

REPORT TO: Licensing Sub-Committee

MEETING DATE: 10 September 2020

BY: Depute Chief Executive (Resources and People Services)

4

SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing regime

1 PURPOSE

- 1.1 To advise the Sub-Committee of proposals to amend and streamline 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 - People & Governance, 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 has been amended on a couple of occasions in recent years, 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, and to generally modernise the list of activities that would require a licence, as the list was more or less unchanged since the original introduction of the resolution in 1984.

- 3.3 Upcoming statutory changes necessitate a further amendment to the Resolution. At present, the licensing of theatrical performance is governed by the terms of the Theatres Act 1968. This legislation is due to be repealed next year by the Air Weapons & Licensing (Scotland) Act 2015. Local Authorities are therefore left to determine whether or not such activities should continue to be regulated by a statutory licensing regime, and the way of achieving that is to include the activity among those covered by the resolution on Public Entertainment Licensing. The proposed resolution includes theatrical performances among those for which a Public Entertainment licence will thereafter be required.
- 3.4 The opportunity is being taken to make some other updates and amendments to the terms of the resolution at the same time, including the inclusion of airshows, escape rooms, and the enhancement of the definition of water-based activities, as well as widening skate parks to include outdoor and well as indoor venues.
- 3.5 It is proposed that the current resolution be replaced with the 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 by the addition of theatres and others, 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 wellbeing 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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RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING:

East Lothian Council, as Licensing Authority for East Lothian, in terms of Section 9 of the Civic Government (Scotland) Act 1982, has decided that the present resolution regarding public entertainment licensing in East Lothian shall, from (tbc) be replaced by the following resolution wording:

- 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 12 July 2018.
- 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
 - Theatres, including any play, dramatisation, concert, hypnotism act to which the Hypnotism Act 1952 applies, or comedy act
 - Billiards, snooker or pool halls
 - Any exhibition to which the Hypnotism Act 1952 applies insofar as not covered by the definition of Theatres
 - 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 (where not already covered by an Indoor Sports Entertainment Licence)
 - Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasia
 - Circuses, carnivals and funfairs, 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 and quad bike scrambling
 - Track racing and go-carting
 - Indoor or open air festivals or variety concerts, shows or performances
 - Airshows

- 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
- Escape rooms (including puzzle and breakout rooms)
- 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 including raft races, wake boarding, water skiing, sail boarding, canoeing and jet skiing activities (where the activity is not licensed as defined by a Boat Hire Licence)
- Fireworks or bonfire displays
- Torchlight processions
- Agricultural, equestrian or livestock shows
- skate parks
- Major Sporting events such as Golf Opens
- Highland Games
- “Boot camp” type organised exercise and fitness activities

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

- 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
- Small scale community non-profit festivals, fetes, treasure hunts, duck derbys, galas, and organised exercise and fitness activities

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” 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.”

