

REPORT TO: Licensing Sub-Committee
MEETING DATE: 9 June 2022
BY: Head of Corporate Support
SUBJECT: Licensing of Sexual Entertainment Venues

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1 PURPOSE

- 1.1 To report back to the Licensing Sub-committee with a draft Licensing of Sexual Entertainment Venue (SEV) Policy Statement prior to public consultation on the same.

2 RECOMMENDATIONS

- 2.1 The Sub-Committee are recommended to:
- i. agree the draft policy (Appendix 1) and conditions (Appendix 2); and
 - ii. agree that officers will now undertake the consultation and report back.

3 BACKGROUND

- 3.1 A report was considered by the Licensing Sub-Committee on 13 January 2022 as to whether to introduce a licensing regime licensing SEVs in East Lothian. The Sub-committee unanimously agreed:
- a) To note the view expressed in the response to the public consultation in relation to the future policy development of Sexual Entertainment Venues in East Lothian;
 - b) To introduce a licensing regime for SEVs by way of a resolution under the Civic Government (Scotland) Act 1982;
 - c) That the number of SEVs in East Lothian should be set at zero;
 - d) To instruct the Service Manager, Governance and such staff as he may appoint to prepare a draft SEV Policy Statement for public consultation including groups who may have an interest in the matter; and
 - e) To report back to the Sub-committee with a draft SEV policy statement.

4 POLICY IMPLICATIONS

4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 An Integrated Impact Assessment will be undertaken following the next consultation.

6 RESOURCE IMPLICATIONS

6.1 Financial – none.

6.2 Personnel – none.

6.3 Other – none.

7 BACKGROUND PAPERS

7.1 [Sexual Entertainment Venues Report and Minutes of 13 January 2022: Agendas, reports and minutes | East Lothian Council](#)

Appendix 1 – Draft Policy Statement

Appendix 2 – Draft Licence Conditions

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Licensing Policy Statement

Sexual Entertainment Venues

2022

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Foreward

This policy statement is the first one published by East Lothian Council as required in terms of the Civic Government (Scotland) Act 1982.

Consultation on the decision whether to licence Sexual Entertainment Venues took place during the period 1 September 2021 to 29 October 2021.

A report providing details of comments received from consultees and consideration given to those comments was considered at the meeting of the Licensing Sub-committee which was held on 13 January 2022. The decision to licence SEVs and to produce a draft policy as well as draft conditions was agreed at this meeting.

A further consultation of the draft policy and conditions took place during the period XXXX to XXXX. The finalised version of the policy statement incorporates amendments which were approved by East Lothian Council's Licensing Sub-committee on XXXX, in response to comments received.

This policy will be reviewed regularly and revised when necessary.

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1 Background to Licensing SEVs

- 1.1 On 26 April 2019, the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”) introduced new provisions into the Civic Government (Scotland) Act 1982 (“the 1982 Act”) giving local authorities discretionary powers in relation to whether sexual entertainment venues (SEVs) within their local authority area should be licensed.
- 1.2 Prior to the introduction of these provisions there was no requirement to licence SEVs and, therefore, local authorities did not have the ability to regulate activities that fell within the definition of sexual entertainment. Following concerns raised about the lack of control in relation to adult entertainment activities, together with the Court of Session’s refusal to allow licensing boards to regulate these activities through legislation that regulated the sale of alcohol, a separate licensing regime was introduced by the Scottish Government.
- 1.3 Section 76 of the 2015 Act introduces a specific licensing regime into the 1982 Act that allows local authorities to determine whether to licence SEVs within their local authority.
- 1.4 East Lothian Council undertook a public consultation from 1 September 2021 to 29 October 2021 which sought view on whether SEVs should be licensed. The consultation was available by means of an online survey. On 13 January 2022 East Lothian Council, as the licensing authority, agreed under section 45B of the 1982 Act to pass a resolution to gain regulatory control of SEVs through a licensing regime with effect from 13 January 2023. This policy will apply to the whole of the East Lothian Council area.
- 1.5 The adoption of the resolution under section 45B(1) of the 1982 Act allows the Council, as the licensing authority, to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licenses and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.6 Under section 45C of the 1982 Act, the local authority is required to produce a Sexual Entertainment Venue policy where it has passed a resolution to licence SEVs. The Council, as the licensing authority, must prepare a statement of its policy with respect to the exercise of its functions in relation to the licensing of SEVs. The policy will have regard as to how it will affect the objectives of:
 - Preventing public nuisance, crime and disorder
 - Securing public safety
 - Protecting children and young people from harm
 - Reducing violence against women
- 1.7 The policy will also provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of East Lothian Council’s Licensing Sub-committee when determining an application.

2 Purpose of the Policy

- 2.1 This policy provides guidance for potential applicants, existing licence holders and members of the public, on the licensing of SEVs.
- 2.2 East Lothian Council does not take a moral stance on SEVs in adopting this policy. The Licensing Sub-committee recognises that the Scottish Government has made it lawful for SEVs to operate and for a local authority to licence SEVs. It is East Lothian Council's Licensing Sub-committee's role to regulate such venues in accordance with the law.

3 Defining Sexual Entertainment Venues

- 3.1 Section 45A(2) of the 1982 Act defines SEVs as:
“any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser and where it is the sole or principal purpose of sexual stimulation of members of the audience”.

‘audience’ includes an audience of one;

‘financial gain’ includes financial gain arising directly or indirectly from the provision of sexual entertainment;

‘premises’ includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not permitted;

‘sexual entertainment’ means any live performance or any live display of nudity which is of such a nature, ignoring financial gain, must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience; and

‘display of nudity’ means in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus; and in the case of a man, the showing of (to any extent and by any means) his pubic area and anus.

- 3.2 This definition would apply to the following forms of entertainment as they are commonly known:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows and
- Live sex shows

It must be noted that the above list is not exhaustive and does not include private dwellings to which the public are not admitted. Decisions to license premises as SEVs shall depend on the content of the entertainment provided and not the name it is given. As such, each case will be considered on its own merits by the Licensing Authority.

4 Venues that are not defined as SEVs in terms of the 1982 Act

4.1 The 1982 Act provides that there are various venues that do not fall within the definition of an SEV and are listed as follows:

- A sex shop as defined in the 1982 Act
- Premises at which sexual entertainment is provide on a particular occasion if:
 - Sexual entertainment has not been provided on more than 3 occasions which fall wholly or partly within the period of 12 months ending with the start of the particular occasion;
 - Each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion; and
 - Where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a 24 hour period) is to be treated as a separate occasion.

No other premises have currently been exempted by order of the Scottish Ministers.

5 Making an Application

5.1 All applicants for the grant, variation, renewal of a SEV licence must complete the SEV application form. The application should be submitted to Licensing, John Muir House, HADDINGTON, EH41 3HA or licensing@eastlothian.gov.uk together with the appropriate fee.

5.2 The 1982 Act allows the Council, as the licensing authority, to issue a licence for a maximum period of one year. A licence can also be issued for a shorter period if it is deemed appropriate.

6 Notice of Application

6.1 Under the terms of the 1982 Act, all applicants who apply for an SEV licence must, (unless the local authority consents to dispense with this requirement) advertise their application, in the local newspaper, no later than 7 days before the application is lodged with the local authority. A copy of the advert must be submitted to the local authority.

