

Sexual Entertainment Venue Licensing Policy3

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1. Definitions

1982 Act means the Civic Government (Scotland) Act 1982;

Building Standards and Public Safety means the Council's building standards and public safety team;

CCTV means closed circuit television;

Civic Licensing Standards Officer has the definition in section 45G of the 1982 Act;

Councillors Code of Conduct means the code of conduct published by the Standard Commission for Scotland;

Aberdeen City Council", "the Council" or "Local Authority" means Aberdeen City Council, a Local Authority in terms of the Local Government (Scotland) Act 1994 having its principal place of business at Marischal College, Broad Street, Aberdeen, AB10 1AB;

Information Commissioner's Office means the Information Commissioner's Office having its head office at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF;

Licensing Committee or "Committee" means Aberdeen City Council's licensing committee;

Regulations means the UK General Data Protection Regulation (EU 2016/679) and any such amendments;

Scottish Fire and Rescue Services is a body corporate established under the Police and Fire Reform (Scotland) Act 2012 and having its registered headquarters at Westburn Drive, Cambuslang, G72 7NA;

Scottish Government's Equally Safe Strategy means Scotland's strategy for preventing and eradicating violence against women and girls;

Sex Shop has the meaning given under Schedule 2 of the 1982 Act;

SEVs means sexual entertainment venue

S.I.A means security industry authority;

Sexual Entertainment Venue Policy" or "Policy" means the Licensing Committee's sexual entertainment policy as required under Schedule 2 of the 1982 Act;

Standards Commission for Scotland means the St Commission for Scotland having its registered address at Scottish Parliament, Edinburgh, EH99 1SP;

Part means a part of this policy;

Performer means a person who provides sexual entertainment within a venue; and

Police Scotland means the police service of Scotland having its headquarters at Tulliallan Castle, Kincardine.

2. Introduction

Under section 45C of the 1982 Act the Local Authority is required to produce a Sexual Entertainment Venue Policy where it has passed a resolution to licence SEVs.

The Committee's Policy identifies the Committee's approach to the regulation of SEVs and the processes to be followed relating to applications for licences of this kind. This Policy provides guidance for potential applicants, existing licence holders and members of the public on the licensing of SEVs.

It must be made clear from the outset that the Committee does not take a moral stance on SEVs in adopting this Policy. It is the Committee's role to regulate such venues in accordance with the law.

It should be noted that the definition of a SEV is defined in law and not by the Committee. The 1982 Act defines a SEV at section 45A (2) 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.

This definition is extremely complex and at sections 45A (3) and (4) of the 1982 Act it provides that for the purposes of the definition of a SEV, the following further definitions apply:

'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.

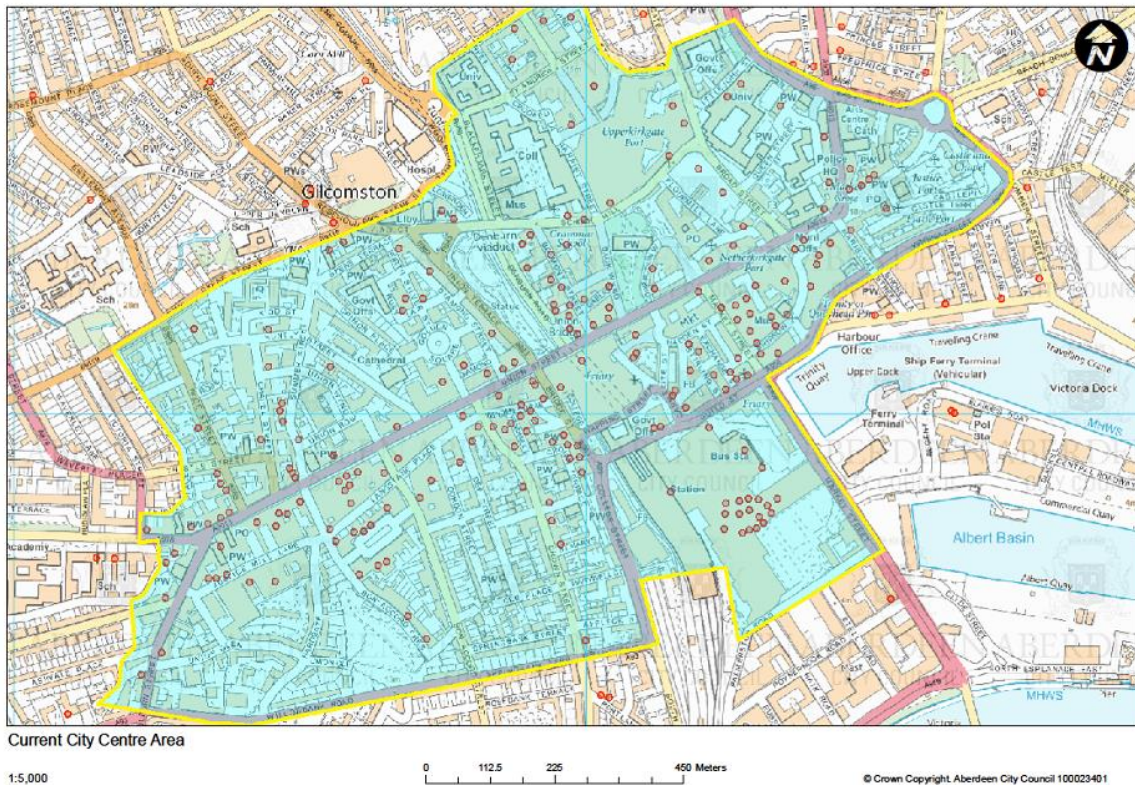
3. LOCALITY

The Committee considers that the character of the relevant locality, the use to which premises in the vicinity are put, and the layout, character or condition of the venue in respect of which the application is made, are relevant considerations when determining the grant of a SEV licence.

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

- a. In relation to the premises, the locality where they are situated;
- b. In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a SEV.

The Committee, having regard to the consultation responses received to the initial consultation and evidence sessions, particularly in relation to the appropriate number of SEVs within the Local Authority area and relevant locality, considers that there are two relevant localities within Aberdeen City. The first relevant locality is the City Centre as illustrated in the map below, and the second locality is Outwith City Centre, comprising all areas out with the city centre boundary as detailed below but within the Local Authority boundary.



Appropriate Number of SEVs in a Relevant Locality

As set out within paragraph 9(5)(c) of Schedule 2 of the 1982 Act, the Council may refuse an application for a SEV if it is satisfied that the number of SEVs in the relevant locality at the time the particular application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

The Council may choose to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Council's control. That being the case, each application will be considered on its own merits at the time the application is submitted to the Council.

The Committee considers the appropriate upper limit for the City Centre Locality to be six. (For the Committee to decide)

The Committee considers the appropriate upper limit for the Outwith City Centre Locality to be zero.

Character & Vicinity of Relevant Locality

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
- g. Whether there have been incidents of human trafficking or exploitation in that area

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

Suitability of Premises

Under the 1982 Act the Committee 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.

It is expected that when an application for a SEV licence is made, that the applicant will be able to demonstrate that the immediate vicinity, layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

4. PREVENTING NUISANCE, CRIME & DISORDER

The Licensing Committee is committed to improving the quality of life for the people of the City by adopting and enforcing policies designed to increase community safety and reduce threats of nuisance, crime and disorder.

In terms of this licensing objective the Committee considers there to be a number of factors, including but not limited to:

- Illegal substances
- Violent behaviour
- Anti- social behaviour
- Vulnerability
- Noise nuisance
- Human trafficking

In order to combat the risks, the Committee will seek to operate a partnership approach with licence holders, applicants and partner agencies:

What the Committee will do:

- Apply appropriate conditions to licences to mitigate potential nuisance, crime or disorder.
- Ensure all policies are kept up to date and fit for purpose
- Work closely with all stakeholders to ensure all relevant information is kept up to date and accessible
- Endorse initiatives designed to prevent nuisance, crime and disorder
- Consider the review of licences where a breach of the licensing objective cannot be rectified by other means

What the Committee will expect of Licence Holders:

- Effective and responsible management of premises including evidence of written procedures for preventing and managing incidents
- Up to date training and supervision of staff
- Provision of effective CCTV in and around premises
- Provision of external lighting and security measures
- Co-operation with police and Civic Licensing Officers
- Accurate and up to date record keeping
- Adequate control of entry and exit of the premises
- Supervision of anyone outside, such as smokers or those queuing to enter

What the Committee will expect of Partner Agencies

- Provision of all relevant up to date information as the Committee requires
- Involvement in mediation/intervention procedures to rectify any problem areas
- Involvement in Licence Review as a last resort

5. SECURING PUBLIC SAFETY

The Licensing Committee is committed to ensuring the safety of persons within licensed premises as well as those in the surrounding area.

