

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - SEXUAL ENTERTAINMENT VENUE LICENSING

The Panel considered a report (copies of which had been circulated) by the Head of Corporate Services providing information with regards to legislation changes which would enable the council as a licensing authority to introduce a licensing scheme for sexual entertainment venues (SEVs).

The report advised that the Air Weapons and Licensing (Scotland) Act 2015 provided for changes to be made to the Civic Government (Scotland) Act 1982. The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No.9 and Transitional Provisions) Order 2019 introduced the provisions giving local authorities a discretionary power to licence SEVs.

Prior to the above commencement order there was no legal requirement for SEVs to be licensing in Scotland. However premises not used for the sale of alcohol would have required a public entertainment licence for any adult entertainment taking place within premises.

In considering the new powers the council was obliged to take account of the guidance issued by the Scottish Government. The guidance stated that the new licensing regime would allow local authorities to consider local circumstances in setting the number of venues able to operate within their areas and to exercise appropriate control and regulation of these venues.

Therefore in considering whether to pass a resolution to licence SEVs in West Lothian the council should consider whether it would wish to control SEVs either now or in the future. If there is no resolution in place, then no licence would be required to operation a SEV.

The report went on to advise that where a local authority opted to licence SEVs the provisions at Section 45A of the 1982 Act required a licence for premises operated as a SEV where sexual entertainment was performed live, was for the direct or indirect financial benefit of the organiser and was for the sole or principle purpose of sexual stimulation of members of the audience. However premises where sexual entertainment was provided on no more than three occasions in a twelve month period were not to be treated as SEVs.

The Scottish Government indicated that local authorities were best placed to reflect the views of the communities they serve and to determine whether sexual entertainment establishments should be licensed within their areas, and if so, under what conditions.

The report advised that to introduce a SEV licensing scheme the council must pass a resolution. In order to pass a resolution the council must:-

- Consider the impact of licensing of SEVs in West Lothian having regard in particular to the licensing objectives of preventing public nuisance and crime and disorder, securing public safety, protecting

children and young people from harm and reducing violence a reducing violence against women.

- Consult such persons or bodies as they consider appropriate
- Determine the appropriate number of SEVs for West Lothian
- Prepare a SEV policy statement taking into account the licensing objectives and publish that at the same time as the resolution.

The policy statement could not contain a restriction on the number of SEVs based on moral reasons alone.

The report recommended that the Panel note the new legislative power for the council as Licensing Authority to introduce a licensing scheme for SEVs and that the Council Executive would be asked to consider undertaking a consultation and evidence gathering process to establish views on the following:

1. whether SEVs in West Lothian should be licensed;
2. if licensed, what the appropriate number of SEVs for West Lothian should be; and
3. if licensed, what should be included in a SEV policy statement

#### Decision

1. To note the terms of the report.
2. To agree that the report and its recommendations be forwarded to the next appropriate meeting of the Council Executive for approval.