6.2 The applicant must also, where the application is in respect of premises, display a notice for a period of 21 days from then the application has been lodged, on or near the premises in a place where the public can reasonably read the notice.

6.3 The Licensing Sub-committee, under the 1982 Act, can determine the persons or bodies who the applicant must send a copy of the SEV application to. The applicant must send a copy of the application to these person or bodies no later than 7 days after the date of the application. A copy of the application form can be found at Appendix 2.

6.4 In terms of the consultees, the local authority will send a copy of any application received, to the following consultees:

- East Lothian Council's Building Standards;
- East Lothian Council's Environmental Health;
- East Lothian Council's Planning department;
- NHS Scotland;
- Police Scotland; and
- Scottish Fire and Rescue Service

7 Objections and Representations

7.1 The 1982 Act makes provision for any member of the public to submit an objection or representation to a SEV licence application.

Objections must be in writing (email is acceptable), specify the grounds for objection, the name and address of the person making the objection and be provided to the local authority not later than 28 days after the later of:

- The date the application was made to the local authority
- The date the newspaper articles was first given; or
- the date detailed in any notice

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal set out in the 1982 Act. The relevant grounds for refusal are detailed at paragraph 9 of this policy.

Objectors should note that moral objections will not be considered by East Lothian Council's Licensing Sub-committee as these do not relate to ground of refusal set out in the 1982 Act.

Objections will be considered by the Licensing Sub-committee when considering an application. All objections or representations received by the local authority to a SEV application will be sent to the applicant.

8 Consideration of Late Objections

8.1 Although the local authority is under a duty to consider any objections made within 28 days of the application as detailed in paragraph 7, it does have discretion to hear late objections provided it is satisfied with the reasons for lateness. The Licensing Sub-committee are responsible for determining whether an objection or representation that is not received within the 28-day period stipulated by the 1982 Act, will be considered as part of an SEV application.

8.2 Where petitions are received from members of the local public, they are unlikely to be accepted as a valid objection or representation as it does not allow the local authority to understand individual complaints or know whether they are relying on a legal ground to make the objections or representation. Furthermore, it may not be possible for the Council, as the licensing authority, to know clearly who has signed the petition. The Council will

place more weight on objections and representation received from those directly impacted by the presence of an SEV and who live or work within the locality.

9 Determination of an Application

9.1 All applications for the grant of a SEV licence, where there have been objections and/or representations received, will be determined by East Lothian Council's Licensing Sub-committee at a hearing. If no valid objections or representations to these types of application are received, they will be determined by the Head of Corporate Services under delegated powers. Valid objections to any application will be considered by the Licensing Sub-committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Sub-committee's procedure for hearings. Late objectors, provided the objection is not based on moral grounds, will be invited to attend any hearing of the Licensing Sub-committee to determine the application and their objection may be brought into proceedings if the Licensing Sub-committee is satisfied with the reasons for lateness.

9.2 The 1982 Act provides six mandatory grounds for refusing a SEV licence and four discretionary grounds for refusal / refusal to renew a SEV licence. Each application will be decided upon its own merits and the licensing authority will give clear reasons for its decisions. Any decision to refuse an application must be relevant to one or more of the following grounds:

9.3 Specific mandatory grounds for refusal of a licence are set out in below. An SEV licence cannot be granted:

1. To a person who is under the age of 18 years
2. To a person who has been disqualified where that person:
 - i. Has held a licence that has been revoked by the same local authority area, within a period of 12 months, beginning from the date that the licence was revoked
 - ii. Has been convicted of operating a SEV or sex shop without a licence
 - iii. Has employed any person who they know would not be granted a licence under paragraph 9(3) of the 1982 Act
 - iv. Has contravened a condition within the licence
 - v. Has permitted anyone under the age of 18 years to enter the SEV or sex shop
 - vi. Has made a false or reckless statement in relation to the grant or renewal of a licence
 - vii. Has failed (without reasonable excuse) to allow an enforcement officer or police officer to enter, inspect or search the premise
3. To a person who is not resident in the UK or was not resident 6 months immediately before the date that an SEV application was made
4. To a body corporate that was not incorporated in the United Kingdom
5. To a person who has been refused the grant or renewal of an SEV licence by the same local authority, within a 12 month period, beginning from the date that the application was made. The refusal must relate to the same premises, vehicle, vessel or stall detailed in the initial application

6. Or to a person other than a natural person, if any director, partner or a person who is responsible for the management of the premise, stall or vessel, has been refused the grant or renewal of a licence by the same local authority

9.4 The discretionary grounds for refusal for a SEV licence that are referred to in the 1982 Act are:

1. That the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason
2. That, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself
3. That the number of SEVs in the local authority's area or relevant locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for their area or that locality
4. That the grant or renewal of the licence would be inappropriate, having regard:
 - i. To the character of the relevant locality
 - ii. The use to which any premises in the vicinity are put
 - iii. To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

10 Appropriate number of SEVs within the East Lothian area

10.1 Under paragraph 9, discretion is given to the local authority to refuse an application on the basis that the number of establishments, in the relevant locality at the time the application is determined *"is equal to or exceeds the number which the Local Authority consider is appropriate for their area or that locality"*.

The term "relevant locality" referred to under discretionary grounds (c) and (d) is defined within the 1982 Act and means:

- In relation to premises, the locality where it is situated; and
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a SEV

10.2 The local authority is able to determine that the appropriate number for a locality is nil and has the discretion to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the local authority's control. That being the case, each application will be considered on its own merits at the time the application is submitted to the local authority.

10.3 East Lothian Council's Licensing Sub-committee has made the decision:

- Not to break down the local area into discrete localities; and
- To set the number of SEVs in East Lothian at Zero

- 10.4 Where an application is submitted by an applicant, the question of what is the “relevant locality” will be determined based on the facts and circumstances of the individual application together with the considerations listed in paragraph 11 of this policy.

11 Character and Vicinity of Relevant Locality

11.1 In considering whether the grant, renewal or variation of the licence would be inappropriate given the vicinity in which the SEV premises operates, the Licensing Sub-committee shall consider the existing character and function of the area. Due regard will be given to the following:

- a. Whether the premises are situation in a residential area
- b. Whether there are any schools and other places of education near the vicinity of the premises
- c. Where there are any places of worship in that vicinity
- d. Whether there are other relevant businesses or charities operating in the area e.g. homelessness shelters, women’s refuges, supported accommodation, recovery units
- e. Whether there are certain landmarks or facilities in the vicinity (e.g. historic buildings, sports facilities, cultural facilities, family leisure facilities, play areas or parks, youth facilities, retail shopping areas and places used for celebration of commemoration)
- f. Whether there have been incidents involving anti-social behaviour, sexual assaults or more minor harassment reported in that area
- g. Whether there have been incidents of human trafficking or exploitation in that area

The Council, as the licensing authority, will consider relevant locality on a case-by-case basis, taking into account the particular circumstances of each application.

12 Suitability of Premises

12.1 Under the 1982 Act, the Council, as the licensing authority has the discretion to refuse application for SEVs if it is considered that the grant or renewal of the licence would be unsuitable, having regard to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

12.2 It is expected that when an application for a SEV licence is name, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

13 The Licensing Objectives

13.1 Preventing Nuisance, Crime and Disorder

In terms of this licensing objective, the Licensing Sub-committee consider there to be a number of relevant factors, including but not limited to:

- Illegal substances
- Violent behaviour

- Antisocial behaviour
- Vulnerability
- Noise nuisance
- Human trafficking

The Licensing Sub-committee will apply appropriate conditions to licences to mitigate potential nuisance, crime or disorder and consider reviewing licenses where a breach of the licensing objective cannot be rectified by other means.

