

Inverclyde Council

**Licensing Policy Statement on the Licensing of Sexual
Entertainment Venues (“SEV Policy Statement”)**

Section 45C of the Civic Government (Scotland) Act 1982

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1 Introduction

- 1.1 This policy statement sets out the Council's guidance, application process and terms and conditions relating to the regulation of Sexual Entertainment Venues ("SEVs") in Inverclyde.
- 1.2 The Air Weapons and Licensing (Scotland) Act 2015 amended the Civic Government (Scotland) Act 1982 with the effect of removing adult entertainment from the scope of the Public Entertainment and Liquor licensing regimes. The Act introduced a new, separate licensing regime for SEVs. The regime is discretionary and it is for individual local authorities to determine whether to pass a resolution to licence SEVs in their area.
- 1.3 The Council has passed a resolution to licence SEVs in Inverclyde, with effect from 9 June 2022, in order that both performers and customers benefit from a regulated environment. The Council believes that introducing this regime promotes securing public safety and preventing crime and disorder.
- 1.4 The Council's view is that if SEVs are not licensed in Inverclyde this activity would be unregulated and due to not being controlled could have a detrimental impact on public safety, local businesses and from those involved in these types of activities.
- 1.5 The Council's key aims in licensing SEVs are to:
 - Prevent public nuisance, crime and disorder;
 - Secure public safety;
 - Protect children and young people from harm; and
 - Reduce violence against women.

2 Legislation

The legislative provisions in relation to SEVs are contained within sections 45A to 45F and Schedule 2 of the Civic Government (Scotland) Act 1982. This legislation can be viewed free of charge at the below link:

<https://www.legislation.gov.uk/ukpga/1982/45/contents>

3 Implementation of relevant legislation in Inverclyde

In Inverclyde, the new system has been implemented as follows:

- 26 April 2019 – the SEV provisions commenced in Scotland;
- 09 December 2020 – Inverclyde Council's General Purposes Board authorised the Head of Legal and Property Services to carry out a public consultation in respect of the proposed licensing of SEVs in order to gather the views of the local community in determining whether SEVs should be licensed in Inverclyde;
- The abovementioned consultation exercise was carried out between 21 December 2020 and 12 February 2021;
- 09 June 2021 – the General Purposes Board considered the responses received to the abovementioned consultation and passed a resolution to licence SEVs in Inverclyde, with effect from 09 June 2022. The Board also authorised the Interim Head of Legal Services to carry out a second public consultation regarding the terms of a draft SEV policy statement;
- The second public consultation was carried out between 23 November 2021 and 18 March 2022;
- 13 April 2022 – the General Purposes Board considered the responses received to the second public consultation and approved the SEV Policy Statement for Inverclyde;
- 09 May 2022 – public notice of the resolution and draft policy statement published;
- 09 June 2022 – Inverclyde Council SEV regulatory and licensing system commences.

4 Which premises require a Licence?

4.1 A Licence is needed for a “Sexual Entertainment Venue” unless the rules about “Occasional Use” or “Waivers” apply (see parts 9 and 10 below).

4.2 A “Sexual Entertainment Venue” (SEV) means:

‘any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser’. (Section 45A(2)).

“Premises” includes any building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted’. (Section 45A(3)(b)).

4.3 Important definitions in the legislation are explained in Annex 1:

“Definitions”:

(a) “Sexual Entertainment”

(b) “Display of Nudity”

(c) “Audience”

(d) “Organiser”

(e) “Financial Gain”

4.4 The following premises are not sexual entertainment venues:

(a) Sex shops and sex cinemas (which are separately defined in Schedule 2 of the 1982 Act).

(b) Premises which provide relevant entertainment on an infrequent basis, further explained at Part 9 – “Occasional Use”.

5 Making an Application for Licence or Waiver

- 5.1 The application must be in writing, giving the information, declaration and plans described in the Application Form in **Annex 2**.
- 5.2 See **Annex 3** for Guidance Notes and **Annex 4** setting out the Procedure with which Applicants must comply prior to applying to the Council, and when applying, including notifying those parties named as Consultees in paragraph 1 of Annex 4, and afterwards.
- 5.3 The Council will advertise and consult third parties on the Application.
- 5.4 Unlike Applications for the grant or renewal of other types of Licence, Applications for the grant or renewal of SEV Licences and for waivers will be referred to the General Purposes Board of Inverclyde Council for determination. Delegated Powers will not be used.
- 5.5 The Applicant and any third party who has stated objections or representations will be invited to attend the Committee dealing with the application.
- 5.6 The General Purposes Board will not determine an Application until it is satisfied that the Applicant has completed the procedure (for example, providing the Council with a completed Compliance Notice confirming the display of the Site Notice, publication of Notice, as appropriate, and notification to consultees). (See **Annex 3** –“ Guidance Notes “ and **Annex 4** for “Application Procedure and Application Consultees” in paragraph 1 thereof).
- 5.7 In deciding whether or not to grant or renew a Licence or Waiver, the General Purposes Board will consider each Application on its own merits and will take into account the following:
- Any objections or representations
 - This Licensing Policy Statement
 - The statutory criteria (see **Annex 5** – “Legal Test”)
 - Scottish Government Guidance
 - Any other relevant considerations
- 5.8 Applicants should refer to Part 6 – “Policy of Inverclyde Council” and Part 11 –“Renewal of Licences”.
- 5.9 Any Licence or Waiver will be subject to Conditions (see **Annex 6** –“Standard Conditions”).
- 5.10 Licences will generally be issued for 1 year but can be of shorter duration if the Council deems this appropriate (Schedule 2, Paragraph 12 of the 1982 Act). The Licence will state the Expiry Date. The duration or a waiver will be considered and determined on an individual basis.

