confirm the final date for submitting objections or representations)

*Late objections or representations may only be accepted at the discretion of the Licensing Committee where they are satisfied there is sufficient reason why it was not made in the time required.

Sharing your personal data is important within this process as it firstly allows us to share your information also allows the Councillors who sit on the Licensing Committee and to identify whether they have any declarable interest which, under the Councillor's Code of Conduct, would preclude their taking part in determining the application or complaint. This might arise where, for example, an objector or complainer was a friend or relative of one of these Councillors.

Secondly, where a licensing objection or representation is submitted to us, the Committee are generally obliged to give both you and the applicant or licence holder an opportunity to be heard at the Licensing Committee before any application you have objected to, or submitted representations on, is determined, or before any decision is taken in respect of any complaint you have submitted. Your personal information is therefore also required so that the Council or Board can contact you to invite you to attend the relevant meeting at which the application or complaint will be determined

If you attend the Licensing Committee meeting you will be asked to identify yourself by confirming your name and this will be noted. If you are represented at the Licensing Committee meeting, then the name of your representative will be noted. It is therefore important that any representative or agent also read this notice and bring it to the attention of their client. In the event of an appeal, your personal data will be shared with the Sheriff Court.

What happens if I don't provide my information?

If you don't provide your name and address in your written objection, representation or complaint, we will be unable to consider it and you will not be given the opportunity to speak to your objection, representation or complaint before the Licensing Committee

Who we share information with?

We may carry out reasonable investigations into submitted objections which means we may share information about the nature of your objection with other Council services, Police Scotland or any other outside organisation or agency.

In processing and determining the relevant licence application, Highland Council as Licensing Authority are required to share a copy of your objection or representation with the applicant and/or their agent for their information. Although we will not share your personal data with the applicant and/or their agent the content of your objection may indirectly identify you. If the application is considered by the Licensing Committee your objection or representation will be shared with the members of the Committee determining the application.

How long we keep your information for

We will keep your objection or representation to an application for a licence which is granted for 2 years from the date the licence to which it relates expires. If the application is withdrawn or refused, your objection or representation will be retained for a period of two years from the date of withdrawal or refusal.

Committee Meeting Agendas, Minutes and accompanying papers including a copy of your objection or representations will be retained permanently and are published on the Council's website. If the Committee has deemed the application confidential and considered it in private, the minute which is published will be anonymised.

Highland Council records and webcasts Council meetings, including the Licensing Committee meetings. For further information please visit:

<https://highland.public-i.tv/core/portal/home>

Your rights

You have rights in relation to your data, including the right to ask for a copy of it. Further information about the rights that you have can be found using the following link https://www.highland.gov.uk/info/704/data_protection_and_freedom_of_information/341/information_we_hold_about_you, as well as the contact details for the Council's Data Protection Officer. You also have the right to make a complaint to the [Information Commissioner's Office](#). That is the body responsible for making sure organisations like the Council handle your data lawfully.

Our legal basis

Highland Council is the Data Controller for this information. Wherever the Council processes personal data, we need to make sure we have a legal basis for doing so in data protection law.

The Council understands our legal bases for processing personal data in relation to your objection or representation is part of our public task, in that the Council is exercising its official authority and function under Parts 1 and 2 and Schedule 1 of the Civic (Government) (Scotland) Act 1982. In carrying out this function, the Council is likely to process special categories of personal data. The Council understands our legal basis for doing so is because it is necessary for reasons of substantial public interest.

HIGHLAND COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982

SEXUAL ENTERTAINMENT VENUE LICENCE WAIVER

APPLICANT DETAILS

This application is being made:

by or on behalf of an individual

by or on behalf of a company

by or on behalf of a partnership

PART 1-THE APPLICANT

Full Name of Organiser:

Date of Birth:

Home Address:

Telephone Number:

Email:

PLEASE COMPLETE THIS SECTION IF YOU ARE A COMPANY OR OTHER CORPORATE BODY.

Where the Organiser is a **company**, please provide us with the following details:

Full Name of Company:

Full Name of Business/Premises:

Address of Registered or Principal Office:

Post Code:

Please provide details of:

- (i) Directors
- (ii) Any person with a shareholding greater than 10% in the Applicant
- (iii) Any other person responsible for the management of the Applicant

NAME OF INDIVIDUAL	ADDRESS	POSITION

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Is the Organiser a subsidiary of another company or corporate body?

Yes

No

If yes, please provide details of the company and its Directors.

NAME OF INDIVIDUAL	ADDRESS	POSITION

PLEASE COMPLETE THIS SECTION IF YOU ARE A PARTNERSHIP OR OTHER UNINCORPORATED BODY.