13.2 Securing Public Safety

When considering this objective, a number of factors should be considered including, but not limited to:

- Layout and maintenance of premises
- Disabled access and facilities
- Vulnerability of patrons and staff

The Sub-committee will apply additional licence conditions where appropriate for the purpose of this objective.

13.3 Protecting Children and Young People from Harm

SEVs could potentially expose children and young people to harm as a result of them coming into contact with activities intended for adults only, if not properly regulated and the Sub-committee will apply additional licence conditions where appropriate for the purpose of this objective.

13.4 Reducing Violence against Women

Equally Safe is Scotland's strategy for preventing and eradicating violence against women and girls. Its definition of violence against women and girls includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking'. Whilst recognising the conflict between this definition and the licensing of SEVs, the Scottish Government seeks to ensure that such activities take place in safe and regulated environments.

The Sub-committee will apply additional licence conditions where appropriate for the purposes of this licensing objective.

14 Waivers

14.1 The Licensing Sub-committee can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. The Sub-committee will take into account:

- Any objections or representations
- East Lothian Council's Licensing Policy Statement
- Scottish Government guidance
- Any other relevant considerations

East Lothian Council's Licensing Sub-committee will consider each application on its own merits, however, the applicant will be expected to demonstrate exceptional circumstances which justify why the licensing requirement should be waived. The Council, as the Licensing Authority, is unlikely to consider it would be appropriate to permit waiver from the

requirements to hold a SEV licence particularly as the legislation allows an Occasional Use exemption.

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15 Stag and Hen Parties

15.1 If customers in a Public House or other Premises with an alcohol licence under the Licensing (Scotland) Act 2005, themselves arrange a 'stripogram', the Premises need a SEV licence (The Premises Licence covers the sale of alcohol, it does not cover Sexual Entertainment).

Important to Note: It is not enough for the Operating Plan in the Premises Licence to state that "Adult Entertainment" is permitted.

15.2 If the Premises accept a booking for a Stag party, Hen night or any other event where "Sexual Entertainment" might happen, the staff should notify the customer that "Sexual Entertainment" is prohibited.

15.3 A SEV licence is needed if:
"Sexual Entertainment" is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the Organiser (Section 45A(5) of the 1982 Act). Please see the definition of 'Organiser' detailed at paragraph 3.

If "Sexual Entertainment" happens on Premises without a SEV licence or a Waiver:

- Both the Premises Manager and the Premises licence holder can be prosecuted for not having a SEV licence
- The Licensing Board can review the Premises licence and revoke or suspend it, on the basis that the Premises licence holder is not a fit and property person having regard to the Licensing Objectives of "preventing public nuisance, crime and disorder", "securing public safety" and "protecting and improving public health"
- The Licensing Board can review the Premises Manager's Personal Licence and revoke, suspend or endorse it, on a similar basis. They can only avoid the possibility of these sanctions if they actively try to stop the customers or if the "Occasional Use" exemption applies.

A Public Entertainment licence for premises used as a place of public entertainment does not cover Sexual Entertainment.

Important to Note: It is not enough for an Organiser to hold a Public Entertainment Licence. A SEV licence is needed if Sexual Entertainment is to be provided or allowed to be provided.

16 Occasional Use

16.1 Premises can be used for sexual entertainment for a proposed event (not exceeding 24 hours) if the Premises have been used for Sexual Entertainment on not more than 3 previous occasions in the past 12 months (Section 45A(9) of the 1982 Act).

16.2 Each occasion can last for no longer than 24 hours. If your premises operate as a Sexual Entertainment Venue for more than a 24-hour period, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion (Section 45A(10) of the 1982 Act).

16.3 The rule applies to a rolling year, not the calendar year running from 1 January to 31 December. To know whether a particular date can be used, count back 12 months from that date, and ask:

Have the Premises been used for Sexual Entertainment on three or fewer occasions in this period?

If the answer is “yes”, the exemption applies and the Premises do not need a SEV licence. You might send a letter to the East Lothian Council and Police Scotland.

16.4 If the answer is “no”, the exemption does not apply and the Premises need a licence.

16.5 It will help to show that you do not need a licence if you have already sent an Exemption Letter to both the Council’s Licensing Authority and Police Scotland. You can send this letter for one occasion or more than one occasion. There is no fee for using the Exemption or sending the Exemption letter.

17 Renewal

17.1 If a licence holder applies for a renewal of a SEV licence before the expiry date, the licence will remain in effect until a final decision on the renewal application has been made.

Where the expiry date has already passed when the applicant makes a renewal application, this will be treated as an application for a Grant of licence unless the following conditions are met:

- The application is made no later than 28 days after the expiry date
- The Council is satisfied that there is good cause to accept a late application

17.2 The applicant should state in writing if there is good reason to accept the late application. The procedures for a renewal application are the same as they are for a new Grant of a licence, but the licence is not guaranteed to be renewed. The Local Authority is not obliged to grant a renewal.

17.3 The local authority will take into account the operation of the Premises during the previous licence period(s) and any allegations of offences and/or breaches of licence conditions.

18 Variation

18.1 At any time, the holder of a SEV licence can apply to the local authority to vary the terms of the licence.

18.2 There is no requirement to advertise a variation however, the local authority will consult with the consultees as detailed in paragraph 6.4.

19 Revocation

19.1 The Council, as the licensing authority, may at any time revoke a licence if certain grounds under paragraph 13(1) of Schedule 2 of the 1982 Act are established.

These grounds are:

- If one of the grounds of refusal applies
- If, in their opinion, any of the grounds relating to the fitness of the licence holder or anyone involved with the licence applies
- If a condition of the licence has been contravened

19.2 Before any revocation takes place, the licence holder will ordinarily be given the opportunity to be heard before the Licensing Sub-committee. However, in certain circumstances and in accordance with the 1982 Act a licence can be revoked without a hearing with immediate effect, where appropriate justification is provided.

20 Conditions

20.1 When issuing a SEV licence, the licensing authority is permitted to issue it on such terms and conditions and subject to restrictions as are specified at the time the licence is issued either in the form of conditions specific to the individual (referred to as special conditions) or standard conditions applicable to all SEVs. Both the local authority's standard conditions and any special conditions are subject to any Mandatory Conditions prescribed by Scottish Ministers under Section 45E of the 1982 Act.

20.2 The relevant standard conditions detailed in Appendix 4 shall apply to every licence granted, varied, renewed or transferred by the local authority.

20.3 In the event of a conflict arising between standard conditions and the special conditions, the special conditions will prevail.

20.4 Where the proposed SEV has a Premises Licence under the Licensing (Scotland) Act 2005, all reasonable care will be taken to ensure that the SEV licence conditions do not conflict with the conditions detailed in the Premises Licence.

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21 Right to Appeal

- 21.1 An appeal against the decision of East Lothian Council in respect of the grant, renewal, variation or refusal of a licence must be made to the Sheriff Court within 28 days of the decision being made.

22 Equality

- 22.1 The 2010 Act introduced a new public sector equality duty which requires public authorities, including East Lothian Council, to try and eliminate discrimination, promote equality and good relations across a range of protected characteristics.
- 22.2 Prior to East Lothian Council implementing this policy, an equality impact assessment was undertaken. This can be viewed using the following link [XXXX](#).

