



## JustRight Scotland's Response to the Consultation on Future Policy Development of Sexual Entertainment Venues in Glasgow

**JustRight Scotland (JRS)** is Scotland's legal centre for justice and human rights. We use the law to defend and extend people's rights. Our Scottish Anti-Trafficking and Exploitation Centre (SATEC) provides legal advice and representation to child and adult survivors of trafficking and exploitation. Our Scottish Women's Rights Centre (SWRC) works with women who have been affected by gender based violence across Scotland. You can find out more about us here: [www.justrightscotland.org.uk](http://www.justrightscotland.org.uk).

### Introduction

We are responding to this consultation by drawing on our lawyers' longstanding practical experience and expertise in providing legal information, advice and representation to women and girls who have been affected by gender-based violence, and to child and adult survivors of trafficking and exploitation.

### Appendix A: Should SEVs be licensed?

***Do you think SEVs in Glasgow should be licensed? If so, why?***

Yes.

The failure to introduce a licensing regime means that SEVs are able to operate in an unlicensed manner. It is our position that such a failure would not be consistent with the following:-

- The Scottish Government's Equally Safe strategy for preventing and eradicating violence against women and girls. This sets out a definition of violence against women and girls which includes but is not limited to "*commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking*".
- The Scottish Government's Trafficking and Exploitation Strategy.
- Glasgow City Council's policy on Commercial Sexual Exploitation.

When considering the responses to this consultation and the next steps in this regard, we would ask that the following principles and factors are taken into account in terms of human rights and equality.

It is unfortunately the case that gender equality and violence against girls and women have not been eradicated within Scotland and from our experience are present in Glasgow. Therefore, as well as the above noted strategies and stated policy positions, existing data and information regarding human trafficking, commercial sexual exploitation, child sexual exploitation, sexual violence and domestic abuse within Glasgow must be acknowledged and taken into account when considering a response in this area. This must acknowledge that such acts are both a cause and consequence of gender inequality and a failure to protect human rights.

There is a balancing of interests which are applicable in this area. However, it should also be borne in mind that a failure to protect an individual from the forms of violence listed above may breach Article 2 (right to life) European Convention on Human Rights (ECHR), Article 3 ECHR (right to be free of inhumane and degrading treatment) and Article 4 ECHR (right to be free of slavery and servitude). The latter two are absolute rights which can never be limited in any circumstance with the former containing very limited exceptions.

This is to be balanced against the competing rights of others such as customers, performers, owners etc in SEVs. These rights include Article 1, Protocol 1 ECHR (protection of property), Article 8 ECHR (respect for private and family life) and Article 10 ECHR (freedom of expression). These rights are not however absolute. They are qualified rights which mean that interference (such as a restriction or revocation of a licence) can be lawful, provided the interference is necessary and proportionate for the prevention of disorder or crime, the protection of health or the protection of the rights and freedoms of others, and if the interference can be justified in the general public interest. We believe that there are certainly strong arguments to be made that such interference could be lawful provided certain procedural safeguards are in place and we refer to the policy adopted by Rotherham Metropolitan Borough Council noted below in this regard.

Glasgow City Council must also adhere to its Public Sector Equality Duty. The council must therefore have regard to the impact SEVs have on the wider community and especially women.

We make reference to the *House of Commons Women and Equalities Committee report on Sexual Harassment of women and girls in public places* dated October 2018 and particularly paragraphs 135 to 142 of this report (<https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/701.pdf>)

- Karen Monaghan QC told this inquiry that SEVs have "*an impact on the wider community because they promote the idea that sexual objectification of women*

*and sexual harassment commonly in those environments is lawful and acceptable*" (paragraph 135 of this report). The report goes on to note that some local areas already take account of women's safety when deciding their cap on SEVs and the report expressly refers to Avon and Somerset Police and the Police and Crime Commissioner's office supporting a policy of having no SEVs in Bristol in order to advance women's equality.

- Paragraph 137 of this report refers to Sheffield City Council being subject to two legal challenges when it licensed a SEV. It was forced to settle both cases on the basis that the council had failed to comply with their Public Sector Equality Duty. The license for this SEV remains under consideration at the time of writing.

