
Sexual Entertainment Venues

Report by Executive Director Finance and Regulatory Services
SCOTTISH BORDERS COUNCIL

25 MARCH 2021

1 PURPOSE AND SUMMARY

- 1.1 This report advises members of the responses received to the Stage 1 consultation on whether the Council should resolve to licence sexual entertainment venues ("SEV's) in the Scottish Borders area.**
- 1.2 At its meeting on 27 August 2020, Council agreed that a Stage 1 consultation on whether the Council should resolve to licence SEV's should be carried out and instructed the Executive Director Finance and Regulatory Services to do so. Following the conclusion of the stage 1 consultation on 14 February 2021, 80 responses have been received and these responses are detailed in Appendix 1.
- 1.3 The responses received to the stage 1 consultation were overwhelmingly in favour of the Council adopting a Resolution to licence SEV's. It is therefore recommended that Council do so. Thereafter Council will need to prepare a SEV Policy Statement and a further stage 2 consultation will be required on the content of that policy.

2 RECOMMENDATION

- 2.1 It is recommended that Council**
- (a) adopts a resolution to licence SEV's and**
 - (b) instructs the Executive Director Finance and Regulatory Services to prepare a draft SEV Policy Statement and to subsequently report to Council on the content of that Draft prior to the stage 2 consultation.**

3 BACKGROUND

- 3.1 The Air Weapons and Licensing (Scotland) Act 2015 has, from 26 April 2019, amended the Civic Government (Scotland) Act 1982 to introduce a discretionary power for Local Authorities in Scotland to licence SEVs within their individual areas.

A SEV is any premises at which sexual entertainment is provided before a live audience for financial gain and where its purpose is the sexual stimulation of members of the audience.

There are no SEV's in the Scottish Borders area, and as far as the Council is aware, there are no plans to open one. There are SEV's in some of the cities or larger towns in Scotland.

- 3.2 Since the new power falls within the Council's responsibilities for Civic Government Licensing, its introduction was intimated to the Civic Government Licensing Committee at an informal meeting held on 25 October 2019. Members of the Committee expressed support for the idea that Council should consider adopting a Resolution. They were keen to explore the option of having a regulatory framework in place that would be operative if an SEV seeks to operate within the Scottish Borders area in future.
- 3.3 The Committee Members asked that a short term working group consisting of Members, SBC Officers and multi-agency representatives be formed to ensure that the statutory objectives in relation to SEV activity are properly considered. The working group met twice and their findings formed the basis of the recommendation in the report considered by Council on 27 August 2020.
- 3.4 At the meeting on 27 August 2020 Council agreed that a stage 1 consultation on whether the Council should resolve to licence SEV's should be carried out and instructed the Executive Director Finance and Regulatory Services to do so. The stage 1 consultation was carried out over a period of 12 weeks between 19 November 2020 and 14 February 2021.
- 3.5 A total of 80 responses were received as detailed in Appendix 1.
- 66 were in favour of a Resolution to licence SEV's being adopted.
 - 13 were not in favour of a Resolution although members will note from Appendix 1 that some of the comments accompanying a "no" response indicated that there should be no SEV's. Of course, the only way the Council can achieve control of such venues and to limit their numbers is by adopting a Resolution.
- 1 responder stated that they were not sure if a Resolution should be adopted but commented that they thought a Resolution would protect and safeguard those who work in the sexual entertainment industry.
- 3.6 The short term working group have considered all the responses received and that group is satisfied that there is a desire and a need for the Council to adopt a Resolution and to thereafter produce a SEV policy statement.

4 Effect of the changes to the legislation.

4.1 The introduction of a discretionary licensing system gives Local Authorities the option to adopt a Resolution to licence SEVs in its area.

If a Resolution is adopted, any SEV wishing to operate legally would require to apply for a licence.

If a Local Authority does not adopt a Resolution, anyone can operate a SEV without any direct regulation from the Local Authority.

4.2 If a Resolution is passed by the Local Authority, then the following would apply:

- Council must determine the appropriate number of SEVs (if any) for its area and for each relevant locality.
- It must prepare a SEV Policy Statement in respect of its functions in relation to the licensing of SEVs taking into account the licensing objectives of public nuisance, crime and disorder, public safety, protecting children and young people from harm and violence against women.
- Any SEVs would require a SEV Licence to operate.
- Thereafter there are various grounds for the refusal of a SEV Licence including that the number of SEVs in the Local Authority area or the relevant locality at the time that the application is made is equal to or exceeds the number which the Local Authority consider is appropriate for that locality.
- The Resolution must not come into force any earlier than one year from the date the Resolution is made by the Local Authority.
- An SEV Policy Statement must be published by the Local Authority 28 days prior to the Resolution coming into effect.