23 Fees

- 23.1 The application process involves paying a non-refundable application fee, which covers the costs of administering the SEV licensing regime. The fees are reviewed annually against any rise in the local authority's costs of administering the licence regime.
- 23.2 The appropriate fees for applications can be found on the Council's website.

APPENDIX 1 – GUIDANCE NOTES

Application Process

1. Licences can be issued for a maximum period of one year. A licence can also be issued for a shorter period, if it is deemed appropriate
The application fee must be paid on application – payments should be made on the East Lothian Council website at [Online Payments \(e-paycapita.com\)](https://www.e-paycapita.com)
2. An application for the grant, variation, renewal of a licence must be made in writing (including email) to licensing@eastlothian.gov.uk to the Council together with the appropriate fee, layout plan as well as complying with the following requirements:
 - a) The applicant must publish an advertisement circulating in the Council area, such as the East Lothian Courier, and must supply a copy to the Council of that advertisement, once published. A sample advert can be found on the Licensing website.
 - b) The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days from the date the application is lodged with the Council. A copy of a Site Notice can be downloaded from the Licensing website. As soon as possible after the expiry of the 21 day period, the applicant shall submit to the Council a Certificate of Compliance (available online) which states that a notice was duly exhibited for the required period.
 - c) Application packs must include a copy of the premises 'house rules' for performers and proposed code of conduct for patrons.
 - d) The Council will advertise the application on Tell Me Scotland.
 - e) East Lothian Council will send a copy of the application to each person or body listed below, for consultation purposes:
 - Police Scotland
 - Scottish Fire and Rescue Service
 - Building Standards
 - Environmental Health
 - Planning
 - NHS Scotland
 - f) Applicants should note that the application fee is non-refundable in the event of the licence being refused or the application being withdrawn prior to determination.

Layout Plan

3. The plan must be in electronic format at a scale of 1:100 and show:
 - The layout of the premises including e.g. stage, bars, cloakroom, WCs, performance area, dressing rooms
 - The extent of the boundary of the premises outlined in red
 - The extent of the public areas outlined in blue
 - Uses of different areas in the premises e.g. performance areas, reception, staff facilities
 - Structures or objects (including furniture) which may impact on the ability of individuals to use exits or escape routes without impediment
 - Location of points of access to and egress from the premises

- Any parts used in common with other premises
- Positions of CCTV cameras
- Where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor
- The location of any steps, stairs, elevators or lifts
- The location of any public conveniences, including accessible WCs
- The location and type of any fire safety and other safety equipment
- The location of the kitchen (if applicable)
- The location of emergency exits

Determining an Application

4. Under the terms of the 1982 Act, there are mandatory and discretionary grounds for refusal of an SEV licence. The specific mandatory grounds for refusal are:
 - a) The application is under the age of 18 years
 - b) The applicant is disqualified from holding an SEV licence
 - c) The applicant has been convicted of an offence relating to the enforcement of SEV licensing legislation
 - d) The applicant has not resided in the United Kingdom for at least six months (or, if a company, is not registered in the United Kingdom)
 - e) The applicant has been refused a SEV licence in the past 12 months
5. The discretionary grounds on which an SEV application can be refused are as follows:
 - a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason
 - b) That if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be otherwise refused the grant/renewal of a licence, if they made the application themselves
 - c) That the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the Council considers appropriate
 - d) That the grant or renewal of the licence would be inappropriate having regard:
 - To the character of the relevant locality; or
 - To the use to which any premises in the vicinity are put; or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Renewal application

6. Provided an application for renewal has been accepted and deemed competent by the Licensing Authority prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal application has been determined
7. The statutory requirements for advertising and giving notice are the same as those applying to initial grants at paragraph 2

Right to Appeal

8. An appeal against any decision of the Licensing Sub-committee must be made to the Sheriff Court within 28 days of the decision being made. Applicants should seek independent legal advice in this regard

Review of a Licence

9. Breaches of the policy or any of the licence conditions may result in enforcement action against the licence holder by the Licensing Sub-committee and may lead to review of any licence held

Transfer of a Licence

10. It is not competent under the 1982 Act, to transfer a licence and a new licence will be required

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APPENDIX 2 – APPLICATION FORM

**EAST LoTHIAN COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982
APPLICATION FOR THE GRANT / RENEWAL / VARIATION / SURRENDER
OF A SEXUAL ENTERTAINMENT VENUE LICENCE**

Please read the accompanying guidelines before completing this form

This application form is in several parts for different things. Which parts you need to complete depends on what you are applying for:		
Part A	About you (the applicant)	Page 2
Part B	Day to Day Manager	Page 3
Part C	Grant of a New licence	Page 3
Part C	Renewal of an Existing licence	Page 3
Part D	Variation of an Existing licence	Page 4
Part E	Surrender of an Existing licence (surrender on death, sequestration or administration)	Page 4
Part F	Declaration	Page 5

Please select what you require the Council to process (tick all that apply):		
Grant a New licence	Complete parts A, B, C, and F	
Renew an Existing licence	Complete parts A, B, C and F	
Vary an Existing licence	Complete parts A, D and F (if the variation includes changing the Day to Day Manager's details, also complete Part B)	
Surrender an Existing licence	Complete parts A, E and F (if you also want the vary the licence, complete part D)	

Should you require extra space to answer any questions, please provide additional details on a separate sheet.

Name of site or premises to be licenced	
Address of site or premises to be licenced	

PART A

To be completed if a natural person (individual)

Surname (include any other surname you have been known by)	
Forename	
Home address	
Telephone number	
Email address	
Age	
Date of birth	
Place of birth	
Is applicant to carry out day-to-day management of the activity?	YES / NO

To be completed if a non-natural person (organisation, company, partnership etc)

Name	
Address of Principal registered office	
Telephone number of principal registered office	
Email address of principal registered office	
Names, home addresses and dates of birth of all directors, partners or other persons responsible for management	

Part B

To be completed by the day-to-day manager of the activity

Surname (include any other surname you have been known by)	
--	--

Forename	
Home address	
Telephone number	
Email address	
Age	
Date of birth	
Place of birth	

Part C

Grant of License

Are the Premises licensed under the Licensing (Scotland) Act 2005	YES / NO		
Details of operation	Day	Opening time	Closing time
	Monday		
	Tuesday		
	Wednesday		
	Thursday		
	Friday		
	Saturday		
	Sunday		
Maximum number of persons proposed to be admitted to the premises at any one time			
Is the proposal for full nudity?	YES / NO		
Describe the nature of the entertainment e.g. lap-dancing, pole dancing, strip-tease etc			

Part D

Variation of an Existing Licence

What do you want to change?	Delete as appropriate
The applicant details (see D1)	YES / NO
The layout plan (see D2)	YES / NO
The licence conditions see D3)	YES / NO

Notes:

- D1. You must complete Part A with the new details if you are changing the applicant details
- D2. You must provide a copy of the new layout plan and may require planning consent for changes
- D3. You must details, in writing, what you want to change in the licence conditions

Part E

Surrender of licence on death, sequestration or administration of the Licence Holder

Which option applies (please tick)	
The license holder has died	
The licence holder is a sequestrated individual	
The licence holder is a limited company in administration	

