



## Sexual Entertainment Venue Guidance Note

### Application Process

1. 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.
2. The Application Fee must be paid on application (to be decided)
  - Grant-
  - Renewal
  - Variation

Payments should be made on the Aberdeen City Council website (link to be added)

3. An application for the grant, variation, renewal or transfer of a licence must be made in writing to the Council together with the appropriate fee, layout plan as well as complying with the following requirements:
  - (a) The Council will advertise the application on their website within 5 days of receipt of the application. Aberdeen City Council will circulate the application internally to Environmental Health, Planning and Building Standards.
4. The applicant must also, not later than 7 days after the date of the application—
  - (a) send a copy of the application to each person or body listed in the local authority's determination, these being:
    - Police Scotland** [northeastciviclicensing@scotland.pnn.police.uk](mailto:northeastciviclicensing@scotland.pnn.police.uk)
    - Any relevant Local Community Council**
    - Grampian Women's Aid**  
Contact [info@grampian-womens-aid.com](mailto:info@grampian-womens-aid.com) (pending consent)

- (b) submit to the local authority a certificate stating that the applicant has complied with this sub-paragraph.
- (c) The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.
- (d) Applicants will be required to provide pictures of the exterior design of the premises for consideration, in order to ensure that it complies with the standard conditions of licence.
- (e) Application packs must include a copy of the premises 'house rules' for performers and proposed code of conduct of patrons.
- (f) Applicants should note that the application fee is non-refundable in the event of the licence being refused or the application being withdrawn prior to determination.

## **Making an Objection to a Licence Application or Renewal**

- (g) It is possible to lodge an objection against the grant of an application for a SEV licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Team ([licensing@aberdeencity.gov.uk](mailto:licensing@aberdeencity.gov.uk)) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Licensing Sub-Committee to consider if it is satisfied that there is sufficient reason why it was not made in the time required.

### **Postal Address:**

Licensing Team  
Bus Hub 6  
Level 1 South  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

- (h) To be considered as competent, objections should include the following information:

- a. The name and address of the person or organisation making the objection
  - b. The premises to which the objection relates
  - c. The objection must be signed by the objector, or on their behalf
- (i) Objections to an SEV application will be considered by the Licensing Committee when determining the application. A copy of the objection will be sent to the applicant, however certain contact details such as telephone numbers, email addresses and signatures will be removed.
- (j) It is important that a comment should be specific. It is not enough to say, "I object" or "I complain", without giving an explanation for that view. Objections must specify the basis of the objection. These are set out in the Civic Government (Scotland) 1982 Act, Schedule 2, Paragraphs 8(2), 9(4) and 9(5).
- (k) A Petition is unlikely to be accepted as a valid Objection or Representation. If 100 people sign a Petition, they are unlikely to all have the same complaints. The Committee has to determine the weight to be placed on individual comments. In the common example of an objection or complaint based on nuisance or Anti-social behaviour, the Council is likely to be more influenced by comments from immediate neighbours of the Premises than from residents further away. If a person signs a Petition without specifying his address his comment is likely to be disregarded.
- (l) The Licence Applicant is entitled to fair notice of complaints. If the objection is based on alleged incidents, then for each alleged incident, the objector should answer questions such as:
- what happened?
  - what was the day, date and time?
  - were the staff of the Premises advised? (if so, who was told and when?)
  - was there any official complaint (e.g. to Police, Council)?
  - if so, what action was taken?
  - if there was no complaint, why not?
- (m) It is not possible to raise issues with the Licensing Committee which relate to legislation other than the Civic Government (Scotland) Act 1982. For example, issues about parking and Planning Permission are dealt with by the Roads (Scotland) Act 1984 or the Town and Country Planning (Scotland) Act 1997, and the Licensing Committee cannot deal with these. However, the Committee may accept that the issues raised are also relevant to the statutory Grounds for Refusal (for example, the ground in Paragraph 9(5)(d), where the Grant or Renewal of the Licence is said to be inappropriate, having regard to specified factors).