Applicant Name:

NAME OF PARTNERS	ADDRESS	DATE OF BIRTH

PART 2-THE PREMISE

NAME OF PREMISE	
ADDRESS OF PREMISE TO BE EXEMPTED	
PREMISE MANAGER	
BRIEF DESCRIPTION OF PREMISES INCLUDING SEATING AND CUSTOMER CAPACITY, TOILET ACCOMMODATION AND ENTRANCE AND EXITS.	
REASON FOR EXEMPTION	

EXPIRY DATE OF WAIVER	

The Council grants a Waiver dispensing with the need to have a Sexual Entertainment Venue Licence for the above Premises until the 'Expiry Date'. This Waiver permits the use of the Premises for the provision of Sexual Entertainment during the Permitted Hours below:

	Opening	Closing
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

This Waiver is subject to the Council's Standard Licence Conditions stated in ANNEX G of the Council's Sexual Entertainment Venue Licensing Policy Statement.

The Waiver is also subject to the additional Special Conditions:

PART 3-DECLARATION

Have you ever been refused a Sexual Entertainment Venue Licence in this area or any other area of the UK?

Yes

No

If yes, please provide:

Details of reasons for the refusal:

The date of refusal:

Have you **or** the day-to-day manager ever been convicted of a criminal offence, whether in the United Kingdom or elsewhere?

Yes

No

If yes, please provide the following details

Date	Convicting Court	Offence	Penalty Imposed

I declare that the particulars given by me on this form together with the details on the application attached are true, the appropriate persons have read the attached privacy notice, and I hereby make application to Highland Council for the exemption of the Licence applied for.

Date:

Signature of Applicant:

Occasional Use Exemption Letter

The Occasional Use Exemption Letter should be addressed to the Clerk to the Licensing Committee and emailed to licensing@highland.gov.uk. Alternatively, this letter can be posted or hand-delivered to the nearest area office listed below:

Inverness, Nairn, Badenoch & Strathspey Area: Town House High Street, Inverness, IV1 1JJ

Caithness, Sutherland & Ross-shire Area: Council Offices, Caithness House, Market Place
Wick, KW1 4AB

Caithness, Sutherland & Ross-shire Area Council Offices: Main Street, Golspie, KW10 6RB

Skye & Lochaber Area at Council Offices: Tigh na Sgìre, Park Lane, Portree, IV51 9GP

Skye & Lochaber Area at Council Offices Council Offices: Charles Kennedy Building, Achintore
Road, Fort William, PH33 6RQ

I want to use the exemption granted by the Civic Government (Scotland) Act 1982, Section 45A(9) to use these Premises as a "Sexual Entertainment Venue" on the occasion(s) below without having a SEV Licence:

Details of the Organiser

Full Name:
Email Address:
Date of Birth:
Place of Birth:

The First Occasion

The date of the occasion:	
The occasion starts:	
The occasion ends:	
Description of the "Sexual Entertainment	

The Second Occasion

The date of the occasion:	
The occasion starts:	
The occasion ends:	
Description of the "Sexual Entertainment	

The Third Occasion

The date of the occasion:	
The occasion starts:	
The occasion ends:	
Description of the "Sexual Entertainment	

The Fourth Occasion

The date of the occasion:	
The occasion starts:	
The occasion ends:	
Description of the "Sexual Entertainment	

Have the Premises been used for "Sexual Entertainment" before?

Yes

No


If you have said "yes", tell us about the earlier occasions.

Date	Times (Start & End)	Description of the "Sexual Entertainment"

Date

Signed

Organiser



Licence and Standard Conditions on the Licensing and Regulation of Sex Entertainment Venues.

ANNEX G



SEXUAL ENTERTAINMENT LICENCE
THE HIGHLAND LICENSING COMMITTEE

Issued under the terms and conditions of the Civic Government (Scotland) Act 1982

SEV licence number		
Date of commencement of licence		
Date of expiry of licence		
Postal address of premises		
Postcode		Telephone number
Description of premises		
Licensed hours		
<i>Day</i>		
	<i>Opening</i>	<i>Closing</i>
<i>Monday</i>		
<i>Tuesday</i>		
<i>Wednesday</i>		
<i>Thursday</i>		
<i>Friday</i>		
<i>Saturday</i>		
<i>Sunday</i>		

Name and postal address (or registered address if a company), telephone number and email (where relevant) of holder of premises licence

Registered number of licence holder, e.g. company number, charity number (where applicable)

Name, postal address and telephone number of day-to-day manager(s).

DEFINITIONS

The **Act** means the Civic Government (Scotland) Act, 1982.