6 Policy of Inverclyde Council

- 6.1 The SEV legislation is related to the Scottish Government Policies:

‘Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls’

<https://www.gov.scot/publications/equally-safe-scotlands-strategy-preventeradicat-violen-against-women-girls/>

‘Human Trafficking and Exploitation Strategy’

<https://www.gov.scot/publications/trafficking-exploitation-strategy/>

The Council endorses the objectives of those Policies.

- 6.2 In preparing this SEV Policy Statement, the Council has fulfilled its duties under Section 45C(3) of the 1982 Act to:

- (a) Consider the impact of the licensing of Sexual Entertainment Venues in their area, having regard, in particular to how it will affect the objectives of –
- preventing public nuisance, crime and disorder;
 - securing public safety;
 - protecting Children and Young People from harm; and
 - reducing violence against women,
- and
- (b) Consult such persons or bodies as they consider appropriate (see **Annex 7** – list of consultees).

6.3 The Council has complied with the duty by consulting, taking representations from the consultees and by considering how it can exercise its functions so as to advance the above statutory objectives. The primary purpose of this SEV Policy Statement is to ensure that Inverclyde Council promotes those objectives in exercising its licensing functions.

6.4 The Council has set out Standard Conditions required to assist compliance with the licensing objectives. (See **Annex 6** – “Standard Licensing Conditions”). The Council has discretion to apply additional conditions to a SEV Licence. In doing so, the Council must have regard to how such additional conditions relate to the mandatory conditions set out in the 1982 Act, Regulations, Orders or other instruments set out in terms of the Act.

7 Number of Sexual Entertainment Venues

7.1 The Council is required to set the number of SEVs permitted in their area and for each relevant locality.

7.2 The basis of this limit is that the Council is entitled to refuse an application for the grant or renewal of a licence on a number of grounds 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 their area or that locality. The Council is able to determine that the appropriate number for a locality is nil.

7.3 Upon consideration of the responses received to the public consultation, and balancing respective interests, the Council have determined that the appropriate number of SEVs within the entirety of Inverclyde will be **zero**. This is a rebuttable presumption. Each application will be determined on its own merits.

7.4 Inverclyde’s mix of densely populated urban areas, coastal and rural villages and countryside over a relatively small area of 62 square miles is unique to the west of Scotland (Inverclyde Outcome Improvement Plan 2019).

7.5 Inverclyde covers the whole of the villages of Kilmacolm and Quarriers Village, the whole of the towns of Port Glasgow, Greenock and Gourock and the whole of the village of Inverkip and the settlement of Wemyss Bay. As at 30 June 2020 Inverclyde had an estimated population of 77,060 which was a significant decrease compared to the population estimate in June 2019 (77,800).

7.6 The localities of Kilmacolm, Quarriers Village, Inverkip and Wemyss Bay are small villages with populations of 4,000, 700, 3,000 and 2,500 respectively. They are each distinctive in character. Kilmacolm has a Victorian town centre which is the location of the Community Centre and library. Quarriers Village is almost entirely comprised of residential property in a conservation area developed from an orphans’ village. Inverkip has a traditional village centre along a main street in close proximity to a children’s nursery, residential and retail units and the Kip Marina. Wemyss Bay,

is largely residential in nature with some commercial units and is the terminus for the railway line from Glasgow and terminal for ferry services to the Isle of Bute. The nature of SEVs and the impact that they and their customers can have in each of these localities would significantly distort the character of these communities. In these smaller communities it would be extremely difficult to identify premises that would not be in close proximity to the areas mentioned in the guidance to the act such as residential areas, places of worship, schools, including the routes to and from school regularly used by children. Accordingly, it is considered that the number of SEV premises should be nil.

- 7.7 Port Glasgow and Greenock are towns with estimated populations of 15,000 and 43,000 respectively and about 35 places of worship respectively. Greenock is Inverclyde's administrative centre and is the main retail and commercial centre. Port Glasgow is the second largest town in Inverclyde. Both town centres are located in areas populated with residential housing and retail units and are in close proximity to places of worship, schools and other sensitive premises. It is considered that the appropriate number of SEV premises licensed in Port Glasgow and Greenock be nil.
- 7.8 Gourock is a small town with an estimated population of approximately 10,000. The town centre is home to a number of independent traders and draws visitors from across Inverclyde and beyond, in addition to being a residential area. It is a popular destination for families due to its cafes and sea front and would be considered an inappropriate location for an SEV. It is considered that the appropriate number of SEV premises in Gourock be nil.
- 7.9 With the appropriate number of SEV licensed premises set to nil for all localities there is a presumption against the granting of SEV licences. Applicants will therefore require to demonstrate exceptional reasons as to why a licence should be granted in order to overcome this presumption. For the avoidance of doubt, the Council considers that responsible management and the implementation of appropriate operating policies at SEVs are essential to ensure the promotion of the licensing aims and objectives and so being a responsible operator is a basic requirement and is not considered as exceptional.