## **Determining an Application**

1. Every application for an SEV licence will be scrutinised and determined at a meeting of the Licensing Committee. As stated above, if any objections are received in relation to an application, they will be considered at the Committee meeting.
2. Objectors will be given the opportunity to speak to their written objection at a meeting of the Committee. Similarly, applicants will be given the opportunity to speak to their application and address any questions that the Committee may have.
3. Under the terms of the 1982 Act, there are mandatory and discretionary grounds for refusal of an SEV licence. The specific mandatory grounds for refusal are set out in section 9(3) of Schedule 2 of the 1982 Act. (See Below)
4. Section 9(5) of Schedule 2 of the 1982 Act sets out the terms of the discretionary grounds on which an SEV application can be refused. They are as follows:
  - a. That the applicant is unsuitable to hold a licence by reasons 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 otherwise refused the grant/renewal of a licence if they made the application themselves.
  - c. That the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the Council considers appropriate;
  - 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

## **Variation of a SEV Licence**

5. The licence holder of an SEV licence may apply to vary any term, condition or restriction placed upon the licence. The statutory requirements for advertising, giving notice and timeline for the consideration of the application are the same as those for initial grants or renewals as set out at section 4 of this policy.

6. Variation applications will be considered by the Licensing Committee where the applicant will be given an opportunity to speak to their application and answer any questions that Committee members may have. When determining an application, the Committee can either:
  - a. Grant the variation as requested;
  - b. Make such variations as it thinks fit;
  - c. Refuse the application.

In the event of the Committee agreeing a condition or restriction other than the one sought in the original variation application, the decision will not take effect until the time for bringing an appeal has expired, or if an appeal is lodged, the abandonment of the appeal or the conclusion of the appeal, if found in favour of the Council.

### **Renewal Application**

7. Provided an application for renewal has been accepted and deemed competent by the Licensing Service prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal application has been determined.
8. The statutory requirements for advertising and giving notice are the same as those applying to initial grants. Furthermore, renewal applications will be considered by the Licensing Committee.

### **Right to Appeal**

9. An appeal against the decision of the 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.

### **Refusal of an application**

There are two types of Grounds for Refusal:

(a)**Discretionary: Grounds of Refusal:** these are possible reasons for the Council to grant or refuse a Licence, so the Council will hold a Hearing attended by the Licence Applicant, the Police, and anyone who has stated objections or representations (such as local residents), and after hearing from everyone the Council will decide whether or not to grant the Licence (see "Discretionary Grounds for Refusal" below);

(b)**Mandatory: Grounds of Refusal:** if these exist, the Council automatically refuses the Licence Application -it has no choice (see "Mandatory Grounds of Refusal" below).

In summary, the Local Authority can refuse an Application for the Grant or Renewal of a Licence if, in their opinion, one or more of the grounds apply. These 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 Sexual Entertainment Venues in the Relevant Locality at the time the Application is made is equal to or exceeds the number which the Local Authority consider is appropriate for that Locality;

(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

In determining whether or not the Applicant or anyone associated with the Applicant is a suitable person to hold the Licence, the considerations for the Council will include:

- a) The relevant knowledge and experience possessed by that person;
- b) Any evidence of the operation of any existing or previous licence(s), whether or not relating to SEVs, including any licence held in any part of the United Kingdom;
- c) Any Objections or Representations

#### **Mandatory Grounds for Refusal:**

(a) the Applicant is under the age of 18;

(b) the Applicant is disqualified from holding a SEV Licence;

(c) the Applicant has been convicted of an offence relating to the enforcement of SEV Licensing legislation;

(d) the Applicant has not resided in the European Union for at least 6 months (or, if a Company, is not registered in the European Union);

(e) the Applicant has been refused a SEV Licence in the past 12 months.

#### **Review of a Licence**

Breaches of the policy may result in enforcement action against the licence holder by the Licensing Committee and may lead to review of any licence held.

Any Review may lead to the Revocation of a Licence. Under Paragraph 13 of Schedule 2 of the Civic Government (Scotland) Act 1982, the Committee may at any time revoke a Licence under this Schedule—

- (a) if any of the "Mandatory Grounds of Refusal" (see *above under "Grounds of Refusal"*) apply;
- (b) if, in their opinion, any of the grounds relating to the suitability of the Licence Holder or anyone involved with the Licence apply;
- (c) if a condition of the Licence has been contravened.

**Making a Complaint about a Sexual Entertainment Venue (to be placed separately on website, in an easy to reach location.)**

If you need to make a complaint about a Sexual Entertainment Venue, please email

[Enforcement@aberdeencity.gov.uk](mailto:Enforcement@aberdeencity.gov.uk) or

[Licensing@aberdeencity.gov.uk](mailto:Licensing@aberdeencity.gov.uk)

Alternatively, you can write to:

Licensing  
Aberdeen City Council  
Level 1 South  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB