



West Lothian
Council

COUNCIL EXECUTIVE

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PUBLIC ENTERTAINMENT LICENCES

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To submit to the Council Executive for consideration a revised resolution regarding Public Entertainment Licensing.

B. RECOMMENDATION

That the Council Executive approves the revised resolution, appended to this report.

C. SUMMARY OF IMPLICATIONS

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|---|---|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs• Being honest, open and accountable• Working in partnership |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Section 41 of the Civic Government (Scotland) Act 1982, as amended by Section 176 of the Criminal Justice and Licensing (Scotland) Act 2010 |
| III Implications for Scheme of Delegations to Officer | None |
| IV Impact on performance and performance indicators | None |
| V Relevance to Single Outcome Agreement | None |
| VI Resources - (Financial, Staffing and Property) | From within existing service budgets. |
| VII Consideration at PDSP | Environment PDSP on 21 December 2011 |
| VIII Consultations | <ul style="list-style-type: none">• The council's advisors in relation to public entertainment licensing (Lothian and Borders Police, Lothian and Border Fire and Rescue Service, Development Management, Environmental Health and Trading Standards and Building Standards)• All local Gala Day Committees• Community Councils |

- Public Entertainment Licence Holders
- The Showmen's Guild
- The Health and Safety Executive
- Heads of Service

D. TERMS OF REPORT

D.1 Background

In February 2011 the Scottish Government advised that it intended on bringing the provisions of the Act, which required forms of entertainment which were provided free of charge to require to be licensed, into effect from 1 April 2011. The Scottish Government then corrected its guidance and stated that the changes would come into effect on 1 April 2012.

In view of the change in legislation Legal Services sought to take the opportunity to review the council's public entertainment resolution which lists the type of activities which are required to be licensed by the council.

D.2 Changes in Resolution

The legislation provides that premises where the public entertainment takes place are to be licensed, and premises include land. However the resolution must contain a list of activities which require to be licensed rather than a list of types of premises. It is also a legal requirement that the resolution must specify clearly the categories of activity covered and a general, unspecific resolution is not enough.

In order to change the council's existing resolution, a draft resolution must first be advertised and 28 days allowed for representations to be made. The council must then consider the representations made before passing the final form of resolution (which cannot include additional activities not referred to in the draft resolution).

A consultation document was sent to the council's advisors in relation to public entertainment licensing and relevant stakeholders (local gala day committees, community councils, the Showmen's Guild, all current public entertainment licence holders and Heads of Service) for comment. The responses received were considered by Legal Services and incorporated into a revised resolution, set out in Appendix 1.

D.3 Environment PDSP Consultation

At the meeting of the Environment PDSP on 7 April 2011 the Panel considered a report which set out the detail of the consultation that had been undertaken and the responses that had been received to date.

At the meeting of the Environment PDSP on 21 December 2011 the Panel were advised that there had been no additional responses from consultees and the Panel unanimously agreed to recommend the publication of the revised resolution to the Council Executive.

E. CONCLUSION

Due to changes in the relevant legislation and the age and content of the council's present resolution for public entertainment licences a review of the council's present policy was required.

Officers have consulted with the council's advisors in relation to public entertainment licensing (Lothian and Borders Police, Lothian and Border Fire and Rescue Service, Development Management, Environmental Health and Trading Standards and Building Standards) and relevant stakeholder groups.

The revised resolution will provide the council with an updated policy which provides the appropriate provisions for the licensing of premises as places of public entertainment.

F. BACKGROUND REFERENCES

The Criminal Justice and Licensing (Scotland) Act 2010

Report to the Environment Policy Development and Scrutiny Panel on 7 April 2011 regarding Public Entertainment Licences.

Report to the Environment Policy Development and Scrutiny Panel on 21 December 2011 regarding Public Entertainment Licences.

Appendices/Attachments: Appendix 1: Draft Resolution

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Graeme Struthers

Head of Corporate Services

Date: 10 January 2012

**WEST LOTHIAN COUNCIL
PUBLIC ENTERTAINMENT DRAFT RESOLUTION**

West Lothian Council, the appropriate local authority under the Civic Government (Scotland) Act 1982 (“the Act”), is satisfied that the existing Resolution concerning Section 41 of the Act, which makes provision for the licensing of premises as places of public entertainment, should be amended.

Therefore West Lothian Council, in exercise of the powers conferred upon it by Sections 9 and 41 of the Act, hereby makes the following Resolution:

1. Section 41 of the Act relating to public entertainment licences shall continue to have effect throughout the local government area of West Lothian
2. Subject to the provisions of Section 41 and Schedule 1 of the Act, a Public Entertainment Licence shall be required for the use of premises specified in Clause 4 as places of public entertainment as from [insert date nine months after resolution]
3. With effect from [insert date following the making of resolution], a Public Entertainment Licence shall no longer be required for the use of premises specified in Clause 5.
4. The premises in West Lothian which require to be licensed under this resolution are those offering any of the following types of entertainment or recreation:-
 - Public dance halls including disco dancing establishments
 - Premises with mechanical rides or simulators intended for entertainment or amusement unless the rides are for the exclusive use of children under the age of five whilst supervised by an adult
 - Circuses
 - Exhibition of persons or performing animals
 - Fun fairs, including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, shooting galleries, mechanical riding, driving or boating apparatus, or anything similar to any of the foregoing
 - Indoor or open air concerts or other events involving the erection of temporary raised structures
 - Open air concerts or other events where in excess of 100 persons are present
 - Clay pigeon shooting
 - Paintball
 - Sports or activities involving the transportation or propulsion of persons whether by mechanical or other means including gravity
 - Any exhibition to which the Hypnotism Act 1952 applies
 - Any activity involving inflatable structures
 - Any activity involving shooting
 - Archery
 - Indoor play areas for children
 - Wrestling
 - Cage fighting