Chief Fire Officer means the Chief Fire Officer of the Scottish Fire and Rescue Service or his or her authorised Depute within the relevant Highland Council area.

The **Council** means the Highland Council and any officer authorised to act on its behalf in terms of this licence.

Patrons or Public means persons admitted or seeking admission to the premises for any purpose other than the performance of duties in connection with the entertainment being provided.

Performer is defined in these conditions as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of relevant entertainment.

Premise includes any vessel, vehicle or stall (but does not include any private dwelling) to which the public is admitted.

Sexual Entertainment means live performance or any live display of nudity which is of a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience (whether by verbal or other means).

Sexual Entertainment Venue (SEV) means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.

STANDARD CONDITIONS

OPENING TIMES

1. Except with the previous consent of the Council an SEV shall not be open to the public before 22:00 hours and shall not be kept open after 03:00 hours. Opening hours may be aligned to alcohol licensing hours.

LICENSED USE

2. The number of persons admitted to the premises during any event at any one time shall not exceed:

The occupancy capacity limit of the premises, that is the limit on the number of people permitted to occupy the premises at any one time, as specified herein, shall be determined by the Council in consultation with the Chief Fire Officer and shall not be exceeded. The licence holder shall take appropriate measures to ensure that controlled drugs (within the meaning of Section 2 of the Misuse of Drugs Act, 1971) are not used on the premises.

GENERAL CONDITIONS

3. The licence holder shall retain occupational control of the premises, except with the prior written consent of the Council, such consent always to be conditional on any occupier complying with the conditions of the licence.
4. The premises shall be kept and, in due course, left in a clean and tidy condition to the satisfaction of the Council, with arrangements being made for the storage, collection and disposal of waste or refuse during and after use of the premises all to the satisfaction of the Council.
5. Use of the premises for pyrotechnics, lasers, other potentially hazardous special effects, firearms or any exhibition, demonstration or performance of hypnotism within the meaning of the Hypnotism Act 1954, shall not take place without the prior written consent of the Council. Application for such permission must be made in writing at least 14 days in advance of the planned entertainment and give full details of the proposed use. Further, in any event, the licence holder shall not exhibit any light which: -

(a) by reason of its glare is liable to endanger aircraft or road traffic; or

(b) by reason of its liability to be mistaken for an aeronautical ground light or ground light

CONDITIONS RELATING TO HEALTH AND SAFETY

6. The licence holder shall satisfy the Council as to the safety of any electrical or mechanical installation or safety of any relevant equipment associated with the operation of the premises.
7. The licence holder having regard to the likely numbers frequenting the premises, shall make adequate provision, to the satisfaction of the Council with regard to sanitary accommodation and drainage facilities.

8. The licence holder shall ensure that all toilet requisites are provided and that all toilets are kept clean and in an orderly condition and shall designate a suitable person or persons for those purposes.
9. Facilities shall be provided in all female toilets for the hygienic disposal of sanitary towels.
10. Means of locking or otherwise securing doors to all water closets or individual shower rooms shall be provided.
11. The licence holder shall ensure that the premises shall be provided with an adequate supply of wholesome water. The supply of drinking water shall be available during the course of an event, at all times free of charge and any drinking vessels provided must be clean.
12. Seating shall be designed, constructed, and maintained so as to ensure safe use and allow free and ready access to all exits, all to the satisfaction of the, Chief Fire Officer. Stages must be constructed and arranged so as to minimise the risk of fire. Stages and attendant fixtures and fittings (and for example, curtains, fights etc) must also be approved by the Chief Fire Officer.
13. Details of any temporary structures (with the exception of modular demountable staging previously notified to and approved by the Council) to be erected on the premises shall require to be submitted to the Council at least 14 days before any event together with, at the sole discretion of the Council and at the expense of the licence holder, a Structural Engineers report or other such certification as the Council may require. Such structures shall not be erected without the prior written authority of the Council.
14. The licence holder shall ensure that an effective system is maintained for the management of the premises, and all events held therein, to ensure the health and safety and welfare of the public.
15. The licence holder shall ensure that adequate arrangements are in place in respect of fire precautions at the premises.
16. Where applicable, the licence holder must be in possession of a valid fire certificate in respect of the premises granted by the Chief Fire Officer, or failing which, a letter from the Chief Fire Officer confirming that the premises meet the standards required by the Chief Fire Officer.
17. The licence holder shall ensure that prior to any funfair rides or inflatable structures being operated at the premises the relevant Amusement Device Inspection procedures Scheme (ADIPS) certificates (in respect of funfair rides) and Pertexa Inflatable Play Accreditation (PIPA) certificates (in respect of any inflatable structures) are submitted to and approved by the Council.