Sensitive Premises

- 7.10 The presumption of refusal will be regarded as being enhanced if the proposed SEV is within five hundred (500) metres of one or more of the following sensitive premises:
- Residential areas;
 - Schools, play areas, nurseries, parks, swimming pools and other sports facilities;
 - Cinemas, theatres and concert halls;
 - Libraries and museums;
 - Premises likely to be frequented by people under 18 of families;
 - Public buildings including Council offices;
 - Retail shopping areas;
 - Places of worship, celebration or commemoration;
 - Community Centres;
 - Services focussed on supporting women, children and young people, such as women's refuges;
 - Services focussed on supporting people with substance abuse issues, mental health issues or other vulnerable groups;
 - Historic buildings or tourist attractions;
 - Roads, footpaths and other access routes to any of the above.
- 7.11 In determining whether or not the Sensitive Premises Presumption applies, the Council will also have regard to the following:
- a) Whether any SEVs are already operating, or have operated, in the Relevant Locality (whether under a SEV Licence, an "Occasional Exemption" or a Waiver);
 - b) Whether there have been reports to the Police or Home Office of incidents within the Relevant Locality (whether or not leading to prosecution or conviction) of human trafficking or

exploitation, or breaches of immigration laws by the Applicant or anyone else concerned with the proposed SEV;

- c) Whether there have been reports to the Police of incidents within 500 metres of a proposed SEV (whether or not leading to prosecution or conviction) of crime (including sexual assaults or minor harassment) or anti-social behaviour;
- d) The existing character and function of the area in which the SEV is to be located; and
- e) The views of residents and other relevant interested persons as far as possible.

7.12 The Sensitive Premises Presumption is a rebuttable presumption. Each application will be determined on its own merits.

8 Premises with other Licences (Alcohol or Public Entertainment)

- 8.1 If a premises is licensed under the Licensing (Scotland) Act 2005, it is not sufficient for that premises to state that “Adult Entertainment” is permitted. If such entertainment is being provided, an SEV licence will be required.

It is not enough for the Operating Plan in the Premises Licence to state that “Adult Entertainment” is permitted.

- 8.2 If a premises which is licensed for the sale of alcohol is organising “sexual entertainment” (as defined in the legislation) to take place within the premises, they will need to obtain an SEV licence. Their alcohol premises licence will only cover the sale of alcohol.
- 8.3 If the premises take a booking where “sexual entertainment” might happen, that premises should advise those booking that such entertainment is prohibited. An SEV Licence is required if “sexual entertainment” is provided (or allowed to be provided) by or on behalf of the organiser.
- 8.4 If “sexual entertainment” happens on premises where no SEV has been obtained and there has been no Waiver granted, the Premises Manager and the Premises Licence Holder can be prosecuted for not having an SEV licence. This could result in the premises and personal licences being reviewed by the Inverclyde Licensing Board which could lead to a suspension or revocation of the licence.
- 8.5 It is also not sufficient for Adult Entertainment to be licensed under a Public Entertainment Licence.
- 8.6 All of the above within this section is subject to the Occasional Use Exemption in section 9 of the Policy.

9 Occasional Use (“the 4 in a year exemption”)

- 9.1 There will be some occasions where a premises may not require to apply for an SEV licence. It is possible for a premises to be used for “sexual entertainment” for a proposed event which does not exceed the duration of 24 hours as long as the premises has not been used for “sexual entertainment” on more than 3 previous occasions in the past 12 months. This means that a fourth occasion within 12 months is permitted but any more than this would not be permitted.
- 9.2 Each occasion must last no more than 24 hours. If any occasion lasts more than 24 hours, each period of 24 hours will be deemed to be a separate occasion.
- 9.3 The rule does not relate to the calendar year and therefore, to work out how many occasions have taken place, you must count back 12 months from the last occasion.
- 9.4 The person responsible for the premises and any occasional entertainment must inform Police Scotland and Inverclyde Council’s Licensing Section prior to using this exemption.

10 Waivers

- 10.1 The Council can allow premises to book “sexual entertainment” without a licence. There is no fee for a Waiver application.
- 10.2 For at least 21 days before applying to the Council the operator must display a “Notice of Application” at or at near the proposed Premises stating that they are proposed to be used as a Sexual Entertainment Venue, and stating:
- the proposed dates of operation, and
 - the proposed times of operation.
- After that period, the operator must give to the Council a Certificate of Display confirming display for that period.
- Both the Notice of Application and Certificate of Display are available to download from the Council’s website.
- 10.3 The Application for a waiver:
- Must be in writing;
 - Must contain a copy of the Site Notice;
 - Must contain the same information and include a Layout Plan and Location Plan as if the operator was applying for a Licence (see **Annex 2**).
- 10.4 The Council will –
- Copy the Application for a Waiver to the Police and other consultees as set out in **Annex 4**
 - Put a public notice on its website.
- 10.5 An application for a Waiver or Licence will be considered at a meeting of the General Purposes Board. The Committee will not consider an application until the Committee has received the Certificate of Display.
- 10.6 The Council can grant a Waiver if they consider that to require a Licence would be unreasonable or inappropriate. The General Purposes Board will take into account:
- Any objections or representations;
 - This Licensing Policy Statement;
 - Scottish Government Guidance;
 - Any other relevant considerations.
- 10.7 The General Purposes Board will consider each application on its merits but its general approach will be that waivers will only be granted in exceptional circumstances. It will approach a Waiver Application with the presumption that it should be refused. The Applicant should attend the General Purposes Board hearing and seek to rebut that presumption. The Council is unlikely to consider that it would be appropriate to permit waiver from the requirements to hold a SEV Licence, particularly as the legislation allows an Occasional Use exemption.
- 10.8 If a Waiver is granted, it will be granted for the duration of 12 months.
- 10.9 The Waiver will have the same conditions that an SEV licence would have (see **Annex 6** for the Standard Conditions). The only condition which will not apply and will be altered will be in relation to the requirement to display a Notice.
- 10.10 Police Scotland will be advised where a Waiver has been granted.

- 10.11 It is not possible to apply for a Renewal of a waiver. Once it expires, the premises can only be used if a further Waiver is granted or if an SEV licence is obtained.
- 10.12 A Waiver can be terminated by the Council and the Council will notify Police Scotland if the Waiver is terminated.