Regard should also be had to the position taken by Rotherham Metropolitan Borough Council in their SEV Policy. This council has taken the position that an appropriate number of SEV is nil (subject to the Council always being required to consider applications for such venues when they arise).

- This position was taken following a public consultation that led to a presumption against SEVs being in residential areas, rural areas (including where an industrial unit may already be located), the town centre, built up areas and an industrial area.
- The consultation responses also led to a presumption against SEVs being located near to sensitive locations including people's homes, premises used by charities, workplaces, places of worship, parks and play areas, family leisure facilities, women's refuge facilities, youth facilities, cultural, civic and other historical buildings and retail shopping areas.
- Given these presumptions, it was felt that there was no area suitable for such a venue, hence why the appropriate number was held to be nil.
- The council noted that it had due regard to the need to advance equality of opportunity between men and women under its Public Sector Equality Duty. Their policy considers that "*the presence of SEVs in any locality of Rotherham will not advance the equality of opportunity of women workers or residents. It is considered that SEVs lead to the sexual objectification of women and are therefore not in keeping with the principles of equality*". They had received feedback of harassment of women in the vicinity of SEVs, restricting the use of certain areas by women as well as working practices in SEVs leading to exploitation.

With regard to the above principles and factors, strong regard must be given to considering whether the existence of SEVs at all are consistent with the policy positions taken by Glasgow City Council.

**What impact, if any, do you think SEVs currently have on the community?**

Please see above.

**Do you think there would be positive/negative impacts on SEV operators or workers if they were licensed? If yes, please explain what you think these would be?**

Please see above.

**Do you think there would be positive/negative impacts on the communities and surrounding vicinity to SEVs if they were licensed? If yes, please explain what you think these would be?**

Please see above.

**If SEVs were to be licensed, do you think the location of SEVs is an important consideration? Please explain your answer.**

Yes, for reasons outlined above.

## **Appendix B: If SEVs are to be licensed, what should the appropriate number be?**

**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 city centre; and**
- (f) the city as a whole.**

**Where possible, please explain your answer**

As noted above, in light of the links between SEVs and gender inequality and violence and the policy positions taken by Glasgow City Council- we believe that Glasgow City Council should study the example of other authorities such as Rotherham. Whilst the consultation responses will require to be reviewed as a whole, we would expect the responses to be similar to that of Rotherham and therefore for the appropriate number of licenses to be nil.

**What localities, if any, within Glasgow do you consider would be an appropriate location for a SEV?**

Please refer to our comments above.

**What localities, if any, within Glasgow do you consider would be inappropriate for the location of a SEV?**

Please refer to our comments above.

## **Appendix C: Developing a policy on the licensing and regulation of SEVs**

**Do you believe that imposing standard conditions to SEV licences would assist in safeguarding the wellbeing of performers, customers and the wider public?**

The purpose of regulation is to set minimum standards and achieve transparency in the operation and regulation of SEVs. For this reason, if SEVs will be licensed, standard conditions are a sensible approach to achieving these goals, and ensuring effective regulatory enforcement.

Whilst we don't have an opinion on standard conditions, we would call on Glasgow City Council to look at examples of conditions imposed by authorities such as Rotherham which have taken into account some of the factors set out in our answer to Appendix A.

Research and monitoring of the impact of the licensing policy should be commissioned at the same time, and the findings required to be used when the council seeks to fulfil its obligation to review the policy periodically.

**Do you think that any of the example standard licence conditions noted above should be adopted as policy and included as standard conditions in SEV licences? Where possible, please could you explain your answer.**

Please see answers above.

**Are there any other standard licence conditions that you think would be relevant?**

Please see answers above.

**Can you make any suggestions as to how the Committee could adequately address the objectives within a SEV policy statement? The objectives being:**

- **preventing public nuisance, crime and disorder;**
- **securing public safety;**
- **protecting children and young people from harm; and**
- **reducing violence against women**

Please see answers above and in particular whether the operation of SEVs is consistent with the Glasgow City Council position in these areas.