APPEARANCE, DISPLAYS & LAYOUT OF PREMISE

18. The interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
19. A copy of the Licence as issued by the Council shall be retained in a clean and legible condition, suitably framed, and exhibited in a position that can easily be seen by all persons using the premises.
20. A copy of the conditions of the Licence (so far as they relate to the performances) shall be given to all performers at the premises and a copy shall be exhibited in the performers changing rooms at all times the premises are open.
21. Price lists for both drinks and sexual entertainment and the code of conduct for customers will be clearly displayed at each table and at each entrance to the premises.
22. Price lists and the code of conduct for customers must be printed in a manner which is clear and easy to read during the normal operation of the premises.
23. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Highland Council except for those signs and notices that are required to be displayed in accordance with these licence conditions.
24. The licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.
25. Any person who can be observed from outside of the premises must be properly and decently dressed. Scantily clad individuals must not exhibit in the entranceway or in the area surrounding the premises. There shall be no attempt made outside the premises to solicit people to enter.
26. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sex establishment.
27. The premises shall be maintained in good repair and condition. All parts of the Premises shall be kept in a clean and hygienic condition to the satisfaction of Highland Council.

28. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
29. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the establishment who are disabled.
30. The authorised entertainment must only take place in designated areas approved by Highland Council;
31. Suitable changing rooms with restricted access should be provided for Performers, separate from customers and other staff, where they may prepare for their performance;
32. Safe and controlled access to the dressing room for performers must be maintained at all times when the performance is taking place and immediately afterwards;
33. The agreed activities will take place only in designated areas as indicated on the plans authorised by the Licensing Authority and in the full view of the audience. No part of the premises accessible to the audience shall be concealed from observation without the appropriate authorisation from the Licensing Authority.
34. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
35. No change of use of any portion of the Premises from that approved by Highland Council shall be made until the consent of Highland Council has been obtained thereto.

CHANGE OF LOCATION AND ALTERATION TO PREMISES

36. Where licensed premises are a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days' notice. Please Note that this requirement shall not apply to a vessel or stall which habitually operates from a fixed location, but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.
37. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises, including any change in the permitted signs on display shall not be made unless a variation has been granted.

CONTROL OF ENTRY

38. No person under the age of 18 years shall be permitted admission to the venue at any time it is being used under this licence.
39. No person under the age of 18 years shall work at the venue as a performer.
40. The Challenge 25 proof of age scheme shall be operated at the venue whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport.
41. The venue shall maintain a refusals log whereby on any occasion where a person is refused entry it shall be recorded and available upon request by Police Scotland or an authorised officer of the Local Authority.
42. A person who holds a licence granted under section 8 of the Private Security Act 2001 must be positioned at every entrance to the venue from 1am (on any day when the venue is open at that time) until whichever is the earlier:
43. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
44. A policy of random searches of persons entering the premises shall be operated.
45. Any person found to be in possession of illegal drugs upon entry shall be prevented entry and, where possible, restrained until the Police can take such person into custody. Any persons found using illegal drugs on the premises shall be removed from the premises or, where possible, restrained until the Police can take such person into custody.

CONDUCT OF PERFORMERS

46. The licence holder shall ensure there is a written code of conduct for Performers who work in the venue and staff who are employed in the venue. This must include explaining the conditions of the SEV licence to all staff and performers and also that their activities will be recorded on CCTV.
47. The licence holder must provide an information pack to all Performers and staff which should include at least the following information:
 - a) A copy of the SEV licence, including the conditions applied by the Licensing Committee;

- b) Details of how to report a crime to Police Scotland;
 - c) Details of unions, trade organisations or other bodies that represent the
 - d) interests of performers;
 - e) A copy of the code of conduct for performers;
 - f) A copy of the code of conduct for customers; and
 - g) Price lists for drinks and separately sexual entertainment.
48. Performances of sexual entertainment may only take place in designated areas of the venue as agreed in writing by Highland Council.
49. Performers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
50. All physical contact between the Performers during the provision of sexual entertainment is prohibited.
51. All physical contact (with the exception of leading a Patron or member of the public by the hand to and from an area permitted from performances of sexual entertainment) between the Performers and Patrons or members of the audience is prohibited.
52. All performances conducted by the Performers shall be restricted to dancing and the removal of clothing. No other form of sexual stimulation or activity shall be prohibited.
53. Patrons or members of the audience shall not take photographs or record digital images of Performers by any means.
54. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
55. Panic alarms are to be fitted to all booths and VIP performance areas and will be operational at all times.
56. Exit routes for performers must be kept clear.