Part F

Declarations

Subject to the provisions of the Rehabilitation of Offenders Act 1974, has any party name in this form ever been convicted of any crime or offence?				YES / NO
If Yes, provide particulars below:				
Name	Date	Court	Offence	Sentence

NB All crimes and offences must be declared

Has any party named in Parts A or B ever held or currently hold a Sexual Entertainment Venue licence? If Yes: When was the licence granted When does it expire Which authority granted the licence	YES / NO
Has any party named in Parts A or B ever applied for and been refused a licence for a Sexual Entertainment Venue licence? If Yes: When was it refused Which authority refused the licence	YES / NO

CHECKLIST AND ENCLOSURES

I confirm that I have enclosed the following (please tick):

The relevant application fee	<input type="checkbox"/>
A layout plan for the premises	<input type="checkbox"/>
A copy of the Staff Welfare policy	<input type="checkbox"/>
A copy of the Code of Practice for dancers (if appropriate)	<input type="checkbox"/>
A copy of the Code of Conduct for customers	<input type="checkbox"/>
I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days	<input type="checkbox"/>
I declare that within seven days of the date of this application, a public notice advertising this application will be publicised in the local press	<input type="checkbox"/>
I understand that East Lothian Council will advertise my application on Tell Me Scotland	<input type="checkbox"/>
I understand that if I do not comply with the above requirements, my application will be rejected	<input type="checkbox"/>

I/We declare that the particulars given by me on this form are correct to the best of my/our knowledge and belief

Signature of applicant _____

Signature of day to day manager _____

Date _____

Any person who in, or in connection with the making of this application makes any statement which he/she knows to be false or recklessly makes any statement which is false in a material particular shall be found guilty of an offence and liable, on summary conviction

Please return the completed application form, relevant documents and fee to Licensing Office, East Lothian Council, John Muir House, Haddington, EH41 3HA

NOTES

This application form must be lodged, together with the appropriate fee not less than 6 weeks before the proposed commencement date of the licence

Payment of the fee can be made by debit or credit card on our payment portal [Online Payments \(e-paycapita.com\)](http://OnlinePayments(e-paycapita.com)). Please note that the application fee is non-returnable.

Requirement for layout plan – the plan must show:

1. The layout of the premises including e.g. stage, bars, cloakroom, WCs, performance area, dressing rooms
2. The extent of the boundary of the premises, outlined in red

3. The extent of the public areas outlined in blue
4. Uses of different areas in the premises, e.g. performance areas, reception staff facilities
5. Structures or objects (including furniture) which may impact on the ability of individuals to use exits or escape routes without impediment
6. Location of points of access to and egress from the premises
7. Any parts used in common with other premises
8. Position of CCTV cameras
9. Where the premises includes a stage or raised are, the location and height of each stage or area relative to the floor
10. The location of any steps, stairs, elevators or lifts
11. The location of any public conveniences, including accessible WCs
12. The locations and type of any fire safety and other safety equipment
13. The location of the kitchen (if applicable)
14. The location of emergency exits

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DATA PROTECTION ACT 2018

Please note that the information given on this form may be stored electronically by this Authority for the purpose of licensing.

The Identity of the Data Controller under the Data Protection Act 2018 (“the Act”).

East Lothian Council, John Muir House, Haddington, East Lothian EH41 3HA (“the Council”)

The purpose or purposes for which the data are intended to be processed.

The Data will be processed in order for East Lothian Council to fulfil its statutory duty under the Civic Government (Scotland) Act 1982 in receiving, registering, determining and granting applications for licenses under the said Act. The Data will be shared with public bodies who require to be consulted about the application, such as the Police. It will also be shared with internal East Lothian Council services, particularly within the Environment Department who give advice to the Council as Licensing Authority, in respect of the application.

East Lothian Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Further information can be obtained from:

East Lothian Council’s Data Protection Officer can be contacted at:

Data Protection Officer

Licensing, Administration and Democratic Services

John Muir House

Haddington

dpo@eastlothian.gov.

APPENDIX 3 - COMPLIANCE NOTICE

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
CERTIFICATE OF COMPLIANCE**

I / We, _____ (name),

Applicant for a Sex Shop / Sexual Entertainment Venue licence, hereby certify that a Notice has been posted at or near the premises at

_____ (address)

From _____ to _____ (dates)

Containing such information as required by paragraph 2(3) of Schedule 1 to the above Act.

- * Where the said Notice was removed, obscured or defaced during the above-mentioned period, I took reasonable steps for its protection and replacement as follows: - (give details and circumstances)

Date.....

Signature.....

To be returned to licensing@eastlothian.gov.uk after the site notice has been displayed for 21 days.

- * Delete if not applicable

APPENDIX 4 - STANDARD CONDITIONS

DEFINITIONS

'The Act' means the Civic Government (Scotland) Act 1982.

'Chief Fire Officer' means the Chief Fire Officer of the Scottish Fire and Rescue Service or his or her authorised Depute within the East Lothian Council area.

'The Council' means East Lothian Council and any officer authorised to act on its behalf in terms of this licence.

'Patrons or Public' means persons admitted or seeking admission to the premises for any purpose other than the performance of duties in connection with the entertainment being provided.

'Performer' is defined in these conditions as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of relevant entertainment.

'Premise' includes any vessel, vehicle or stall (but does not include any private dwelling) to which the public is admitted.

'Sexual Entertainment' means live performance or any live display of nudity which is of a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience (whether by verbal or other means).

'Sexual Entertainment Venue (SEV)' means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.

STANDARD CONDITIONS

1. Opening Times

Except with the previous consent of the Council an SEV shall not be open to the public before 1900 hours and shall not be kept open after 0100 hours. Opening times may be aligned to alcohol licensing hours.

2. Licensed Use

The number of persons admitted to the premises during any event at any one time shall not exceed:

The occupancy capacity limit of the premises, that is the limit on the number of people permitted to occupy the premises at any one time, as specified herein, and shall be determined by the Council in consultation with the Chief Fire Officer and shall not be exceeded.

GENERAL CONDITIONS

3. The licence holder shall retain occupational control of the premises, except with prior written consent of the Council. Such consent always to be conditional on any occupier complying with the conditions of the licence.
4. The premises shall be kept, and in due course, left in a clean and tidy condition to the satisfaction of the Council, with arrangement being made for the storage, collection and disposal of waste or refuse during and after use of the premises.

