

REPORT TO: Licensing Sub-Committee
MEETING DATE: 9 November 2023
BY: Head of Corporate Support
SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing regime

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1 PURPOSE

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

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee -
- (i) approve the proposed wording of the amended resolution, which wording is attached to this report,
 - (ii) authorise the Service Manager – Governance, and such staff as he may designate, to advertise the proposed wording in the local press and undertake the necessary consultation process, and
 - (iii) agree to thereafter receive and consider a further report following conclusion of the consultation process (should any responses to the consultation be received).

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 at least two 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 Following consultation with all elected members, the attached updated resolution (Appendix 1) has been drafted. A summary of the amendments is as follows:

- *Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasias* – removed
- *Laser or war gaming* amended to *Drone, Laser or War gaming*
- *Internal or external children's play areas including soft play areas* amended to *Commercial Internal or external children's play areas including soft play areas*
- *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)* amended to:
 - *Adventure / Activity parks; and*
 - *Water-based activity schools/classes*
- *Torchlight processions* – removed
- *Skate parks* amended to *Commercial skate parks / pump tracks*
- *Major Sporting events such as Golf Opens* amended to *Major Sporting Events*
- *'Boot camp' type organised exercise and fitness activities* – removed
- *In respect of the foregoing, "small scale" is understood to mean less than 150 persons at any one time* amended to *In respect of the foregoing, "small scale" is understood to mean less than 150 persons over the course of one day.*

3.4 Discussions with elected members raised some concerns over the removal of saunas and massage parlours from this licensing regime when these premises are operated as part of the sex industry. The Sexual Entertainment Venue (SEV) licensing regime adopted by East Lothian Council in January 2022 would require these types of saunas and massage parlours to be licensed under the SEV regime instead.

3.5 It was agreed that the definition of a Major Sporting Event should be 'greater than 5000 persons on site, over the course of one day'.

3.6 It is proposed that the current resolution be replaced with the new, updated one, in terms of the Schedule annexed hereto. As the proposed amendments will have the effect of extending some of the activities which will fall within the terms of the resolution, the Council is required to advertise the proposed amendments and undertake a public consultation process regarding the proposals. Following the consultation process, the Sub-Committee shall require to consider the terms of any representations received. Once the proposed resolution is adopted following consideration of such representations, there will then be a period of nine months before the new resolution would become enforceable.

4 POLICY IMPLICATIONS

4.1 The Council has the statutory power to resolve to require a licence for public

entertainment and had made such a resolution. The Council equally has the statutory power to amend and extend the terms of such resolution.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

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

AUTHOR'S NAME	Ian Forrest
DESIGNATION	Senior Solicitor
CONTACT INFO	x7389
DATE	24 August 2023

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 XXXX, be replaced by the following resolution wording:

- 1) Section 41 of the Act relating to Public Entertainment Licenses 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 11 December 2021
- 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)
 - 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
 - Drone, 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
 - Commercial internal or external children's play areas including soft play areas
 - Indoor bowling alleys including ten pin bowling alleys
 - Bungee jumping or catapulting
 - Adventure / Activity parks
 - Water-based activity schools / classes
 - Fireworks or bonfire displays
 - Agricultural, equestrian or livestock shows
 - Commercial Skate parks / Pump tracks

- Major Sporting events (with the definition of ‘major’ being greater than 5000 persons on site over the course of one day)
 - Highland Games
- 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 over the course of one day.

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.

East Lothian Council, Legal and Democratic Services, John Muir House, Brewery Park, Haddington,
EH41 3HA e: licensing@eastlothian.gov.uk

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 - 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 gymnasias
 - 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
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 - 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.

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East Lothian Council, Legal and Democratic Services, John Muir House, Brewery Park, Haddington,
EH41 3HA e: licensing@eastlothian.gov.uk

From: [Wardell, Dougie](#)
To: [Grilli, Carlo](#); [Fitzpatrick, Sheila](#)
Cc: [Wood, Gail](#); [King, Alan](#); [Leathes, Benjamin](#)
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]
Date: 02 October 2023 19:09:47
Attachments: [image001.png](#)

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OFFICIAL

Carol/Sheila,

Thanks for clarifying the background.

I can confirm this is a recognised issues across the UK in terms of modern slavery/SOCCG, however acknowledge the potential limitations from a licensing perspective.

From a policing perspective, it would certainly be more deserving of licensing scrutiny than other enterprises.

Regards,

Dougie

Dougie Wardell
Police Sergeant
East Lothian Community Policing
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From: Grilli, Carlo [mailto:cgrilli@eastlothian.gov.uk]
Sent: 02 October 2023 13:42
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>; Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Cc: Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

Hi Dougie

I was not directly involved at the time but my understanding was that at the time there was concern that these establishments were promoting trafficking and other illicit activities and the request from the police was that this was put in place to assist with these concerns.

In addition to the lack of this being taken forward since the last resolution included this and your questioning the rationale that was there at the time I have concerns over the enforceability of this being within the PEL this therefore drives part of the request to remove from the resolution.

Carlo

From: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Sent: 02 October 2023 13:22
To: Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>; Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

Good afternoon Dougies,

Apologies for the delay in responding to you. Like you, I wasn't involved in the amendment to the Public Entertainment Resolution back in 2015/16 and have been unable to trace any communications around the Nail Bar inclusion (other than the committee paper which doesn't refer to the reason for it to be included). My understanding of the situation is that the Police Scotland licensing officer at this time was Heather Bowsher and the proposal/rationale originated from Heather.

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 3HA

01620 820623

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From: Wardell, Dougie <Dougie.Wardell@scotland.police.uk>
Sent: 05 September 2023 12:23
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>; Wood, Gail <Gail.Wood@scotland.police.uk>
Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

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OFFICIAL

Good afternoon Sheila,

I wasn't involved in the inclusion in 2016 so can you provide me with the rationale from then so I can comment on whether this remains relevant along with any additional policing concerns?

Thanks,

Dougie

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From: Wood, Gail

Sent: 30 August 2023 10:33

To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>; Wardell, Dougie <Dougie.Wardell@scotland.police.uk>

Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>

Subject: RE: East Lothian Council - Public Entertainment Resolution [OFFICIAL]

OFFICIAL

Good morning Dougie

Are you able to assist with the email below from Sheila?

Thanks

Gail

From: Fitzpatrick, Sheila [<mailto:sfitzpatrick1@eastlothian.gov.uk>]

Sent: 30 August 2023 09:37

To: Wood, Gail <Gail.Wood@scotland.police.uk>

Cc: Grilli, Carlo <cgrilli@eastlothian.gov.uk>

Subject: East Lothian Council - Public Entertainment Resolution

Good morning Sgt Wood,

We are currently reviewing the above resolution and would appreciate any information/evidence you can provide concerning Nail Bars – what effect has this inclusion had on Police Scotland concerns (which prompted the inclusion in 2016)?

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
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