11 Renewal of Licences

- 11.1 If a licence holder applies for renewal of an SEV licence before the expiry date, the licence will remain in effect until a final decision on the Renewal application has been made.
- 11.2 If the expiry date has already passed when the applicant makes a renewal application, this will be treated as an Application for a new grant of licence unless the following conditions are met:-
- the application is made no later than 28 days after the expiry date; and
 - the council is satisfied that there is good cause to accept a late application.
- 11.3 The applicant should state in writing if there is good reason to accept the late.
- 11.4 The procedures for a Renewal Application are the same as they are for a New Grant of a Licence, but the Licence is not guaranteed to be renewed - the Local Authority is not obliged to grant a renewal. The Council will take into account the operation of the Premises during the previous Licence period(s), and any allegations of offences and/or breaches of Licence Conditions.
- 11.5 Unlike Applications for the grant or renewal of other types of Licence, Applications for the grant or renewal of SEV Licences will be referred to the General Purposes Board, and Delegated Powers will not be used.

12 Revocation of Licence

- 12.1 The Council may at any time revoke a Licence under the legislation on the basis that:-
- a) One of the grounds of refusal applies (See **Annex 5**);
 - b) In their opinion, any of the grounds relating to the fitness of the Licence Holder or anyone involved with the licence apply;
 - c) A condition of the licence has been contravened.

13 Objections and Representations

- 13.1 Third parties are able to make objections and representations in relation to the application for grant or renewal of an SEV and a Waiver application.
- 13.2 Any objection or representation made should be specific and state clearly the legal ground for the objection or representation. The grounds are set out in the Civic Government (Scotland) Act 1982 at Schedule 2, paragraphs 9(4) to 9(6).
- 13.3 Any objection or representation which is not specific or where the legal ground is not stated clearly as set out in the Civic Government (Scotland) Act 1982 at Schedule 2, paragraphs 9(4) to 9(6) is unlikely to be accepted as a valid objection or representation.
- 13.4 The applicant is entitled to fair notice of complaints and the objector should expect to be able to answer questions in relation to the complaint if there are factual disputes involved.
- 13.5 The objections and representations must relate directly to the Civic Government (Scotland) Act 1982 legislation and must relate to the application for an SEV.

- 13.6 The General Purposes Board will make the final decision in relation to whether the SEV licence is granted based on all of the circumstances and after considering the merits of the application.

14 Consultation

- 14.1 Consultation on this SEV Policy Statement took place between 23 November 2021 and 18 March 2022. This policy statement was published on 09 May 2022. The Policy, including the zero SEV policy, will be kept under review and revised if appropriate.
- 14.2 Inverclyde Council adopted the Policy at the meeting of the General Purposes Board on 13 April 2022.
- 14.3 Any comments you may wish to make on this Policy can be submitted to licensing.section@inverclyde.gov.uk.
- 14.4 A copy of this Policy Statement will be available for public inspection during normal office hours, free of charge at Inverclyde Council Customer Service Centre, Municipal Buildings, Clyde Square, Greenock PA15 1LY and on the Council's website.
- 14.5 Any personal information collected will be held in accordance with the requirements of data protection legislation.

Annex 1: Definitions

“premises” - any building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted;

“SEVs” - any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser;

“Sexual entertainment” –

- (a) any live performance, or
- (b) any live Display of Nudity,

which is of such a nature that, ignoring Financial Gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the Audience (whether by verbal or other means);

“Display of Nudity” –

- (a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,
- (b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.

“Audience” - this can include just one person so one to one performances are included within the scope of the legislation and would require a licence.

“Organiser” –

- (a) The person (“A”) who is responsible for –
 - (i) the management of the Premises, or
 - (ii) (ii) the organisation or management of the sexual entertainment,

or

- (b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person;

“financial gain” – includes financial gain arising directly or indirectly from the provision of sexual entertainment;

Annex 2: Application Form

**APPLICATION for GRANT / RENEWAL OF
SEXUAL ENTERTAINMENT VENUE LICENCE**

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

EACH QUESTION MUST BE ANSWERED IN BLOCK CAPITALS (preferably in black ink)

PLEASE COMPLETE QUESTION 1 <u>OR</u> QUESTION 2 (whichever is applicable)		
1. To be completed if a natural person (e.g. Individual Applicant)		
(a) Full Name		
Address		
Postcode	Telephone No.	
E-Mail		
Age	Date of Birth	Place of Birth
(b) Is applicant to carry out day-to-day management of the activities to be covered by the licence?		YES / NO
If NO, provide full name, address, date and place of birth of any employee or agent so engaged.		
Telephone / Mobile number	E-mail address	

OFFICE USE ONLY		
Date Received	Fee Paid	Additional Documents Etc
		Certificate of Display of Site Notice <input type="checkbox"/> <i>(to be lodged 21 days after display)</i>

2. To be completed if NOT a natural person (e.g. Company or Partnership)

(a) Company or Partnership Name

(b) Address of Principal Registered Office

(c) Name, private address, date and place of birth of Directors, Partners or other persons responsible for its management. *(Continue on separate sheet if required)*

(d) Full name, address, date and place of birth of employee or agent to carry on day-to-day management of the activities to be covered by the licence.