When considering this Licensing Objective, a number of factors should be considered including, but not limited to:

- Layout and maintenance of premises
- Disabled access and facilities
- Vulnerability of patrons and staff

Again, the Committee will look to operate a partnership approach with all stakeholders in order to ensure that public safety is not compromised by the operation of licensed premises.

What the Committee will do:

- Promote education and awareness of potential risks
- Apply additional licence conditions where appropriate for the purposes of this licensing objective
- Facilitate effective communication between all relevant parties
- Disseminate relevant information from partner agencies as widely as possible
- Review licences as a last resort

What the Committee will expect of Licence Holders/Applicants

- Appropriate layout of premises
- High standards of maintenance of premises
- Functioning CCTV systems of the required specification
- Accurate disability access statements
- Clear and accurate signage in and around premises

- Designation of a “safe space” within the premises in which vulnerable persons can be provided with assistance
- Regular maintenance and testing of security and operating systems
- Clear policies on conduct of staff, performers and customers

What the Committee will expect of partner Agencies

- Co-operative approach
- Effective communication and the sharing of up to date relevant information
- Involvement in a licence review as a last resort

6. PROTECTING CHILDREN AND YOUNG PEOPLE FROM HARM

The Committee considers SEVs could potentially expose children and young people to harm as a result of them coming into contact with activities intended for adults only if not properly regulated.

What the Committee will do:

- Promote education and awareness of potential risks
- Apply additional licence conditions where appropriate for the purposes of this licensing objective
- Facilitate effective communication between all relevant parties
- Disseminate relevant information from partner agencies as widely as possible
- Review licences as a last resort

What the Committee will expect of Licence Holders/Applicants

- Robust policies on age verification
- Discrete exterior to premises
- Accurate record keeping for staff and performers

What the Committee will expect of partner Agencies

- Co-operative approach
- Effective communication and the sharing of up to date relevant information
- Involvement in a licence review as a last resort

7. Reducing Violence against women

Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls was first published by the Scottish Government in 2014 and updated in 2016 and 2018. It sets out a definition of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking'. Whilst recognising the conflict between this definition and the licensing of SEV, the Scottish Government seeks to ensure that such activities take place in safe and regulated environments. As detailed under the objective Securing Public Safety, the Committee is committed to taking appropriate and necessary action where the safety of customers visiting and staff and performers working in licensed SEVs has been compromised. However, it remains primarily the responsibility of the SEV licence holder to provide a safe and secure environment for members of staff, performers and the public.

What the Committee will do:

- Scrutinise applications to ensure an applicant is fit and proper to hold the licence
- Promote education and awareness of potential risks
- Apply additional licence conditions where appropriate for the purposes of this licensing objective
- Facilitate effective communication between all relevant parties
- Disseminate relevant information from partner agencies as widely as possible
- Review licences as a last resort

What the Committee will expect of Licence Holders/Applicants

- Robust policies to mitigate against any violence, physical or emotional, against women occurring in the venue
- Clear signage as to required conduct of customers
- Adequate procedures to resolve any incidents which may result in violence against women
- Suitable working conditions for any women employed or performing within the premises

What the Board will expect of partner Agencies

- Co-operative approach

- Effective communication and the sharing of up to date relevant information
- Involvement in a licence review as a last resort

8. WAIVERS AND EXEMPTIONS

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
- This Licensing Policy Statement
- Scottish Government Guidance
- Any other relevant considerations.

The Committee will consider each Application on its own merits but is of the opinion that waivers will only be granted in exceptional circumstances.

OCCASIONAL USE (“THE 4-IN-A-YEAR EXEMPTION”)

- 8.1. 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).
- 8.2. Each occasion can last no more than 24 hours. If 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).
- 8.3. The rule applies to a rolling year, not the calendar year running from 1st January to 31st December.

9. Licensing Conditions

Any SEV Licence will have the following Standard Conditions applied, made by the Council under Section 45F of the Civic Government (Scotland) Act 1982. Any SEV Licence may also be subject to additional conditions as determined by the Council, known as Special Conditions.

