

## **Second Consultation: Sexual Entertainment Venues**

### **Licensing**

- 1.1 South Ayrshire Council is the licensing authority for South Ayrshire in relation to a wide range of activities.
- 1.2 Recent changes to the Civic Government (Scotland) Act 1982 gave Councils the discretionary power to introduce a new licensing regime for sexual entertainment venues (“SEVs”) in their area. This document explains the current position and provides more detail on the purpose of this consultation.

### **What is an SEV?**

- 2.1 The 1982 Act defines an SEV 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.

- 2.2 For the purposes of this definition:

‘audience’ includes an audience of one;

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

‘organiser’ means either the person who is responsible for the management of the premises or the organisation or management of the sexual entertainment or where that person exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person;

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

‘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, genitals or anus.

- 2.3 However, the 1982 Act provides that premises where sexual entertainment is provided on no more than 3 occasions in a twelve-month period are not to be treated as a SEV.

### **Current Position**

- 3.1 Prior to the introduction of the changes to the 1982 Act, there was no power to provide direct licensing or regulation of sexual entertainment activities in Scotland. If premises in which the sexual entertainment was taking place sold alcohol, those premises would only require a Premises Licence under the Licensing (Scotland) Act 2005, but case law

in this area had established that this legislation is limited to regulating the sale of alcohol only and not other matters which do not relate to the sale of alcohol.

- 3.2 The discretionary power to introduce a licensing regime for SEVs came into effect on 26 April 2019. At a meeting of South Ayrshire Council's Leadership Panel on 20 August 2019, it authorised Council officers to carry out a public consultation in order to establish views on the following:
  - (a) whether SEVs in South Ayrshire should be licensed;
  - (b) if licensed, what the appropriate number of SEVs for South Ayrshire should be; and
  - (c) if licensed, what should be included in an SEV licensing policy statement.
- 3.4 Following the initial consultation, the Leadership Panel decided, on 18 February 2020, that a licensing regime should be adopted in this local authority area to license and regulate SEVs. The COVID pandemic delayed introduction of the licensing regime, and new implementation dates were therefore agreed by South Ayrshire Council's Cabinet on 12 March 2024.
- 3.5 South Ayrshire Council intends to implement the new licensing regime on 1st May 2025. A further consultation is now being carried out. The consultation period is from **30 August 2024 to 11 October 2024**. The consultation results will be considered at a meeting of South Ayrshire Council's Cabinet, on 26th November 2024. Thereafter, South Ayrshire Council's Sexual Entertainment Venues Licensing Policy will be finalised and published in mid-March 2025, six weeks before implementation on **1 May 2025**.

### **Potential Impact**

- 4.1 The 1982 Act requires the local authority to pass a resolution in order for SEV licensing to have effect in its area. Following the initial Consultation, the Council passed a resolution and decided to license SEVs.
- 4.2 If the Council had not adopted the discretionary power available to it under the 1982 Act to license SEVs, these venues would not require to be licensed and could continue to operate without any direct regulation from the local authority. Once the Council has approved an SEV Policy and the licensing regime is implemented, all SEVs in South Ayrshire would require to apply for an SEV licence under the 1982 Act in order to operate.
- 4.3 There are various grounds for refusal of a SEV licence grant or renewal application under the 1982 Act, including that the number of SEVs in the local authority area or the relevant locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality.
- 4.4 Further information on the licensing provisions relating to sexual entertainment venues is available in Guidance published by the Scottish Government <https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/>

## Seeking Your Views

5.1 The previous consultation sought views on whether the Council should license SEVs, and if so, the standard conditions to be included in such licences. The responses already received will be reflected in the Council's SEV Policy. In this second consultation, views are sought on the following specific points:

- what the appropriate number, if any, of SEVs in South Ayrshire should be; and
- what locations would, or would not, be appropriate.

## How to Respond

6.1 Appendix A sets out considerations which would be taken into account when considering what the appropriate number of SEVs should be within South Ayrshire, or parts of South Ayrshire, and seeks your views on these matters.

6.4 You can respond to as many or as few of the issues as you choose depending upon your particular area of interest or experience.

Where possible, please try to explain why you have a certain view, providing any evidence you have in support of that view.

6.5 Your response should be sent either:

By Post:  
Karen Briggs  
Service Lead – Legal and Licensing  
South Ayrshire council  
Wellington Square  
Ayr  
KA7 1DR

By Email: [licensing@south-ayrshire.gov.uk](mailto:licensing@south-ayrshire.gov.uk)

6.6 Please indicate in your response the capacity in which you are responding, for example, a member of the public, elected member, Community Council, SEV operator or someone who works within a SEV.

6.7 Your response should be received by no later than 11 October 2024 in order to ensure that your views are considered as part of the consultation exercise.

## Next Steps

7.1 Once the consultation has concluded, the responses will be reported to the Council, for consideration prior to finalising the Council's SEV policy statement.

## **Further Information**

- 8.1 If you would like further information on the consultation exercise or to discuss any other aspect of the approach to SEV Licensing, please contact:

Karen Briggs  
Service Lead – Legal and Licensing

Email [karen.briggs@south-ayrshire.gov.uk](mailto:karen.briggs@south-ayrshire.gov.uk)

## **Confidentiality & Data Protection**

- 9.1 The local authority will process any personal data you provide in your response appropriately in accordance with the Data Protection Act 2018.
- 9.2 The local authority intends to publish a summary of responses received to the consultation exercise – this will include your name if you submit a response.
- 9.3 The Freedom of Information (Scotland) Act 2002 gives the public a right of access to information held by the local authority; this includes any responses we receive to the consultation exercise.
- 9.4 The local authority may disclose your response to third parties on request. In disclosing responses the local authority will take appropriate steps to redact personal data subject to the relevant provisions of the 2018 and 2002 Acts.
- 9.5 The local authority will hold your response for a period of 5 years from the date it is received. At the end of this period your response will be destroyed unless there are exceptional circumstances that require the response to be retained for a longer period.

## Appendix A:

**What should the appropriate number of SEV licences be in South Ayrshire? You may think that the number should be set at zero, or you may think it should be limited to a certain number, and only within certain locations.**

- A.1 The Council has passed a resolution to license SEVs, and now has to determine and publicise the number of SEVs that the Council considers appropriate for the local authority area and each relevant locality within it. When reaching this decision, the Council is required to take specific local circumstances into consideration when determining the appropriate number of SEVs.
- A.2 The Council is required to review the set number of SEVs deemed appropriate from time to time and update this if necessary.
- A.3 At present, there are no SEVs in South Ayrshire. After implementation of the Council's SEV policy, taking into account ECHR and the grounds of reasonableness, the number of SEVs will be set at a specific number. The Council can also choose to set the number at nil.

### QUESTIONS WE ARE SEEKING VIEWS ON:

- Taking into account the factors referred to above, what do you think the appropriate number of SEVs should be for the various localities within the local authority area:

- (a) residential areas;
- (b) rural areas;
- (c) industrial areas;
- (d) late night economy areas;
- (e) the town centres; and
- (f) South Ayrshire as a whole

Where possible, please explain your answer

- What localities, if any, within South Ayrshire do you consider would be an appropriate location for an SEV? (Please describe the area as clearly as possible and explain your answer where possible)