Telephone / Mobile number

E-mail address

The following Questions to be completed by ALL applicants

3. Type of Application applied for: *(tick whichever is appropriate)*

Grant of New Licence

Renewal Application

4. Name and address of premises for which a licence is required *(herein after called "the premises").*

5. Description of Premises
Provide details of what type of premises it is e.g. building, vehicle, vessel etc.

6. Security arrangements on the premises *(refer to note 1 of the Guidance Notes)*

7. Description of activities to be carried on in the premises (refer to <i>note 2 of the Guidance Notes</i>)	
8. Specify days and times for which the Sexual Entertainment Licence is required (<i>Note: the licensable activity is only permitted at these times if granted</i>).	
9. Maximum number of persons proposed to be admitted to premises at any one time.	
10. Has any party named in 1 or 2 above previously held or currently holds a Sexual (a) Entertainment Licence?	YES / NO
If YES, which Authority granted the licence?	
What was its reference number?	
When was it granted?	
When did/does it expire?	
(b) Has any party named in 1 or 2 above ever applied for and been refused a licence	YES / NO
If YES, when were you refused?	
Which Authority refused you a licence?	
Reason for refusal of licence	
(c) Have you previously held or do you hold any other licence issued by any other Authority in the UK?	YES / NO
If YES which Authority granted the licence?	
11. Has any person/s named in this application at any time, lived outside the UK for a continuous period of 12 months or more? If so, please provide details of country and dates resided. (<i>Continue on separate sheet if required</i>)	

THIS SECTION MUST BE COMPLETED

DECLARATION

13. I HEREBY DECLARE (*delete (a) or (b) whichever is not applicable*)
- (a) that a Notice has been displayed for a period of 21 days at or near the premises where the proposed trading is to be carried out and contains such information as is required by Paragraph 7(4) of Schedule 2 to the Civic Government (Scotland) Act 1982: **OR**
- (b) that I have been unable to display a Notice of this application because I do not have the rights of access or other rights which would enable me to do so, but I have taken reasonable steps to acquire those rights but have been unable to do so. The steps taken are as follows:- (*please specify*)

Where declaration (a) is made, there must be produced in due course a Certificate of Compliance with Paragraph 7(8) of Schedule 2 to the Civic Government (Scotland) Act 1982.

Any person who in connection with the making of this application makes any statement that they know to be false or recklessly makes any statement that is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding Level 4 on the standard scale, Criminal Procedure (Scotland) Act 1995, Section 225.

I declare that the particulars given by me on this form are true and I hereby make application to Inverclyde Council for the licence applied for.

I understand the application fee is **non-refundable**.

Inverclyde Council is obliged to comply with current data protection laws and will use this information for the purposes of the Civic Government (Scotland) Act 1982 and related purposes. The Council is under an obligation to manage public funds properly. Accordingly, information you have provided on this form may be used to prevent or detect fraud and may also be shared for the same purposes with other public bodies or other organisations that handle public funds.

Further information can be found at www.inverclyde.gov.uk/privacy

Date _____ Signature of Applicant _____

Completed application to be lodged with the appropriate fee to:-

Customer Services, Inverclyde Council, Municipal Buildings, Greenock, PA15 1LY (Tel: 01475 717171)

THE INVERCLYDE COUNCIL

NOTICE FOR DISPLAY AT PREMISES

APPLICATION FOR SEXUAL ENTERTAINMENT VENUE LICENCE

Civic Government (Scotland) Act 1982

NOTICE is hereby given that _____
(Insert Name of Applicant)

has lodged an application with The Inverclyde Council, Clyde Square, Municipal Buildings, Greenock

on _____ for a Sexual Entertainment Venue Licence
(Insert date application submitted)

in respect of premises at _____
(Insert address of premises proposed to be licensed)

The hours of operation sought are as follows:-

(Insert days and hours for which application has been made)

1. Any person wishing to object or make representations in relation to the application must lodge their objection or representation with the Licensing Section, The Inverclyde Council, Clyde Square, Municipal Buildings, Greenock PA15 1LX, generally within **28 days** of the above date.

Any objection or representation to an application for a licence shall be entertained by the Council as the appropriate Licensing Authority if, but only if it:-

- (a) is in writing;
- (b) specifies the grounds of objection or, as the case may be, the nature of the representation;
- (c) specifies the name and address of the person making the objection or representation;
- (d) is signed by him or on his behalf;
- (e) was made to the licensing authority within 28 days of whichever is the later date, or as the case may be latest of the following dates:-
 - (i) where public notice of the application was given in a newspaper, the date when first given;
 - (ii) where The Inverclyde Council has ordered the applicant to display the Notice again from a specified period, that date;
 - (iii) in any other case, the date when the application was made to the licensing authority.

2. Notwithstanding the dates set out in paragraph 1(e) above, it shall be competent for a licensing authority to consider an objection or representation received by them before they take a final decision on the application to which it relates if they are satisfied that there is sufficient reason why it was not made in the time required.

3. An objection or representation shall be made for the purposes of paragraph 1 above if it is delivered by hand within the time specified to the licensing authority or posted (by registered or recorded delivery post) so that in the normal course of post it might be expected to be delivered to them within that time.

Signature of Applicant(s) / Agent _____

Date _____

THE INVERCLYDE COUNCIL
CERTIFICATE OF DISPLAY OF SITE NOTICE

Civic Government (Scotland) Act 1982

I HEREBY CERTIFY that a Site Notice has been displayed at

(insert name and address of applicant premises)

From _____ To _____

(enter dates Notice displayed at premises, not to be less than 21 days)

in terms of Schedule 2, Paragraphs 7(4) and 7(8) of the Civic Government (Scotland)
Act 1982.

Signature Applicant(s) / Agent: _____

Print Name Applicant(s) / Agent _____

Date: _____

TO BE RETURNED AFTER 21 DAYS TO:

Licensing Section
The Inverclyde Council
Municipal Buildings
Clyde Square
Greenock
PA15 1LX

Annex 3: Guidance Notes

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 **GUIDANCE NOTES ON SEXUAL ENTERTAINMENT VENUE LICENCE**

These guidance notes are issued on behalf of Inverclyde Council for the purposes of information and general guidance. They include the Council's own interpretation of the law and the applicant is strongly advised to obtain their own independent legal advice in any matters of doubt.