In the event of a conflict between the Standard Conditions and any Special Conditions, the Special Conditions shall prevail. Both the Council’s Standard

Conditions and any Special Conditions are subject to any Mandatory Conditions prescribed by Scottish Ministers under Section 45E of the 1982 Act.

Standard Conditions

External Appearance of the Venue and Public Displays of Information

The Licence holder shall ensure:

1. That there is to be no advertisement or promotional material used by the venue on the exterior of the venue that is unsuitable to be viewed by children, for example, by way of sexually provocative imagery. The licence holder shall ensure that any exterior signage is discreet and must not display any imagery that suggests or indicates relevant sexual entertainment takes place within the venue. Any external displays or advertising may only be displayed with the prior written approval of the Council.
2. The interior of the venue must not be visible to persons outside.
3. That all charges for products and services shall be displayed in prominent areas within the venue.
4. That an appropriate code of conduct for customers is displayed in prominent areas within the venue, and at each customer table and in the bar area.
5. Performers at the venue should always be covered by a jacket when they are outside the venue at any time it is open and when they are intending to perform within the venue that night/morning.
6. That the use of any cruising cars or any other vehicles by the venue to solicit customers and/or transport to or from the venue is prohibited.
7. The licence must be prominently displayed at all times so as to be easily read by all persons using the venue.

Control of Entry to the Venue

8. 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.
9. No person under the age of 18 years shall work at the venue as a performer.
10. 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.

11. 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 Council.
12. 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:
The time at which the venue next closes; or
[terminal hour] or such other time as the Committee may specify.
13. That any person who appears to be intoxicated or under the influence of illegal drugs shall not be permitted entrance to the venue.
14. That a policy of random searches of persons entering the venue is operated at all times when the venue is open to customers.
15. Any person found to be in possession of illegal drugs upon entry shall be prevented entry to the venue.
16. Reasonable steps must be taken to ensure that any person found using illegal drugs in the venue shall be appropriately removed from the venue.

Conduct of Performers and Rules relating to Performances of Sexual Entertainment

17. 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.
18. The licence holder must also provide an information pack to all performers and staff which should include at least the following information:
 - i. A copy of the SEV licence;
 - ii. Details of how to report a crime to Police Scotland;
 - iii. Details of unions, trade organisations or other bodies that represent the interests of performers;
 - iv. A copy of the code of conduct referred to in condition 17 above;
 - v. A copy of the code of conduct for customers referred to in condition 4 above; and
 - vi. Price lists for drinks and separately sexual entertainment.
19. There must be no topless nudity by performers in public areas of the venue with the exception of topless performances within any performance area within the venue. (specifically *where lap dancing is the sexual entertainment being provided within a venue*)

20. Performers must replace their tops at the end of each private performance and at the end of any stage performance. (specifically *where lap dancing is the sexual entertainment being provided within a venue*)
21. Performances of sexual entertainment may only take place in designated areas of the venue as agreed in writing by the Council.
22. There shall be no photography permitted by customers, staff or performers in the venue.
23. Customers must remain seated for the duration of a performance with the exception of requiring the toilet or using the bar within the venue.
24. Performers shall not arrange to meet, or have further contact with, customers outside of the venue when working.

The Protection of Performers and the Prevention of Crime in the Venue

25. Performers must be provided with secure and private changing facilities so that no customers in the venue can access these facilities.
26. 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.
27. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
28. The licence holder shall implement a written policy to ensure the safety of performers when leaving the venue following any period of work.
29. Private booths must not be fully enclosed. (specifically, *where lap dancing is the sexual entertainment being provided within a venue*)
30. 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.
31. There shall be no alterations to the layout plan of the venue without the prior written approval of the Council.

Record Keeping and Management

32. All performers and staff shall be required to provide to the manager of the venue, valid identification prior to first performing or working at the venue. Valid forms of identification are recognised photographic identification such as passport or driving licence.
33. 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 Council on request.

34. Accurate payment and remuneration records must be maintained and made available upon request to Police Scotland or an authorised officer of the Council.
35. A fully operational CCTV system must be used within the venue which complies with the Data Protection Act 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.
36. CCTV footage must be made available to Police Scotland and authorised officers of the Council on request.
37. Throughout the SEV licensed hours a member of staff fully trained on the operation of CCTV must be present in the venue.