

**REPORT TO:** Licensing Sub-Committee

**MEETING DATE:** 10 September 2015

**BY:** Depute Chief Executive (Resources & People Services)

**SUBJECT:** Proposed Amendment of the Resolution on Public Entertainment Licensing

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## **1 PURPOSE**

- 1.1 To advise the Sub-Committee of the outcome of the public consultation on the proposal to amend and update the list of activities in the Resolution to licence Public Entertainment Activities and to obtain the Sub-Committee's agreement to, and adoption of, the amended resolution

## **2 RECOMMENDATIONS**

- 2.1 That the Sub-Committee-

- (i) notes the outcome of the public consultation on Public Entertainment Licensing,
- (ii) agrees the amended resolution, taking account of the comments made by consultees,
- (iii) adopts the amended resolution in the terms agreed, and
- (iv) authorises the Service Manager - Licensing, Administration & Democratic Services and such staff as she may designate to advertise the new resolution in the local press.

## **3 BACKGROUND**

- 3.1 A Public Entertainment Licence under section 42 of the Civic Government (Scotland) Act 1982 (the Act) is a type of licence that is only required if a Local Authority makes a resolution to that effect. East Lothian Council made the resolution to licence Public Entertainment Activities in 1984.
- 3.2 The original list of activities for which a licence is required was amended in 2013 following a change in legislation although the list of activities that required a licence was not significantly altered at that time. It is now considered that the list of activities requires to be updated.

- 3.3 On 11 June 2015 the Sub-Committee authorised a public consultation on the proposed amended resolution. That consultation has taken place and it closed on 17 August.
- 3.4 Three responses were received. One of these was simply an affirmative response to the suggestion of updating the resolution, with no further suggestions. The second response suggested that local Christmas markets be added to the exemption for galas in Section 5 of the resolution. Markets require a Market Operator's licence and so do not need a Public Entertainment Licence. It is not therefore proposed to make any alteration in that respect.
- 3.5 The final response made several suggested additions to the list of events that should require a Public Entertainment Licence. These were Sporting events to which the public are admitted such as golf opens, festivals generally (not just music festivals), air shows and highland games.
- 3.6 The Sub-Committee may also wish to consider whether raft races such as those held annually in North Berwick and Dunbar should be included in the resolution.
- 3.7 The proposed resolution at Appendix 1 can be amended to include these suggestions if the Sub-Committee is in agreement with the suggestions at 3.5 and 3.6.
- 3.8 If the proposed resolution is agreed and adopted there will be a lead-in period of nine months before the new resolution would become enforceable. During this lead-in period press releases will be prepared and efforts made to advertise the new requirement for licences to the public.

#### **4 POLICY IMPLICATIONS**

- 4.1 The Council has statutory power to resolve to require a licence for public entertainment and has made such a resolution. The Council also has 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 – There is a potential increase in the number of activities that will be considered “public entertainment” and that therefore require to be licensed. This may lead to an increase in fee income.

6.2 Personnel - none

6.3 Other - None

## **7 BACKGROUND PAPERS**

7.1 Civic Government (Scotland) Act 1982

7.2 Report to the Licensing Sub-Committee of 11 June 2015

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<b>DATE</b>	26 August 2015

## 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
  - Lazer 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, or trampoline venues

- 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
- Indoor skate parks

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.”