In relation to the above, Members should note that if sexual entertainment has not been provided at a premises on more than three occasions within a 12 month period then the premises is not to be treated as a SEV.

5 PROCESS

5.1 If a Resolution is adopted, the Council has a statutory duty to publish a Draft Policy Statement. The stage 2 consultation will then ask for views on that Draft Policy Statement. The policy will include matters such as the proposed appropriate number of SEVs (if any) to be permitted in the Scottish Borders, what localities are considered suitable (or unsuitable) for the operation of a SEV and what measures the Council would expect applicants to have in place to address the following objectives:

- preventing public nuisance, crime and disorder;
- securing public safety;
- protecting children and young people from harm; and
- reducing violence against women.

A Resolution will come into force no earlier than a year after it is adopted.

6 IMPLICATIONS

6.1 Financial

There are no costs attributed to any of the recommendations contained in this report. There are no costs associated with the publication of the Resolution as this will be published online.

6.2 Risk and Mitigations

The carrying out of the consultation and the consideration of the responses received allow the Council to determine whether to exercise the new discretionary power to adopt a Resolution to licence SEV's

6.3 IIA

An IIA has been carried out. Both a decision to licence and a decision not to licence SEVs have the potential to create considerations for our Fairer Scotland duties. In terms of Equalities, the decision is one which has the potential to create impact in relation to the protected characteristics of Sex and of Religious Belief. It is therefore important that any groups representing those potentially impacted are made aware of this Consultation and their views be actively sought.

6.4 Acting Sustainably

There are no economic social or environmental effects as a result of the proposals contained in this report.

6.5 Carbon Management

There is no impact on the Council's carbon emissions as a result of the proposals contained in this report.

6.6 Rural Proofing

Not applicable as although this is a legislative requirement a new Policy is not being proposed at this stage.

6.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the scheme of administration or the scheme of delegation are required as a result of the recommendations in this report.

7 CONSULTATION

The Chief Financial Officer, the Chief Legal Officer (Monitoring Officer), the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council and any comments received have been incorporated in the final report.

Approved by

David Robertson

Executive Director Finance and Regulatory Services

Signature

Author(s)

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Background Papers: None

Previous Minute Reference: 27 August 2020

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ron Kirk can also give information on other language translations as well as providing additional copies.

Contact us at Legal & Licensing, Scottish Borders Council, Council Headquarters,
Newtown St. Boswells, Melrose, TD6 0SA, 01835-825225, Legal@scotborders.gov.uk

Appendix 1

Should a Resolution be made?

Total 80 responses received

No - 13

Comments

There should be no sexual entertainment venues. I believe this is not entertainment and degrades human beings and encourages human trafficking and other despicable behaviours.

Due the exploitative nature of SEV - the link to VAW and unhealthy narratives that SEV promote about gender roles and stereotypes - and the normalisation of sex and women being commoditised for and by men.

SEV are not necessary and goes against the progress for equality for women. SEV reinforces gender stereotypes and prejudices against women and girls reinforcing masochist behaviours and attitudes.

Not sure -1

I feel if the resolution would protect and safe guard those who work in the industry it is positive move. I do consider we need ensure against exploitation and laws to protect the workers. Basically as nation we have to protect women where it might move into prostitution and people trafficking.

Yes - 66

Most other aspects of daily life are regulated to ensure some form of decency and decent level of fair service. Why should SEV be any different.

I think it is important that these type of venues are monitored in today's society to safeguard members of the public.

If they are licenced, if they break the rules the licence can be taken away.

It seems sensible that all profit making establishments should be regulated

It seems sensible that all profit making entertainment establishments should be regulated

Although I totally object to any form of sexual entertainment venue being allowed to operate the fact that if it did happen, at the very least it would be subject to a licence, and so, to some kind of monitoring/ control measures.

SEVs should be licensed and regulated.

There needs to be a decision made by the council in line with its own position eg these are a form of Vawg.

SEV'S should jump through every hoop possible to discourage them from coming to the Scottish Borders.

As long as SBC would grant licences and not just say no...it would be much safer to make sure the women were safe if licenced but not sure if the council is forward thinking enough and wouldn't want it to be used against women in the sex business

It is vital for SEV to be licenced, as this is an industry where standards must be met so everything possible can be done to protect people who work in the industry who may be vulnerable to exploitation

Should not be allowed in the Borders

The ADP Support Team are members of the Violence Against Woman Partnership and are aware of the conflict between Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls and licencing sexual entertainment venues. Equally Safe defines violence against women and girls as including commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking.

There are clear links between gender based violence and substance use.