PROTECTION OF PERFORMERS AND PREVENTION OF CRIME

57. Performers shall be provided with secure and private changing facilities.
58. All entrances to private areas within the venue to which members of the public are not permitted access shall have clear signage stating that access is restricted.

59. Private booths must not be fully enclosed. (specifically, where lap dancing is the sexual entertainment being provided within a venue).
60. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
61. No smoking areas are to be allowed at the front of clubs to minimise the potential for harassment of women living, working and passing through the area.
62. The licence holder shall include in the club rules a written policy to ensure the safety of performers when leaving the premises following any period of work.
63. There must be a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the entrance to the venue, at all times when the venue is open to the public.

RECORD KEEPING AND MANAGEMENT

64. The licensee shall at all times keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers contracted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such records available for inspection to them.
65. All performers and staff shall be eligible to work in the UK and proof of eligibility records shall be kept on the venue. Management shall ensure that such records are regularly checked to ensure compliance, and these should be provided to Police Scotland or an authorised officer of the Highland Council on request.
66. Accurate payment and remuneration records must be maintained and made available upon request to Police Scotland or an authorised officer of the Local Authority.
67. A fully operational CCTV system must be used within the venue which complies with the 2018 Act and Regulations, covering all areas of the venue to which the public have access, including entrances, exits, private booths and bar area. The CCTV must be fitted and maintained in full working order in accordance with the guidance provided by the Information Commissioner's Office and to the satisfaction of Police Scotland.
68. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed

69. CCTV footage must be made available to Police Scotland and authorised officers of the Local Authority on request.

ANCILLARY CONDITIONS

70. The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.
71. The licence holder must provide proof that he holds third party liability insurance giving a minimum level of indemnity of FIVE MILLION POUNDS (£5,000,000) in respect of the licensed use. The licence holder must exhibit the policy and any receipt for premiums or any other document relating to the policy, to the Council at, no cost to the Council upon demand.
72. The licence holder must display the licence, and a valid certificate of third-party liability insurance, in the premises so that it can be read by any patron or person entering the premises.
73. The licence must not be altered, erased or defaced and must be kept clean and legible. Should the licence be lost or become defaced or illegible the licence holder must obtain a replacement from the Council on payment of the appropriate fee. The licence holder must produce this licence within five days when required to do so by a Police Constable or authorised officer of the Council or authorised officer of the Chief Fire Officer.
74. The licence holder shall return the licence to the Council within seven days of the following whereupon it shall cease to have effect: -
- a. ceasing to use the premises as a place of public entertainment permanently
 - b. on being notified of a decision by the Council to vary the terms of or suspend the licence or the decision of a court to revoke it.
75. The licence holder or the licence holders' servants or agents shall ensure that no fly posting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place in respect of the premises.

[Any condition in current licence in respect of fly posting and/or financial bonds shall continue in force].

76. The licence holder must notify the Council as soon as is reasonably practicable of any material changes of circumstances affecting the licence holder, the premises, or the licensed use, including any particulars referred to on the application for a grant or latest application for a renewal of a licence.

77. Any request for any authorisation required in terms of this licence shall be made to the Principal Solicitor – Regulatory Services.

Equality Impact Assessment:

Sex Entertainment Venues

Purpose of the Equality Impact Assessment:

The Equality Act 2010 introduced a Public Sector Equality Duty (PSED) requiring public bodies to give due regard to the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity
- Foster good relations

Consideration must be given to the protected characteristics covered by the Equality Act. Assessments should 'consider relevant evidence relating to persons with relevant protected characteristics in relation to such assessments of impact'.

The purpose of an Equality Impact Assessment (EQIA) is to ensure that policies, functions, plans or decisions (hereafter referred to as 'policy' do not create unnecessary barriers for people protected under the Act, and that negative impacts are eliminated or minimised and opportunities for positive impact are maximised.

Screening is a short exercise to determine if a policy is relevant to equality and whether a full equality impact assessment (EQIA) should be carried out.

Title/description of the policy	A policy setting out the new licensing regime for sex entertainment venues.
Name of the person(s) carrying out the assessment?	Rhoda Banfro Solicitor
Service and Department	Performance and Governance
Date of assessment	22 Dec. 21
What are the aims and objectives of the policy/function/strategy?	
<p>The Air Weapons and Licensing (Scotland) Act 2015 introduced new provisions relating to the licensing of sex entertainment venues (SEVs) on 26 April 2019. This new licensing regime allows local authorities to decide whether SEVs should be regulated giving cognisance to the implications, opportunities and risks and decide whether to limit the number of SEVs at any given time.</p> <p>This new regime was introduced in response to concerns about adult entertainment activity. Concerns were also raised about the link between SEVs and unhealthy attitudes towards women. These concerns were echoed in the following research paper:</p> <p>Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published in 2014 and updated in 2016 and again in 2018. It sets out a definition</p>	

of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking'.

