



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE**

**THURSDAY 10 OCTOBER 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID ONLINE MEETING FACILITY**

Committee Members Present:

Councillor C McGinn
Councillor C Cassini
Councillor J Findlay
Councillor C McFarlane
Councillor J McMillan
Councillor T Trotter

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms C Aitken, Licensing Officer
Ms N Harrison, Licensing Standards Officer

Others Present:

PC I Anderson, Police Scotland

Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

Declarations of Interest:

Item 2: Councillor Cassini, due to having responded to the public consultation.

Before the agenda items were heard, the Convener expressed his thanks to PC Lee Wilson for his work with the Licensing Sub-Committee, as PC Wilson was moving on to a new role.

1. MINUTES FOR APPROVAL

a. Licensing Sub-Committee, 20 August 2024

Subject to a correction to the list of attendees, the minutes were approved as an accurate record of the meeting.

b. Licensing Sub-Committee, 28 August 2024

Members approved the minutes as an accurate record of the meeting.

c. Licensing Sub-Committee, 12 September 2024

Members approved the minutes as an accurate record of the meeting.

Sederunt: Councillor Cassini left the meeting.

2. LICENSING OF SEX SHOPS

A report had been submitted by the Executive Director for Council Resources to allow Members to consider whether the Council should introduce a licensing regime for sex shops.

Ian Forrest, Senior Solicitor, presented the report. He explained the purpose of the report as being to allow Members to determine whether to bring forward a resolution to make sex shops a licensable activity in East Lothian. He asserted that the Council was not promoting this type of business, but pointed out that the Council presently would have no control over the operation of sex shops. It was not thought that there had been any sex shops in East Lothian since the Civic Licensing (Scotland) Act 1982 (the Act) came into effect, but he described bringing the resolution forward as 'closing a loophole'. He explained the timelines of administrative processes, such as press notification, and suggested that such a resolution could come into effect in early December 2024. He highlighted the public consultation; there had been only one response, which had come from Councillor Cassini, and related to the granting of licenses. He also advised that Members could set an appropriate number of sex shops; this could match the number of sexual entertainment venues, which Members had previously set at zero. He also clarified the difference between sex shops and sexual entertainment venues.

Mr Forrest responded to questions from Members. He confirmed that applications would still come before the Licensing Sub-Committee if the number of sex shops was set at zero. Regarding how a sex shop was defined, he suggested that a common-sense interpretation would be required as to what was considered a 'significant degree' of selling, hiring, and so on. He advised that inspection of such premises would fall under the remit of the Civic Licensing Standards Officer, and may lead to involvement of other sections of the Council.

Following further questions from Councillor Trotter, and a short break in the meeting to consult the legislation, Mr Forrest confirmed that it would not be possible to insist that shops selling any items which would be found in a sex shop must apply for a licence; the 'significant degree' description was tied to the wording in the Act. He

confirmed that the terms of the Act allowed for a degree of flexibility, and there was no definition for 'significant degree'.

Councillor McGinn commented that there would be an element of self-policing across the county, and the Council could respond should anything significant be brought to its attention.

Responding to further questions from Councillor McMillan, Mr Forrest confirmed that a sex shop licence application would be subject to the same checks as other licences, including the fit and proper person test.

Councillor McMillan acknowledged Councillor Cassini's response to the consultation, which he thought was a fair and widely held view, but was also mindful that others held different views on the issue. He thought that regulation of sex shops and being able to set standards would be of benefit, should a proprietor make an application in future. He would support introducing a resolution on the licensing of sex shops.

Councillor Trotter formally proposed that a licensing regime for sex shops be introduced, and Councillor McMillan seconded this proposal. The Convener moved to a roll call vote, and Members unanimously supported the proposal.

Councillor McMillan referenced the precedent set for the number of sexual entertainment venues as being zero, and proposed that the number of sex shops in East Lothian also be set at zero. Councillor Trotter seconded this proposal. The Convener then moved to a roll call vote, and Members unanimously supported this proposal.

Mr Forrest asked Members to agree that the licensing team would deal with administration relating to press notification and setting a target date for the resolution to come into effect; Members unanimously agreed.

Decision

The Licensing Sub-Committee agreed that:

- A licensing regime for sex shops should be introduced by way of a resolution under the Civic Government (Scotland) Act 1982; and
- The number of sex shops in East Lothian would be set at zero.

Sederunt: *Councillor Cassini rejoined the meeting.*

Note: Summary of information

The Licensing Sub-Committee agreed to exclude the public from Item 3 in terms of paragraph 6 (information relating to the business affairs of any particular person other than the local authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

3. APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE

Members refused the taxi driver licence.