5. Use of the premises for pyrotechnics, lasers other potentially hazardous special effect, firearms or any exhibition, demonstration or performance of hypnotism within the meaning of the Hypnotism Act 1954, shall not take place without the prior written consent of the Council. Application for such permission must be made in writing at least 14 days in advance of the planned entertainment and give full details of the proposed use. Further, in any event, the licence holder shall not exhibit any light which:
 - By reason of its glare is liable to endanger aircraft or road traffic; or
 - By reason of its liability to be mistaken for an aeronautical ground light or ground light

CONDITIONS RELATING TO HEALTH AND SAFETY

6. The licence holder shall satisfy the Council as to the safety of any electrical or mechanical installation or safety of any relevant equipment associated with the operation of the premises.
7. The licence holder having regard to likely numbers frequenting the premises, shall make adequate provision, to the satisfaction of the Council with regard to sanitary accommodation and drainage facilities.
8. The licence holder shall ensure that all toilet requisites are provided and that all toilets are kept clean and in an orderly condition and shall designate a suitable person or persons for those purposes.
9. Facilities shall be provided in all female toilets for the hygienic disposal of sanitary products.
10. Means of locking or otherwise securing doors to all water closets or individual shower rooms shall be provided.
11. The licence holder shall ensure that the premises are provided with an adequate supply of wholesome water. The supply of drinking water shall be available during the course of an event, at all times free of charge and any drinking vessels provided must be clean.
12. Seating shall be designed, constructed and maintained so as to ensure safe use and allow free and ready access to all exits, all to the satisfaction of the Chief Fire Officer. Stages must be constructed and arranged so as to minimise the risk of fire. Stages and attendant fixtures and fittings e.g. curtains, must also be approved by the Chief Fire Officer.
13. Details of any temporary structures (with the exception of modular demountable staging previously notified to and approved by the Council) to be erected on the premises shall require to be submitted to the Council at least 28 days before any event together with, at the sole discretion of the Council and at the expense of the licence holder, a Structural Engineers report or other such certification as the Council may require. Such structures shall not be erected without the prior written authority of the Council.
14. The licence holder shall ensure that an effective system is maintained for the management of the premises and all events held therein, to ensure the health and safety and welfare of the public.
15. The licence holder shall ensure that adequate arrangements are in place in respect of fire precautions at the premises.
16. Where applicable, the licence holder must be in possession of a valid fire certificate in respect of the premises granted by the Chief Fire Officer, or failing which, a letter from the Chief Fire Officer confirming that the premises meet the standards required.

17. The licence holder shall ensure that prior to any funfair rides or inflatable structures being operated at the premises the relevant Amusement Device Inspection Procedures Scheme (ADIPS) certificates (in respect of funfair rides) and Pertexa Inflatable Play Accreditation (PIPA) certificates (in respect of any inflatable structures) are submitted to and approved by the Council.

APPEARANCE, DISPLAYS AND LAYOUT OF PREMISE

18. The interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
19. A copy of the Licence as issued by the Council shall be retained in a clean and legible condition, suitably framed and exhibited in a position that can easily be seen by all persons using the premises.
20. A copy of the conditions of the Licence (so far as they relate to the performances) shall be given to all performers at the premises and a copy shall be exhibited in the performers changing rooms at all times the premises are open.
21. Price lists for both drinks and sexual entertainment and the code of conduct for customers will be clearly displayed at each table and at each entrance to the premises.
22. Price lists and the code of conduct for customers must be printed in a manner which is clear and easy to read during the normal operation of the premises.
23. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council except for those signs and notices that are required to be displayed in accordance with these licence conditions.
24. The licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.
25. Any person who can be observed from outside of the premises must be properly and decently dressed. Scantily clad individuals must not exhibit in the entranceway or in the area surrounding the premises. There shall be no attempt made outside the premises to solicit people to enter.
26. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sexual entertainment venue.
27. The premises shall be maintained in good repair and condition. All parts of the premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
28. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked 'Staff Only' or by some other sign that deters the public from using such doors or openings.
29. The Licensee shall make provision in the means of access both to and within the Sexual Entertainment Venue for the needs of members of the public visiting the establishment who are disabled.
30. The authorised entertainment must only take place in designated areas approved by the Council.
31. Suitable changing rooms with restricted access should be provided for performers, separate from customers and other staff, where they may prepare for their performance.

32. Safe and controlled access to the dressing room for performers must be maintained at all times when the performance is taking place and immediately afterwards.
33. The agreed activities will take place only in designated areas as indicated on the plans authorised by the Licensing Authority and in the full view of the audience. No part of the premises accessible to the audience shall be concealed from observation without the appropriate authorisation from the Licensing Authority.
34. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
35. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

CHANGE OF LOCATION AND ALTERATION TO PREMISES

36. Where licensed premises are a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 day's notice. Please note that this requirement shall not apply to a vessel or stall which habitually operates from a fixed location, but which is regularly moved (whether under its own propulsion or otherwise) from another place, such location as is specified in the licence.
37. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises, including any change in the permitted signs on display shall not be made unless a variation has been granted.

CONTROL OF ENTRY

38. No person under the age of 18 years shall be permitted admission to the venue at any time it is being used under this licence.
39. No person under the age of 18 years shall work at the venue as a performer.
40. The Challenge 25 proof of age scheme shall be operated at the venue whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identifications cards, such as a driving licence or passport.
41. The venue shall maintain a refusals log whereby on any occasion where a person is refused entry it shall be recorded and available upon request by Police Scotland or an authorised officer of the Council.
42. Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises on any day on which sexual entertainment takes place. Where the premises is a hotel which has children or young persons resident, children and young persons shall be excluded from any part of the hotel used for sexual entertainment on any day which sexual entertainment takes place.
43. A person who holds a licence granted under section 8 of the Private Security Act 2001 must be positioned at every entrance to the venue from 1900 hours (on any day when the venue is open at that time) until whichever is earlier: the time at which the venue next closes or such other time as the Committee may specify.

44. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
45. A policy of random searches of persons entering the premises shall be operated.
46. Any person found to be in possession of illegal drugs upon entry shall be prevented entry to the venue.
47. Reasonable steps must be taken to ensure that any person found using illegal drugs in the venue shall be appropriately removed from the venue.

CONDUCT OF PERFORMERS

48. The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of this code will be made available to staff and customers and be displayed prominently within each public area of the premises. The code will deal with matters such as information for performers, on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning and what to do if a customer breaches the rules.
49. The licence holder must provide an information pack to all performers and staff which should include, at least, the following information:
 - A copy of the SEV licence, including the conditions applied by the Licensing Authority
 - Details on how to report a crime to Police Scotland
 - Details of unions, trade organisations or other bodies that represent the interests of performers
 - A copy of the code of conduct for performers
 - A copy of the code of conduct for customers
 - Price lists for drinks and separately, sexual entertainment
50. Performers should only perform in open public areas of the licensed premises.
51. Performers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
52. No dance entertainment should take place in private booths and performers genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.
53. All performances conducted by the performers shall be restricted to dancing and the removal of clothing. No other form of sexual stimulation or activity shall be allowed.
54. Patrons or members of the audience shall not take photographs or record digital images of performers by any means.
55. Panic alarms are to be fitted to all booths and VIP performance areas and will be operational at all times.
56. Exit routes for performers must be kept clear.

PROTECTION OF PERFORMERS AND PREVENTION OF CRIME

57. Performers shall be provided with secure and private changing facilities.
58. All entrances to private areas within the venue to which members of the public are not permitted access, shall have clear signage that access is restricted.

59. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
60. No smoking areas are to be allowed at the front of clubs to minimise the potential for harassment of women living, working and passing through the area.
61. The licence holder shall include, in the club rules, a written policy to ensure the safety of performers when leaving the premises following any period of work.
62. A personal licence holder must be present in the area of the premises in which sexual entertainment is taking place for the duration of the sexual entertainment.
63. The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.

RECORD KEEPING AND MANAGEMENT

64. The licence holder will maintain a register of performers engage to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require to obtain photographic proof of each performer's identity. Foreign nationals must be asked to exhibit their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom.
65. Accurate payment and remuneration records must be maintained and made available upon request to Police Scotland or an authorised officer of the Council.
66. A fully operational CCTV system must be used within the venue which complies with the Data Protection Act 2018 Act and Regulations, covering all areas of the venue to which the public have access, including entrances, exits, private booths and bar area. The CCTV must be fitted and maintained in full working order in accordance with the guidance provided by the Information Commissioner's Office and to the satisfaction of Police Scotland.
67. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed.
68. CCTV footage must be made available to Police Scotland and authorised officers of the Council on request.