Inverclyde Council as the Local Authority is responsible for the processing of applications for a Sexual Entertainment Venue Licence under the Civic Government (Scotland) Act 1982. The Council also has responsibility for ensuring that the Conditions on which it issues a Sexual Entertainment Venue Licence are complied with. A copy of the Licensing Conditions is available on the Council's website www.inverclyde.gov.uk

The purpose of this note is to outline the procedure for applying for a Sexual Entertainment Venue (SEV) Licence and to draw attention to important points relating to that licence.

You will find attached to these notes: -

- (i) Application form for a licence to carry on the activity of a sexual entertainment venue;
- (ii) Notice for Display at Premises; and
- (iii) Certificate of Display of Site Notice.

When completing the application form, please note the following specific points:-

1. Security arrangements on the premises (Question 6) – Include as much information as possible, specifically detail any CCTV arrangements, number of SIA Stewards on duty and SIA Door Stewards.
2. Description of activities to be carried on in the premises (Question 7) – Specify what form of sexual entertainment will be provided e.g. lap dancing
3. Convictions (Question 13) - the Council as Licensing Authority is entitled to consider all convictions on the record of an applicant for a SEV Licence. The form requires you to state the details of the convictions subject to the provisions of the Rehabilitation of Offenders' Act 1974.
4. Since the application involves the use of premises you must arrange for the site notice attached to your application form to be completed and displayed at or near the premises from which you will trade for a period of not less than 21 days and then you have to return the Certificate of Display of Site Notice duly completed once the notice has been displayed for a minimum of 21 days.
5. The Council also requires that an application for a SEV Licence is the subject of a newspaper advertisement. Under the 1982 Act all applicants who apply for a SEV licence to the Local Authority must, unless the Local Authority confirms otherwise, advertise their application in a local newspaper, no later than 7 days after the date of the application being lodged with the Local Authority. A copy of the advert must be submitted to the Local Authority.

Annex 4:

PROCEDURE FOR AN APPLICATION

1. The application is sent for consultation to the relevant Council Officers; Elected Members for the relevant ward, the Chief Constable, Police Scotland; Scottish Fire & Rescue Service; Community Councils for the area; the Council's Building Standards and Planning Departments; Health and Social Care Partnership; and the Council's Environmental Health and Public Protection Departments all of whom have a period of 28 days within which to lodge an objection or make comment on the application. This period also applies to any other person who may inspect the Council's Register of applications and may make an objection or representation in response to the application.

Please note that there is no automatic entitlement to obtain a licence immediately on the expiry of the period of 28 days and all applications for a Sexual Entertainment Licence will require to be considered at a hearing of the Council's General Purposes Board.

2. If there is no objection to your application, the Council will try to finish the processing of the application as soon as possible.
3. You will be advised of any objection or representation received as a result of consultation and be given the opportunity to respond.
4. Even if there are no representations or objections to your application, the application will be referred to the Council's General Purposes Board for the application to be determined. You will be given an opportunity to attend the hearing and be heard in relation to your application.
5. All applications for the grant or renewal of a SEV Licence will be determined by the Council's General Purposes Board at a hearing to consider the application. Applicants and any objectors will be given an equal opportunity to be heard at the hearing and to state their case.
6. On the successful conclusion of the process by the grant of a licence, the Council will issue a Sexual Entertainment Venue Licence subject to the standard Conditions, usually for a period of one year.
7. Please note that it is the licence holder's responsibility to remember to renew the licence before the current licence expires. Applications should be submitted at least six weeks prior to the expiry date of the current licence. Once a licence expires, an application for a licence is treated as a new application and the licence holder must cease operating until a new licence is issued by the Council. **On Good Cause Shown**, a Licensing Authority may deem an application for renewal of a licence made up to 28 days after the expiry of the licence to be an application made before the expiry.

Annex 5 Statutory Criteria including Grounds for Refusal

1. These are stated in the Civic Government (Scotland Act 1982, Schedule 2, paragraph 9.

There are two types of Grounds of Refusal:

- (a) **Mandatory Grounds of Refusal:** if these exist, the Council automatically refuses the Licence Application - it has no choice (see "Mandatory Grounds of Refusal" below);
 - (b) **Discretionary Grounds of Refusal:** these are possible reasons for the Council to grant or refuse a Licence, so the Council will hold a Hearing attended by the Licence Applicant, the Police, and anyone who has stated objections or representations (such as local residents), and after hearing from everyone the Council will decide whether or not to grant the Licence (see "Discretionary Grounds of Refusal" below).
- 2 The legislation sometimes refer to a "Sex Shop" instead of a "Sexual Entertainment Venue". The reason for this is that the 1982 Act has always had a system of licensing "Sex Shops", and when the new provisions about "Sexual Entertainment Venues" were to be introduced, the Scottish Parliament did this by modifying the existing system rather than by creating a separate system. This was done by Section 45B(6)(a) of the 1982 Act, which is:

"(a) references to a Sex Shop are to be read as references to a Sexual Entertainment Venue".

Mandatory Grounds of Refusal

These are set out in Paragraph 9(3). Because the legislation says "A licence under this Schedule shall not be granted ..." the Council has no choice. They must refuse the Application if any of these apply:

- (a) the Applicant is under the age of 18;
- (b) the Applicant is disqualified from holding a SEV Licence;
- (c) the Applicant has been convicted of an offence relating to the enforcement of SEV Licensing legislation;
- (d) the Applicant has not resided in the United Kingdom for at least 6 months (or, if a Company, is not registered in the U.K.);
- (e) the Applicant has been refused a SEV Licence in the past 12 months.

