

REPORT TO: Licensing Sub-Committee

MEETING DATE: 11 March 2021

BY: Executive Director for Council Resources

SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing Regime

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1 PURPOSE

- 1.1 To advise the Sub-Committee of developments regarding current 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) Formally adopt the proposed wording of the amended resolution, which wording is attached to this report, and
 - (ii) Authorise the Service Manager (Licensing, Administration & Democratic Services) and such staff as she may designate to advertise the adoption of the updated Resolution wording in the local press.

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 Proposals for a further update to the Resolution, principally regarding the inclusion of theatres as a result of the repeal of the Theatres Act, but also incorporating some additional updating and streamlining, were reported to the Sub-Committee on 10 September 2020. The proposed wording is attached as an appendix hereto for ease of reference.
- 3.4 The Sub-Committee agreed to a public consultation regarding the proposed changes to the Resolution and to accept a further report following completion of that process. The present Report updates the Sub-Committee on developments since September 2020.
- 3.5 The consultation on the proposed amended wording was advertised in the East Lothian Courier on 29 October 2020. The consultation was open for comments to be received by 29 November 2020. I would confirm that no responses from the general public were received during the consultation period.
- 3.6 The legislation requires the Sub-Committee to consider any representations received at consultation stage in coming to a decision on whether or not to formally adopt the proposed wording. In this case there have been no representations received. It is therefore proposed that the amended wording now be formally adopted by the Sub-Committee.
- 3.7 In terms of the legislation, the updated wording will come into force nine months after the decision to adopt the new version, which in the present case will mean December 2021.

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

7.2 Report to Licensing Sub-Committee dated 10 September 2020

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DATE	2 March 2021

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, 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.”