ANCILLARY CONDITIONS

69. A licence holder must notify Police Scotland of any forthcoming sexual entertainment event at least 24 hours in advance of the event taking place.
70. The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.
71. The licence holder must provide proof that he holds third party liability insurance giving a minimum level of indemnity of five million pounds (£5,000,000) in respect of the licensed use. The licence holder must exhibit the policy and any receipt for premiums or any other document relating to the policy, to the Council at no cost to the Council upon demand.

72. The licence holder must display the licence, and a valid certificate of third party liability insurance, in the premises so that it can be read by any patron or person entering the premises.
73. The licence must not be altered, erased or defaced and must be kept clean and legible. Should the licence be lost or become defaced or illegible, the licence holder must obtain a replacement from the Council on payment of the appropriate fee. The licence holder must produce this licence within five days when required to do so by a Police Officer or authorised officer of the Council or authorised officer of the Chief Fire Officer.
74. The licence holder shall return the licence to the Council within seven days of the following, whereupon it shall cease to have effect:
- Ceasing to use the premises as a place of public entertainment permanently
 - On being notified of a decision by the Council to vary the terms of, or suspend the licence or the decision of a court to revoke it
75. The licence holder or the licence holders' servants or agents shall ensure that no fly posting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place in respect of the premises.
[Any condition in current licence in respect of fly posting and/or financial bonds shall continue in force]
76. The licence holder must notify the council as soon as is reasonably practicable of any material changes of circumstances affecting the licence holder, the premises, or the licensed use, including any particulars referred to on the application for a grant or latest application for a renewal of a licence.
77. Any request for any authorisation required in terms of this licence shall be made to the Head of Governance.



Licence and Standard Conditions on the Licensing and
Regulation of Sexual Entertainment Venues

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CIVIC GOVERNMENT (SCOTLAND) ACT 1982
Air Weapons and Licensing (Scotland) Act 2015
SEXUAL ENTERTAINMENT VENUE LICENCE

East Lothian Council, in terms of the above Acts, hereby licence

Name _____

Address _____

Being the owner of the premises at _____

The licence is valid

From _____ To _____

Licence Number: _____

Maximum Capacity: _____

Licensed Hours:

Day	Opening	Closing
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

Signed _____

Team Leader – Licensing and Landlord Registration

On behalf of the issuing authority: East Lothian Council, John Muir House, Haddington, EH41 3HA

DEFINITIONS

'The Act' means the Civic Government (Scotland) Act 1982.

'Chief Fire Officer' means the Chief Fire Officer of the Scottish Fire and Rescue Service or his or her authorised Depute within the East Lothian Council area.

'The Council' means East Lothian Council and any officer authorised to act on its behalf in terms of this licence.

'Patrons or Public' means persons admitted or seeking admission to the premises for any purpose other than the performance of duties in connection with the entertainment being provided.

'Performer' is defined in these conditions as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of relevant entertainment.

'Premise' includes any vessel, vehicle or stall (but does not include any private dwelling) to which the public is admitted.

'Sexual Entertainment' means live performance or any live display of nudity which is of a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience (whether by verbal or other means).

'Sexual Entertainment Venue (SEV)' means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.

STANDARD CONDITIONS

1. Opening Times

Except with the previous consent of the Council an SEV shall not be open to the public before 1900 hours and shall not be kept open after 0100 hours. Opening times may be aligned to alcohol licensing hours.

2. Licensed Use

The number of persons admitted to the premises during any event at any one time shall not exceed:

The occupancy capacity limit of the premises, that is the limit on the number of people permitted to occupy the premises at any one time, **as specified herein**, and shall be determined by the Council in consultation with the Chief Fire Officer and shall not be exceeded.

GENERAL CONDITIONS

3. The licence holder shall retain occupational control of the premises, except with prior written consent of the Council. Such consent always to be conditional on any occupier complying with the conditions of the licence.
4. The premises shall be kept, and in due course, left in a clean and tidy condition to the satisfaction of the Council, with arrangement being made for the storage, collection and disposal of waste or refuse during and after use of the premises.
5. Use of the premises for pyrotechnics, lasers other potentially hazardous special effect, firearms or any exhibition, demonstration or performance of hypnotism within the meaning the Hypnotism Act 1954, shall not take place without the prior written consent of the

Council. Application for such permission must be made in writing at least 14 days in advance of the planned entertainment and give full details of the proposed use. Further, in any event, the licence holder shall not exhibit any light which:

- By reason of its glare is liable to endanger aircraft or road traffic; or
- By reason of its liability to be mistaken for an aeronautical ground light or ground light

CONDITIONS RELATING TO HEALTH AND SAFETY

6. The licence holder shall satisfy the Council as to the safety of any electrical or mechanical installation or safety of any relevant equipment associated with the operation of the premises.
7. The licence holder having regard to likely numbers frequenting the premises, shall make adequate provision, to the satisfaction of the Council with regard to sanitary accommodation and drainage facilities.
8. The licence holder shall ensure that all toilet requisites are provided and that all toilets are kept clean and in an orderly condition and shall designate a suitable person or persons for those purposes.
9. Facilities shall be provided in all female toilets for the hygienic disposal of sanitary products.
10. Means of locking or otherwise securing doors to all water closets or individual shower rooms shall be provided.
11. The licence holder shall ensure that the premises are provided with an adequate supply of wholesome water. The supply of drinking water shall be available during the course of an event, at all times free of charge and any drinking vessels provided must be clean.
12. Seating shall be designed, constructed and maintained so as to ensure safe use and allow free and ready access to all exits, all to the satisfaction of the Chief Fire Officer. Stages must be constructed and arranged so as to minimise the risk of fire. Stages and attendant fixtures and fittings e.g. curtains, must also be approved by the Chief Fire Officer.
13. Details of any temporary structures (with the exception of modular demountable staging previously notified to and approved by the Council) to be erected on the premises shall require to be submitted to the Council at least 28 days before any event together with, at the sole discretion of the Council and at the expense of the licence holder, a Structural Engineers report or other such certification as the Council may require. Such structures shall not be erected without the prior written authority of the Council.
14. The licence holder shall ensure that an effective system is maintained for the management of the premises and all events held therein, to ensure the health and safety and welfare of the public.
15. The licence holder shall ensure that adequate arrangements are in place in respect of fire precautions at the premises.
16. Where applicable, the licence holder must be in possession of a valid fire certificate in respect of the premises granted by the Chief Fire Officer, or failing which, a letter from the Chief Fire Officer confirming that the premises meet the standards required.
17. The licence holder shall ensure that prior to any funfair rides or inflatable structures being operated at the premises the relevant Amusement Device Inspection Procedures Scheme (ADIPS) certificates (in respect of funfair rides) and Pertexa Inflatable Play Accreditation (PIPA) certificates (in respect of any inflatable structures) are submitted to and approved by the Council.