Discretionary Grounds of Refusal

In determining whether or not the Applicant or anyone associated with the Applicant is a fit and proper person to hold the Licence, the considerations for the Council will include:

- a) The relevant knowledge and experience possessed by that person;
- b) Any evidence of the operation of any existing or previous licence(s), whether or not relating to SEVs, including any licence held in any part of the United Kingdom;
- c) Any Objections or Representations.

Annex 6 Standard Conditions

Status of Conditions

Both the Standard Conditions and any Special Conditions are subject to any Mandatory Conditions prescribed by the Scottish Ministers under Section 45E.

Any SEV Licence may also be subject to additional conditions as determined by the Council in relation to a particular SEV licence.

Any SEV Licence will have the following Standard Conditions made by the Council under Section 45F.

Definitions

"Performer" - a person who is engaged to provide "Sexual Entertainment";

"Customer" - a person who is on the Premises but does not work for the Organiser;

"Premises Manager" - a natural person (not a company or partnership) so named on the Licence (or an "Acting Premises Manager" authorised under Condition 11). The Premises Manager is treated as a Joint Holder of the Licence and will be named in the Licence document.

1 Records and copy documents

1.1. Where these Conditions require the keeping of records and copy documents, these must be kept in writing or on computer.

1.2. The Licence-Holder must ensure that at all times:

- these things are available for viewing by the Police, the Civic Licensing Standards Officer, and any other authorised Council officer on request;
- there is a member of staff who is able to access these things, display them (if on computer or television monitor), and make copies.

14.6 Where these Conditions require that records and copy documents should be kept, these things should be kept for 12 months beginning:

- (a) If relating to a Performer or other member of staff, when that person stopped working on the Premises;
- (b) If relating to a customer, when that person was admitted to or excluded from the Premises;

or, if less, 12 months after the event recorded.

Those records and copies shall be available to the Police, the Civic Licensing Standards Officer and any other authorised Council officer on request at all times.

2. Notices

Where these Conditions require the display of a Notice, Licence or other document, that thing must be

- on A4-sized paper (or larger);
- printed legibly or typed in black ink;
- in a font size of 16 points or larger
- placed in a conspicuous and well-lit place where all Customers, Performers and staff can easily read it.

3 Incident log

The Licence-Holder must keep an incident log of:

- a) all alleged crimes reported to the venue;
- b) all ejections of Customers;
- c) any complaints received from anyone;
- d) any incidents of disorder;
- e) seizures of drugs or offensive weapons;
- f) any faults in the CCTV system or searching equipment or scanning equipment;
- g) any refusal of the sale of alcohol;
- h) any visit by the Council, Police Scotland or any other statutory service;
- i) any breach of licence conditions reported by a Performer.

4 CCTV

4.1 There must be continual CCTV coverage while the Premises are open to the public of:

- (a) all areas inside the Premises (not just performance areas) and
- (b) of the areas outside the Premises near any Customer entrance to the Premises.

4.2. The CCTV must make recordings capable of providing pictures of evidential quality in all lighting conditions and must allow for facial recognition.

4.3. CCTV recording equipment, tapes or discs shall be kept in a secure environment under the control of the Licence-Holder or Premises Manager.

4.4. The CCTV recordings shall be retained for at least thirty (30) days (and, if requested by the Police, for such longer period or until such event as they specify).

4.5. The Licence-Holder must ensure that at all times (whether or not the Premises are open to the public) there is a member of staff who is able to access CCTV recordings, display them and make copies if requested these to the Police or other officers.

2 Staff Records etc.

5.1 The Licence-Holder must, before allowing a Performer to work on the Premises, make a record of the following details of that Performer:

- full name, and any alias or stage name;
- address;

- telephone number;
 - date of birth;
 - place of birth.
- 5.2 If the Performer has a current Passport issued in the United Kingdom, the Licence-Holder must, before allowing the Performer to work on the Premises, keep a copy.
- 2.3 If the Performer does not have a current Passport issued in the United Kingdom, the Licence-Holder must, before allowing the Performer to work on the Premises, both:
- (a) make a copy of the Performer's any official documents (such as Passport, Visa, EU driving licence, or National Identity Card; and
 - (b) contact the Home Office and obtain written confirmation that the Performer has a right to work in the United Kingdom.
- 5.4 In either case the Licence-Holder must keep copies of any documents inspected.
- 5.5 The Licence-Holder must use his/her best endeavours to actively seek to identify Performers who may have been the victim of human trafficking.
- 5.6 The Licence-Holder must keep a Staff Register for each day that the Premises are open to the public, recording (for each member of staff, including Performers):
- the person's name;
 - the person's address;
 - what time the person's duty started;
 - what time the person's duty ended.

3 Welfare of Performers

- 6.1 The Premises shall provide private spaces for Performers to use when not working. These spaces must have:
- lockable doors;
 - the provision of hygienic changing and showering facilities;
 - a toilet with access to hot water exclusively for the use of the Performers;
 - prominent "Staff Only" sign-posting.
- 6.2 No locks or fastenings shall be fitted to any public area of the Premises (other than toilet cubicles). No private secluded booths or areas will be made available on the premises.
- 6.3 The Licence-Holder must set break times for Performers.
- 6.4. The Licence-Holder must arrange for Performers to be escorted by security staff to a nominated taxi or to their car at the end of shift.
- 6.5 The Licence-Holder must ensure that Performers are always appropriately dressed when not in the performance area.
- 6.6 The Licence-Holder must allow Performers access to medical checks and sexual health advice on the Premises.