In addition to the aforementioned research paper, the “Trafficking and Exploitation Strategy” was published on 30 May 2017, in accordance with section 35 of the Human Trafficking and Exploitation (Scotland) Act 2015. It sets out the Scottish Government's strategy to work with partners to make Scotland a more hostile place for human trafficking. The aims of the strategy are to identify victims and support them to safety and recovery; identify perpetrators and disrupt their activity; and address the conditions that foster trafficking and exploitation.

The licensing regime has been developed in order to balance the freedom of individuals to engage in legal employment and activities with the right of local authorities to exercise appropriate control and regulation of SEVs that operate within their areas.

Currently, there are no measures in place to control the activities that take place within SEVs.

This policy seeks to:

1. Improve standards in the industry by promoting good management practices through the introduction of SEV Licensing Conditions.
2. Ensure the safety of performers and customers.
3. Regulate the impact of the number of SEVs within one particular location.
4. Improve accountability among SEV operators; and
5. Minimise the impact on artistic freedom

Who may be affected by the policy	One SEV operator known as “ <i>Private Eyes</i> ” located on Academy Street, Inverness will be affected by the introduction of this policy.
How have stakeholders been involved in the development of the policy?	A six-week consultation between 18 Aug to 21 September 21 was undertaken. Section 3 of the consultation focused on the creation of an SEV policy and what the policy should contain. A further public consultation is to be undertaken in respect of the draft SEV with members of the general public as well as women’s groups and organisations, local business, religious groups and organisations, Community Councils, NHS, Police Scotland (including their Human Trafficking Champion) etc.

Screening: This can be copied over from screening sheets

Public Sector Equality Duty

<i>Which parts of the public sector duty is the policy relevant to?</i>		
1. Eliminate unlawful discrimination	✓	The Policy seeks to address issues of gender inequality by preventing violence against women and girls and maximising the safety of women, children and young people.
2. Advance equality	✓	Opportunities to minimise barriers or disadvantage, including steps to promote equality and meet different people's needs.
3. Promote good relations		

Which of the protected characteristics is the policy relevant to? Tick and briefly describe any likely equalities impact (positive/negative/neutral).

Characteristic	Positive	Negative	Neutral	comments
Gender	✓			the licensing of sexual entertainment venues (and the conditions imposed on the granting of licences) would reduce the risk of sexual exploitation and trafficking of all persons and particularly women. The introduction of a licensing regime would allow for better working conditions for both men and women and workers who are transgender who work within the industry as well as provide a mechanism for SEV workers and members of the public to report any problems that occur with the running of the premise.
Age	✓			The legislation prohibits persons under the age of 18 being admitted to or employed on licensed premises. It is also likely that any premise licensed as a sexual establishment venue will also be licensed under the

				<p>Licensing (Scotland) Act 2005. This primary legislation provides for various offences and requirements associated with the protection of children from harm and the sale and consumption of alcohol by children.</p> <p>The policy holds that sex establishments may be inappropriate near to particular sensitive uses, including schools, family leisure facilities, residential dwellings, youth facilities and cultural facilities. For this reason, the policy is deemed to mitigate the impact upon younger people and children.</p> <p>The policy requires the Council to take into account on a case-by-case basis all relevant considerations including the character of the locality; residential, leisure and educational establishments; other uses in the locality including family friendly facilities; the risk of public nuisance; whether the locality is subject of stress caused by a cumulative impact of premises.</p>
Disability	✓			<p>Individuals were not asked to provide details to the Committee about whether they had any disability when responding to the initial consultation.</p> <p>However, the policy has a positive impact on disabled people as all parts of any premises open to the public shall be accessible to disabled</p>

				people save for WC facilities where there are separate WC facilities specially designed for use by disabled people.
Religion or Belief			✓	The policy holds that sex entertainment venues may be inappropriate near to particular sensitive uses, including places of worship. For this reason, the policy is deemed to mitigate the impact upon faith groups.
Race			✓	The ethnicity of individuals was not asked for in the consultation nor provided in the response.
Sexual Orientation			✓	No issues identified
Gender reassignment			✓	No issues identified
Pregnancy/maternity			✓	No issues identified
Marriage and Civil Partnership*			✓	No issues identified

Sources of information:

What existing sources of information have you gathered to help identify how people covered by the protected characteristics may be affected by this policy or service?

E.g. Consultations, national or local data and/or research, complaints, or customer feedback. Are there gaps in available data?