APPEARANCE, DISPLAYS AND LAYOUT OF PREMISE

18. The interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
19. A copy of the Licence as issued by the Council shall be retained in a clean and legible condition, suitably framed and exhibited in a position that can easily be seen by all persons using the premises.
20. A copy of the conditions of the Licence (so far as they relate to the performances) shall be given to all performers at the premises and a copy shall be exhibited in the performers changing rooms at all times the premises are open.
21. Price lists for both drinks and sexual entertainment and the code of conduct for customers will be clearly displayed at each table and at each entrance to the premises.
22. Price lists and the code of conduct for customers must be printed in a manner which is clear and easy to read during the normal operation of the premises.
23. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council except for those signs and notices that are required to be displayed in accordance with these licence conditions.
24. The licensee shall not permit the display outside of the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.
25. Any person who can be observed from outside of the premises must be properly and decently dressed. Scantily clad individuals must not exhibit in the entranceway or in the area surrounding the premises. There shall be no attempt made outside the premises to solicit people to enter.
26. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sexual entertainment venue.
27. The premises shall be maintained in good repair and condition. All parts of the premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
28. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked 'Staff Only' or by some other sign that deters the public from using such doors or openings.
29. The Licensee shall make provision in the means of access both to and within the Sexual Entertainment Venue for the needs of members of the public visiting the establishment who are disabled.
30. The authorised entertainment must only take place in designated areas approved by the Council.
31. Suitable changing rooms with restricted access should be provided for performers, separate from customers and other staff, where they may prepare for their performance.
32. Safe and controlled access to the dressing room for performers must be maintained at all times when the performance is taking place and immediately afterwards.
33. The agreed activities will take place only in designated areas as indicated on the plans authorised by the Licensing Authority and in the full view of the audience. No part of the premises accessible to the audience shall be concealed from observation without the appropriate authorisation from the Licensing Authority.

34. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
35. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

CHANGE OF LOCATION AND ALTERATION TO PREMISES

36. Where licensed premises are a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 day's notice. Please note that this requirement shall not apply to a vessel or stall which habitually operates from a fixed location, but which is regularly moved (whether under its own propulsion or otherwise) from another place, such location as is specified in the licence.
37. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises, including any change in the permitted signs on display shall not be made unless a variation has been granted.

CONTROL OF ENTRY

38. No person under the age of 18 years shall be permitted admission to the venue at any time it is being used under this licence.
39. No person under the age of 18 years shall work at the venue as a performer.
40. The Challenge 25 proof of age scheme shall be operated at the venue whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identifications cards, such as a driving licence or passport.
41. The venue shall maintain a refusals log whereby on any occasion where a person is refused entry it shall be recorded and available upon request by Police Scotland or an authorised officer of the Council.
42. Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises on any day on which sexual entertainment takes place. Where the premises is a hotel which has children or young persons resident, children and young persons shall be excluded from any part of the hotel used for sexual entertainment on any day which sexual entertainment takes place.
43. A person who holds a licence granted under section 8 of the Private Security Act 2001 must be positioned at every entrance to the venue from 1900 hours (on any day when the venue is open at that time) until whichever is earlier: the time at which the venue next closes or such other time as the Committee may specify.
44. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
45. A policy of random searches of persons entering the premises shall be operated.
46. Any person found to be in possession of illegal drugs upon entry shall be prevented entry to the venue.
47. Reasonable steps must be taken to ensure that any person found using illegal drugs in the venue shall be appropriately removed from the venue.

CONDUCT OF PERFORMERS

48. The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of this code will be made available to staff and customers and be displayed prominently within each public area of the premises. The code will deal with matters such as information for performers, on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning and what to do if a customer breaches the rules.
49. The licence holder must provide an information pack to all performers and staff which should include, at least, the following information:
 - A copy of the SEV licence, including the conditions applied by the Licensing Authority
 - Details on how to report a crime to Police Scotland
 - Details of unions, trade organisations or other bodies that represent the interests of performers
 - A copy of the code of conduct for performers
 - A copy of the code of conduct for customers
 - Price lists for drinks and separately, sexual entertainment
50. Performers should only perform in open public areas of the licensed premises.
51. Performers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
52. No dance entertainment should take place in private booths and performers genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.
53. All performances conducted by the performers shall be restricted to dancing and the removal of clothing. No other form of sexual stimulation or activity shall be allowed.
54. Patrons or members of the audience shall not take photographs or record digital images of performers by any means.
55. Panic alarms are to be fitted to all booths and VIP performance areas and will be operational at all times.
56. Exit routes for performers must be kept clear.

PROTECTION OF PERFORMERS AND PREVENTION OF CRIME

57. Performers shall be provided with secure and private changing facilities.
58. All entrances to private areas within the venue to which members of the public are not permitted access, shall have clear signage that access is restricted.
59. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.
60. No smoking areas are to be allowed at the front of clubs to minimise the potential for harassment of women living, working and passing through the area.
61. The licence holder shall include, in the club rules, a written policy to ensure the safety of performers when leaving the premises following any period of work.
62. A personal licence holder must be present in the area of the premises in which sexual entertainment is taking place for the duration of the sexual entertainment.

63. The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.

RECORD KEEPING AND MANAGEMENT

64. The licence holder will maintain a register of performers engage to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require to obtain photographic proof of each performer's identity. Foreign nationals must be asked to exhibit their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom.
65. Accurate payment and remuneration records must be maintained and made available upon request to Police Scotland or an authorised officer of the Council.
66. A fully operational CCTV system must be used within the venue which complies with the Data Protection Act 2018 Act and Regulations, covering all areas of the venue to which the public have access, including entrances, exits, private booths and bar area. The CCTV must be fitted and maintained in full working order in accordance with the guidance provided by the Information Commissioner's Office and to the satisfaction of Police Scotland.
67. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of staff and closed.
68. CCTV footage must be made available to Police Scotland and authorised officers of the Council on request.

ANCILLARY CONDITIONS

69. A licence holder must notify Police Scotland of any forthcoming sexual entertainment event at least 24 hours in advance of the event taking place.
70. The licence holder must ensure that no noise arising from the use of the premises shall give rise to reasonable cause for annoyance.
71. The licence holder must provide proof that he holds third party liability insurance giving a minimum level of indemnity of five million pounds (£5,000,000) in respect of the licensed use. The licence holder must exhibit the policy and any receipt for premiums or any other document relating to the policy, to the Council at no cost to the Council upon demand.
72. The licence holder must display the licence, and a valid certificate of third party liability insurance, in the premises so that it can be read by any patron or person entering the premises.
73. The licence must not be altered, erased or defaced and must be kept clean and legible. Should the licence be lost or become defaced or illegible, the licence holder must obtain a replacement from the Council on payment of the appropriate fee. The licence holder must produce this licence within five days when required to do so by a Police Officer or authorised officer of the Council or authorised officer of the Chief Fire Officer.
74. The licence holder shall return the licence to the Council within seven days of the following, whereupon it shall cease to have effect:

- Ceasing to use the premises as a place of public entertainment permanently
 - On being notified of a decision by the Council to vary the terms of, or suspend the licence or the decision of a court to revoke it
75. The licence holder or the licence holders' servants or agents shall ensure that no fly posing is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place in respect of the premises.
[Any condition in current licence in respect of fly posting and/or financial bonds shall continue in force]
76. The licence holder must notify the council as soon as is reasonably practicable of any material changes of circumstances affecting the licence holder, the premises, or the licensed use, including any particulars referred to on the application for a grant or latest application for a renewal of a licence.
77. Any request for any authorisation required in terms of this licence shall be made to the Head of Governance.

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