



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

**THURSDAY 10 NOVEMBER 2022
ONLINE DIGITAL MEETING FACILITY**

Committee Members Present:

Councillor C Cassini
Councillor J Findlay
Councillor C McFarlane
Councillor C McGinn (Convener)
Councillor T Trotter

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration
Ms K Harling, Licensing Standards Officer
Ms F Haque, Solicitor

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor J McMillan

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – LICENSING SUB-COMMITTEE, 13 OCTOBER 2022

The minutes were agreed as an accurate record of the meeting.

4. INTRODUCTION OF ONE AND TWO YEAR PUBLIC ENTERTAINMENT LICENCE

A report had been submitted by the Head of Corporate Support to advise the Licensing Sub-Committee of a proposal to introduce shorter term licences for public entertainment activities, for a period of one and two years, at a proportionate fee level based on the current fee for the standard three-year licence.

Ian Forrest, Senior Solicitor, presented the report. He explained that under the Civic Government (Scotland) Act 1982, the default duration of any licence was three years, or a shorter duration at the discretion of the Licensing Sub-Committee. The present fee for a three-year public entertainment licence (PEL) was £600, which did not include larger multi-activity type licences. The upfront cost of £600 could be seen as prohibitive for smaller businesses and start-ups. A wider review of licensing fee levels and the content of the Public Entertainment Resolution was expected, but as this was not imminent, introduction of a one-year and two-year PEL at a cost of £200 and £400 respectively was seen as a way to reduce upfront costs to applicants.

Councillor Findlay commented that the Licensing Authority would not be in a position to begin offering different options of PEL for different categories of activity, and was supportive of dealing with any further changes as part of an overall review.

Responding to questions from Councillor Trotter, Mr Forrest said that one-year and two-year options were being offered for flexibility for smaller businesses who may not wish to apply for a three-year licence. Sheila Fitzpatrick, Team Manager – Licensing and Landlord Registration, said that it made sense to retain a three-year option for operators who could afford the upfront cost, thus avoiding yearly licence renewal. Ms Fitzpatrick highlighted that the cost of licences had to reflect the processing cost, but noted that there would be no income for three years with the longer duration licences. She advised that it was expected that a full fee review would be undertaken in 2023, and some of the background work had already begun.

The Convener and Councillor Trotter requested that a timeframe be added to the review of licence fees, as these were important issues for local businesses, start-ups, and community groups. Ms Fitzpatrick said that it was hoped that someone qualified and with a financial background could carry out this work, probably as a one-off exercise or consultation. Councillors reiterated that they were keen for a date to be provided by which the work and concomitant reporting to the Sub-Committee would begin. Councillor Trotter also enquired as to the Sub-Committee's involvement in the fee review. Mr Forrest said that Member feedback would be gathered as part of the consultation process, and Councillors McGinn and Trotter stressed that they were keen to be involved in the process.

The Convener summarised the discussion, whereby Members were requesting that a timeframe for the process of reviewing licence fees would be decided and fed back to the Sub-Committee by the January meeting, and that Members, or the Convener, would be included in this work.

The Convener moved to a roll call vote, and the report recommendations were supported unanimously.

Decision

The Sub-Committee agreed:

- i. to approve the introduction of a standard Public Entertainment Licence for a period of one and two years; and
- ii. to provisionally set the fee for these new duration licences at £200 for a one-year licence and £400 for a two-year licence, on the understanding that final approval of these proposed fees would be made by Cabinet at the meeting to be held in January 2023.

3. LICENSING OF SEXUAL ENTERTAINMENT VENUES

A report had been submitted by the Head of Corporate Support to provide a Licensing of Sexual Entertainment Venue (SEV) Policy Statement and Conditions following public consultation on the same, and the proposed fee level.

Mr Forrest explained that the report represented a follow-up to previous licensing of SEV reports, this time following public consultation on the Draft Policy Statement and Draft Licensing Conditions. He reported that there had been only two responses to the consultation, which were broadly supportive of the proposals and had suggested no changes. The consultation process had now been completed, and the policies could therefore be accepted as finalised document. He noted that the report also suggested a proposed fee for SEV licences, but said this was a moot point since the Sub-Committee had previously set the indicative number of SEV licences at zero; however, the setting of a fee would ensure there were no gaps in the overall licence fee structure.

The Convener welcomed the report and the licensing of SEVs process reaching its final stages. He also welcomed the role the policies played in protecting vulnerable members of society.

Decision

The Sub-Committee agreed:

- i. to note the content of the Policy Statement (Appendix 1), Licence Conditions (Appendix 2) and Integrated Impact Assessment (Appendix 3), which were unchanged from the drafts approved by the Sub-Committee in June 2022 and could now be considered as final.
- ii. that, initially, fees for SEV licenses were set on the basis of the methodology shown in the report, noting that the final decision on fees would be determined by Cabinet. The duration of an SEV licence would be one year.

2. DETERMINATION ON ACCEPTING ELECTRONIC SIGNATURES ON APPLICATIONS FOR LICENCES AND CONNECTED COMMUNICATIONS

A report had been submitted by the Head of Corporate Support to advise of a proposal to continue the previous interim arrangements for submission of applications and other communications regarding licensing by way of electronic communications on a full time basis.

Mr Forrest presented the report. He advised of a technical issue whereby traditionally applications for licences required to be made on paper, but this had been relaxed by the Scottish Government as part of legislation dealing with Covid-19 to enable operations to continue during the pandemic. The Civic Government (Scotland) Act made provision for electronic signatures, should the Sub-Committee make the appropriate determination. It was proposed that electronic signatures would continue to be allowed for applications for the grant and renewal licences, representations, notifications, and provision of statement of reasons documents. Submissions would continue to be allowed by email, and eventually using the new council online application system.

Responding to a question from Councillor Findlay, Ms Fitzpatrick said that the council intended to move forward with an online system, and for registers to be made available online. However, alternative paper-based arrangements would still be offered for those without access to, or who did not wish to use, the online system.

The Convener moved to a roll call vote, and the report recommendations were supported unanimously.

Decision

The Sub-Committee made a determination in terms of Paragraph 16A of Schedule 1 to the Civic Government (Scotland) Act 1982 to the effect that the following documents may be issued by, submitted to or accepted by the Licensing Authority by means of an electronic communication and without requiring a traditional “wet” signature:

- iii. Any applications for the grant or renewal of a licence
- iv. Objections to or representations regarding an application for grant or renewal of a licence
- v. Notifications to or from the Licensing Authority with respect to a licence or relevant application in respect thereof
- vi. Provision of a Statement of Reasons for a decision of the Licensing Authority in respect of any application

That the determination declare that:

- (i) An electronic communication shall mean an email and/or attachment thereto, or, from such time as Council systems are updated to allow for same, applications or submissions via Council online application software and/or website.
- (ii) For email communications, the appropriate receiving address shall be licensing@eastlothian.gov.uk
- (iii) At the present time, no further form of verification shall be required.

Signed

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Councillor C McGinn
Convener of the Licensing Sub-Committee