Consultation

Consideration of a introducing a draft policy in respect of introducing a new licensing regime was considered in Highland Council's initial public consultation which took place between 18 August to 21 September 21. The consultation allowed the Council to gather information and engage with stakeholders, representative groups and service users. A total of 442 responses were received. 424 were received from individuals, 20 responses were received from organisation and other groups.

The draft policy will be released for a full statutory consultation of 8 weeks, and again the views of previous commenters, regulators, persons involved in the trade, and members of the public will be sought. The responses to the public consultation will help inform the final policy.

Research

Profitable exploits: Lap dancing in the UK (for Glasgow City Council) 2004

This study was commissioned by the Glasgow City Council to analyse the impact of lapdancing on those involved and the wider community to inform the council's position on lapdancing within the city. A number of methods were used, including a literature review; internet search; observational research in four clubs; and interviews with 20 dancers, 15 customers and a number of interviews with club owners, police officers, women's groups and licensing officers. The reports key conclusions and recommendations include:

- It can be concluded, from the body of evidence that some lap dance club owners and managers create conditions in which prostitution is likely to occur.
- There is evidence that activities within lap dancing clubs are in direct contradiction with equality between men and women and normalises men's sexual objectification of women.
- Lap dancing is becoming increasingly normalised and activities within the clubs can be seen as detrimental to gender equality.
- Working conditions and terms of employment of lap dancers are inadequate.
- There is strong evidence that dancers can suffer humiliation and sexual harassment on a regular basis, from customers and staff/management.
- Many dancers begin working in lap dance clubs through lack of real choice.
- The requirement for dancers to 'glamour model' to advertise the club, and the evidence that some customers take covert photographs of the dancers whilst naked, links lap dancing clubs to pornography

Home Office

According to the Home Office, daily sexualised messages create conducive contexts for violence, reinforce gender inequalities and undermine information campaigns about healthy sexual relationships (Home Office VAWG Consultation, 2009). There is a clear link between the consumption of sexualised images and the acceptance of aggressive attitudes and behaviours as the norm (Home Office, 2010)

A considerable proportion of young women's aspirations have been reduced to being glamour models and lap dancers (EVAW 2008); Women in Journalism (2007); Girls' Schools Association (2010).

Equally Safe: Scotland's Strategy for Preventing and Eradicating Violence against women and girls

A delivery plan for Scotland's strategy to prevent and eradicate violence against women and girls.

Equally Safe's priorities are:

- achieving greater gender equality
- intervening early and effectively to prevent violence and maximising the safety and wellbeing of women, children, and young people
- tackling perpetrators

Trafficking and Exploitation Strategy

This strategy is required under section 35 of the Human Trafficking and Exploitation (Scotland) Act 2015 and sets out the Scottish Government's strategy to work with partners to make Scotland a more hostile place for human trafficking. The aims of the strategy are to identify victims and support them to safety and recovery; identify perpetrators and disrupt their activity.

There has been some research into the lap dancing industry and the potential links between these venues and sexual violence. In 2015 the School of Sociology and Social Policy at the University of Leeds published an article entitled '**Regulating strip-based entertainment: sexual entertainment venue policy** and the ex/inclusion of dancers' perspectives and needs. This article showcases a research, dissemination and impact study on the striptease industry that explores why key stakeholders (dancers) are excluded and ways that inclusion in policy development is achievable.

Research findings include:

- One in four lap-dancers has a degree. Those dancers with degrees had not chosen dancing in place of a career in their chosen subject after university, but instead were combining it with other forms of employment or education. One third of women interviewed were using dancing to fund new forms of education or training.

- No evidence or anecdotes of forced labour or the trafficking of women.
- No evidence of lap dancing having connections to organised prostitution.

Other research into Sex Entertainment Venues has concluded that:

- Lap dancing clubs normalises the sexual objectification of women.
- Lap dancing clubs have a negative impact on women’s safety in the local vicinity
- SEVs may attract and generate prostitution.
- Performers can suffer humiliation and sexual harassment on a regular basis, from customers and staff/management.
- Many performers begin working in lap dance clubs through lack of real choice.
- Working conditions and terms of employment for performers in SEVs are inadequate.

The links between the expansion of lap dancing clubs and an increase in the levels of sexual violence have been raised by organisations who work with victims and perpetrators of gender-based violence. Amongst other research there is evidence that the sexual objectification of women is linked to sexual violence perpetration in combination with alcohol use. There is also evidence in young people of a direct relationship between the sexual objectification of girls and aggression towards them.