6.7 The Licence-Holder must keep the Premises clean and tidy.

7 First Aid

1.1. The Premises must have a First-Aid Kit and this should be readily-accessible to anyone on the Premises, whether Customers, Performers or other staff.

7.2 A member of staff (not a Performer) qualified in First Aid should be on duty in the Premises at all times that they are open to the public.

8 Stewards

The Licence-Holder must, before allowing a steward to work on the Premises, make a copy of his/her SIA authorisation and keep it. All stewards must hold current SIA authorisations.

9 Customers

9.1 The Licence-Holder must display on the exterior of the Premises at each Customer entrance, in a position where they may be easily read by people outside the Premises, Notices stating:

“This is a Sexual Entertainment Venue. None under 18 can enter. The premises are monitored by CCTV. The Premises are licensed by Inverclyde Council”.

9.2. The Licence-Holder must display within the Premises, at each Customer entrance, Notices stating:

"Rules for Customers"

Any Customer breaking any of these rules will be excluded from the Premises and barred permanently.

- (a) there must be no physical contact between Customers and Performers with a distance of at least 1 metre being observed at all times;
- (b) Customers must not enter any 'staff-only' area
- (c) Customers must remain fully clothed at all times;
- (d) Customers must not seek sexual favours or offer Performers payment in return for sexual favours;
- (e) Customers must not offer their contact details to Performers or ask for any form of contact details from Performers;
- (f) Customers must not engage in any unlawful activity on the Premises;
- (g) Customers must not take photographs or video recordings of the Performers (whether they consent or not).

9.3 The Licence-Holder must eject any Customer who breaks any of these rules and bar him/her from the Premises permanently.

9.4 The Licence-Holder must keep a written record of the name, address and date of birth of any Customer ejected and barred, with the date and time the Customer was ejected and the reason for this.

10 Age Limit

- 10.1 No person under the age of 18 years of age (whether a Customer or a Performer) shall be admitted to or allowed on the Premises.
- 10.2 Before admitting a Customer to the Premises, the Licence-Holder must carry out the same age verification processes which are required before alcohol is sold on Premises Licensed under the Licensing (Scotland) Act 2005.

11 Premises Manager

- 11.1 The Licence will name a natural person (not a company or partnership) to be "Premises Manager".
- 11.2 The Premises Manager will have day-to-day responsibility for the Premises and for compliance with the Licence Conditions and any other legal obligations.
- 11.3 The Premises Manager must be on the Premises at all times that they are open to the public;

except that:

the Premises Manager or the Licence-Holder may authorise, in writing, another natural person to be "Acting Premises Manager" for a maximum period of thirty (30) continuous days, provided that the total days authorised do not exceed sixty (60) days per calendar year (1 January to 31 December). That person will have all the responsibilities of the Premises Manager. Both the Licence-Holder and the Premises Manager will be responsible for that Acting Premises Manager.

- 11.4 The Licence-Holder will be held responsible for any conduct or omission by the Premises Manager or the Acting Premises Manager.

12 Management

- 12.1 At all times that the Premises are open to the public, the Licence (or a copy of it certified by the Council) will be displayed prominently on the Premises.
- 12.2 The Premises must only be used in accordance with the Layout Plan and during the Licensed Hours stated in the Licence. The Premises must not exceed the Customer capacity stated in the Licence.
- 12.3 No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall be made without the prior written approval of the Council.
- 12.4 The Licence-Holder must notify the Council in writing within seven days if the Licence-Holder or any person working on the Premises is charged or convicted of any crime or offence, wherever the incident leading to the prosecution is alleged to have happened.
- 12.5 The Premises shall be screened from outside so that no-one outside can see inside.

- 12.6 The Licence-Holder shall not display outside the Premises, or on any advertising material, photographs or other images which indicate that Sexual Entertainment can be seen on the Premises.
- 12.7 No-one concerned in the conduct or management of the Premises (the Licence-Holder, Premises Manager, Performers and other staff) shall seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.

Annex 7:

List of Consultees in connection with Inverclyde Council's SEV Policy Statement

Ardgowan Parish Church
Church of Scotland
Elim in Scotland
Freeland Church
Grace Church Kilmacolm
Greenock Baptist Church
Greenock East End Church
Greenock Elim Church
Greenock Free Church
Greenock West United Reformed Church
Hamilton Bardrainney Kirk
Holy Family RC Church
Inverkip Parish Church
Kilmacolm Old Kirk
Lyle Kirk
Port Glasgow New Parish Church
Old Gourock & Ashton Church
Scottish Episcopal Church
St Andrew's RC Church
St Columba Church of Scotland
St Fillan Scottish Episcopal Church
St John The Evangelist
St John's Church
St John The Baptist RC Church
St Joseph's RC Church
St Joseph's RC Church
St Laurence's Church
St Machar's Ranfurley Church
St Margaret's Church
St Martin's Church
St Mary's Episcopal Church
St Mary's Rectory
St Mary's RC Church
St Ninian's RC Church
St Patrick's RC Church
Struthers Memorial Church
The Mount Kirk
Wellpark Mid Kirk
Westburn Parish Church
Larkfield/Braeside/Branchton Community Council
Greenock West/Cardwell Bay Community Council
Greenock South West Community Council
Port Glasgow West Community Council
Gourock Community Council
Kilmacolm Community Council
Inverkip Wemyss Bay Community Council
Environmental & Public Protection Service
Inverclyde Adult Protection Committee

Inverclyde Child Protection Committee
Police Scotland
Scottish Fire & Rescue Service
Violence Against Women Multi Agency Partnership