

REPORT TO: Licensing Sub-Committee

MEETING DATE: 11 June 2015

BY: Depute Chief Executive (Resources & People Services)

SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing regime

1 PURPOSE

- 1.1 To advise the Sub-Committee of proposals to amend and modernise the list of activities within the Resolution to licence Public Entertainment Activities.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee-
- (i) approve the proposed wording of the amended resolution, which wording is attached to this report,
 - (ii) authorise the Service Manager (Licensing, Administration & Democratic Services) and such staff as she may designate to advertise the proposed wording in the local press and undertake the necessary consultation process, and
 - (iii) agree to thereafter receive and consider a further report following conclusion of the consultation process.

3 BACKGROUND

- 3.1 Public entertainment licences under section 42 are one of a range of licences which are discretionary in terms of the Act, meaning that the licence will only be required if the Local Authority makes a resolution to that effect. In East Lothian the resolution to licence Public Entertainment activities was made in 1984.
- 3.2 The resolution was amended in 2013, principally to take account of the removal of the requirement for the activity to require payment of money or money's worth by members of the public, and also to amend the list of activities which would be exempt from the requirement to be licensed.

- 3.3 While the list of activities for which a licence is required in terms of the resolution was somewhat streamlined from the original 1984 wording during the 2013 amendment process, the actual content was not significantly altered at that time. It is now considered that the wording as it currently stands is in need of modernisation to take account of changing fashions and interests since the resolution was originally introduced.
- 3.4 It is therefore proposed that the current resolution be replaced with a new, updated one, in terms of the Schedule annexed hereto. As the proposed amendments will have the effect of extending the number of activities which will fall within the terms of the resolution, the Council is required to advertise the proposed amendments and undertake a public consultation process regarding the proposals. Following the consultation process, the Sub-Committee shall require to consider the terms of any representations received. Once the proposed resolution is adopted following consideration of such representations, there will then be a period of nine months before the new resolution would become enforceable.

4 POLICY IMPLICATIONS

- 4.1 The Council has the statutory power to resolve to require a licence for public entertainment and had made such a resolution. The Council equally has the statutory power to amend and extend the terms of such resolution.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - The potential widening of the activities qualifying as “public entertainment” and thus needing to be licensed in terms of the legislation as amended may lead to a potential increase in fee income relative to this type of licence
- 6.2 Personnel - none
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982

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PROPOSED UPDATE TO RESOLUTION:

“East Lothian Council, as Licensing Authority for East Lothian, in terms of Section 9 of the Civic Government (Scotland) Act 1982, do hereby RESOLVE that, with effect from x, being a date not less than nine months from y being the date of making this resolution, that the following resolution shall replace the previous resolution made by East Lothian District Council in 1984, as amended by further resolution by the Licensing Authority in 2013:

Therefore, East Lothian Council, by virtue of the powers conferred on them by Sections 9 and 41 of the Civic Government (Scotland) Act 1982, do hereby RESOLVE as follows:-

- 1) Section 41 of the Act relating to public entertainment licences shall continue to have effect throughout the local government area of East Lothian.
- 2) Subject to the terms of Section 41 and Schedule 1 of the said Act, a Public Entertainment licence shall be required for the use of premises as places of public entertainment for the classes of activity specified in Clause 4 hereof as from x.
- 3) A Public Entertainment Licence shall not be required for the classes of activity listed in Clause 5.
- 4) A Public Entertainment licence shall be required in respect of any of the following types of activity-
 - Dancing establishments
 - Billiards, snooker or pool halls
 - Any exhibition to which the Hypnotism Act 1952 applies
 - Exhibitions of objects such as paintings, sculptures, drawings or historical artefacts
 - Exhibitions of persons, including but not limited to boxing, wrestling, cage fighting or martial arts
 - Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasias
 - Circuses
 - Fun fairs, including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, mechanical riding, driving or boating apparatus or anything similar to any of the foregoing
 - Any activities involving shooting, including but not limited to archery, clay pigeon shooting, or paintball
 - Laser or war gaming
 - Motor cycle scrambling
 - Go-carting
 - Indoor or open air music or variety concerts, shows or performances
 - Amusement arcades with automatic or other machines, including but not limited to video gaming machines, intended for entertainment or amusement which are not licensed in terms of the Gambling Act 2005
 - Bouncy castles or similar structures

- Internal or external children’s play areas including soft play areas
- Indoor bowling alleys including ten pin bowling alleys
- Bungee jumping or catapulting
- Outdoor adventure or activity parks or anything similar to the foregoing
- Water sports activities
- Fireworks or bonfire displays
- Agricultural, equestrian or livestock shows

5) The following public events/activities DO NOT require a licence under the said Section 41:-

- All non-profit functions held by charitable, religious, youth, sporting, community, political or similar organisations
- Small scale exhibitions of art work
- Small scale performance of live music which is incidental to the main purpose of the premises where the performance takes place
- Small scale oral recitals including poetry reading and story telling
- All community festivals, fetes, treasure hunts, duck derbys and galas

In respect of the foregoing, “small scale” is understood to mean less than 150 persons at any one time. In respect of the foregoing, “non-profit function” is understood to mean a non-commercial event held solely for the purpose of raising funds for the organisation holding the function and NOT for the purposes of making a profit or deriving any other form of financial benefit by any person or organisation, and where ALL surplus funds raised by the event are utilised to further the aims and activities of the organisation holding the event.”