Assessments:

<p><i>Is there any evidence of, or potential for, negative impact? Does the policy contribute positively to the promotion of equality on any particular group?</i></p>	<p>Gender- Some research has found that women who work in SEVs can be subject to high levels of abusive behaviour from customers e.g., verbal harassment and unwanted touching from customers, and assaults experienced by performers may not always be reported to outside agencies by SEV staff. There is no standardised Code of Conduct that performers or audience members should comply with to protect the rights and safety of performers and aspects of the policy which aim to protect performers may not be complied with.</p>
	<p>Mitigation- Licensing conditions for SEV premises aim to protect employees and the policy has strict rules prohibiting any physical contact between workers and customers in SEVs.</p>
	<p>The policy proposes a number of standard conditions attached to licences which include requirements for CCTV, code of conduct and rules for performers and customers, and prevention of physical contact between performers and customers. The code of</p>

conduct and rules must be displayed in the venue, and all staff and customers made aware of them.

Unannounced enforcement visits also take place which include randomised checks of the CCTV footage to ensure the rules are being followed. Penalties are available under the regime where breaches of the licence, or other concerns, are proven to have taken place. Licences are required to be renewed on an annual basis, and concerns may also be raised at this time, with the licence able to be revoked, or additional conditions imposed, if deemed appropriate.

Sexual objectification of women- activity in SEVs may be seen to reinforce gender inequality and contribute to a culture that perpetuates negative, sexist interactions between men and women - because the majority of activity in SEVs involves men paying women to dance for their sexual gratification.

Mitigation- The licensing committee must assess the extent to which the proposed policy approach addresses the public sector equality duty to eliminate harassment of women and advance equality of opportunity between men and women. We will seek the views of a wide range of stakeholders and citizens to understand this issue in more depth as part of our public consultation on the draft policy.

Domestic Violence- there is a risk that by continuing to license SEVs the council is perpetuating a culture which promotes the sexual objectification of predominantly women, which has links to increased domestic violence.

Mitigation-we will seek to work closely with women's groups and organisations involved with domestic violence and we will seek the views of a wide range of stakeholders and citizens to understand this issue in more depth as part of our public consultation on the draft policy.

Sex trafficking-there is a concern that trafficked or exploited women could end up working in SEVs and that clubs themselves have responsibility for checking documents.

	<p>Mitigation- the draft policy will impose conditions on SEV operators to carry out right to work checks on their employees. In addition, no relevant entertainment shall be provided by any performer unless sufficient checks have been made of documents evidencing the performer’s age, identity and right to work in the United Kingdom. These checks must also be available to Highland council on request, and unannounced spot checks are undertaken to ensure the documents are complete and the SEV operator is compliant with the requirement.</p> <p>Age – please see information provided in table above.</p> <p>Disability- please see information provided in table above.</p> <p>Gender Reassignment-There is limited information about transgender people's experiences of domestic abuse and other forms of gender-based violence. However, transgender people are particularly at risk of violence and harassment, in both public spaces and the home.</p> <p>Pregnancy/Maternity- no issues identified</p> <p>Race- no issues identified,</p> <p>Religion and Belief- please see information provided in table above.</p> <p>Sexual Orientation- no issues identified at this stage.</p>
<p>Justification – if negative impact is identified, can this be justified?</p>	<p>By securing a detailed framework for considering applications, including using information gathering powers, the draft policy seeks to ensure that Highland Council is well placed to identify any adverse impact in respect of all protected groups when it is engaged in considering applications.</p> <p>The draft policy states for example that a license may be refused on various discretionary grounds. These are defined in the legislation, and overall, there is a presumption that a licence will be granted unless one of the statutory grounds applies.</p> <p>The draft policy has been designed in part with the protection of performers in mind and conditions, although specific to each venue, aim to ensure the protection of specified employees as well as reducing</p>

	the impact on the wider public and the wider environment.
Mitigation - can the potential for negative impact on particular groups be removed or minimised?	Please see above for specific mitigations.
Are there actions identified to advance or promote equality? Please detail.	Further findings from the consultation of the draft policy need to be added to the EIA.

Please provide details of arrangements to monitor and review the policy and any mitigating actions or actions to promote equality.

Please state where the EQIA will be published: The assessment will be published on the Council website.

Equality Impact Assessment Sign off: For completion by Acting Principal Solicitor

1. Please check if you are satisfied that the following elements of the EQIA have been considered:

- Gathering information
- Consultation and involvement
- Assessing impact for all protected characteristics
- Mitigating actions identified (if required)
- Opportunity to promote equality
- Arrangements to monitor and review
- Publication arrangements

2. a) Are you prepared to sign off the EQIA?

b) If "NO" provide details of why and next steps

Name: Iain Meredith

Position: Acting Principal Solicitor

Date: 6/01/2022