

### **Guidance on Sexual Entertainment Venue Licensing**

#### **Policy Development**

This paper seeks views from COSLA members in relation to the Consultation on Guidance on the Provisions for Licensing of Sexual Entertainment Venues (SEVs).

#### **Summary and Recommendations**

The Air Weapons and Licensing (Scotland) Act 2015 introduced the provision to establish a specific licensing regime for sexual entertainment venues (SEVs) to allow for greater local control of the provision of such venues and the conditions within them.

The Scottish Government have published a consultation on Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres which is open until 7 February 2018.

The Board is invited to:

- i. Comment on the guidance and, in particular, whether the questions set out in paragraph 8 are sufficiently addressed within the guidance to inform a COSLA response; and
- ii. Share their own local authority response to the consultation with COSLA by 1 February 2018.

#### **References**

Previous reports covering

- Community Well-Being Executive Group March 2017 – Sexual Entertainment Venues – draft Guidance

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## Guidance on Sexual Entertainment Venue Licensing

### **Policy Development**

1. The Air Weapons and Licensing (Scotland) Act 2015 introduced the provision to establish a specific licensing regime for sexual entertainment venues (SEVs) to allow for greater local control of the provision of such venues and the conditions within them. The Scottish Government have published a [consultation on the draft guidance](#) to support the commencement of this discretionary licensing regime in Scotland. It is anticipated that the provisions will be commenced during 2018.

### **Current COSLA Position**

2. COSLA supported the introduction of new licensing regime for sexual entertainment venues (SEVs) as local authorities welcomed the ability to control the number and location of such venues in their areas and address the gap in licensing and regulation created by the BrightCrew ruling. However, COSLA have been clear that given the risks and sensitivities surrounding this issue, the guidance which supports the introduction of this regime must be suitable and sufficient.
3. The draft guidance seen by the COSLA Community Well-Being Executive Group in March 2017 resulted in the Spokesperson writing to the Cabinet Secretary with significant concerns that it was not sufficient in supporting local authorities to consider the new licensing regime. COSLA's view was that the guidance must make clear the complexities of this discretionary scheme, the risks to local authorities and how to mitigate them to make the best decisions for local communities.

### **Consultation on Guidance**

4. The Scottish Government have now published a consultation on [Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres](#) which is open until 7 February 2018.
5. The consultation sets out that, in carrying out its functions in relation to SEVs, a local authority must have regard to non-statutory guidance issued by Ministers. The purpose of this consultation is to invite views on the draft non-statutory guidance. The non-statutory Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres is a technical document to support the operation of the new licensing regime. While the interpretation of the primary legislation is ultimately a matter for the courts, the guidance aims to provide advice to local authorities, SEV operators, local people and other interested parties on the new measures introduced by the legislation.
6. The draft guidance aims to take account of engagement with local authority stakeholders and recognises the relationship between licensing SEVs and other strategies such as *Equally Safe: Scotland's strategy for preventing and eradicating violence against women* and the *Trafficking and Exploitation Strategy*. The prime intention of the draft guidance is to assist local authorities in taking forward work in relation to licensing SEVs and to help ensure that such activities take place in safe and regulated environments.

## **Proposed COSLA Position and Next Steps**

7. Following the correspondence from the Spokesperson in March 2017 work was undertaken by COSLA and SOLAR officers with civil servants to improve the guidance over the summer. However, the engagement was not as full as desired and there are concerns the guidance remains insufficient. It is worth noting that while this guidance is non-statutory, the legislation requires local authorities to have regard to any guidance the Scottish Government chooses to publish on this issue.
8. The Board is asked to comment on the draft guidance to inform a COSLA response. In particular the Board is asked to consider:
  - Whether the guidance is sufficiently clear on the risks and how to mitigate them in choosing whether to license SEVs in their local authority area?
  - Whether the information on how local authorities can develop a statement of policy which allows them to set a limit on the number of venues in an area which is robust enough to withstand any potential legal challenge from current or future business owners?
  - Whether the information on how to deal with any applications over and above a set limit is sufficiently clear?
  - Whether the greater emphasis and information on the complexities around venues which might have occasional performances (around the four in a 12 month period which triggers a license requirement) is required?
  - Whether more guidance is required on the conditions local authorities may wish to attach to licenses which are suitable, enforceable and will protect employees and the public and minimise the risk of trafficking and exploitation?
  - Whether the guidance sufficiently recognises the likely interaction between Licensing Committees and Licensing Boards with regards to SEVs, in all probability, also applying for alcohol licenses?
  - Whether the guidance succeeds in recognising the complex relationship between licensing of SEVs and other strategies such as *Equally Safe* and the *Trafficking and Exploitation Strategy*?

9. Board members are additionally asked to share their own local authority response to the guidance with COSLA by 1 February 2018 where possible.

## **Summary and Recommendations**

10. The Air Weapons and Licensing (Scotland) Act 2015 introduced the provision to establish a specific licensing regime for sexual entertainment venues (SEVs) to allow for greater local control of the provision of such venues and the conditions within them.
11. The Scottish Government have published a consultation on Guidance on the Provisions for Licensing of Sexual Entertainment Venues and Changes to Licensing of Theatres which is open until 7 February 2018.
12. The Board is invited to:
  - i. Comment on the guidance and, in particular, whether the questions set out in paragraph 8 are sufficiently addressed within the guidance to inform a COSLA response; and
  - ii. Share their own local authority response to the consultation with COSLA by 1 February.