

# **Edinburgh's strip club ban overturned**

**In March last year the council imposed a ban on licensing any sexual entertainment venues (SEVs) in the city from 1 April 2023 onwards by imposing a nil cap on the number of such venues.**

Following an action in the Court of Session raised by owners of venues operated as SEVs, a member of security staff at one of the venues and also a trade union, the United Sex Workers, Lord Richardson has determined that the ban should be overturned. He stated that the council's legal advice was wrong. He said the council had failed to provide a policy statement on the number of SEVs which it would allow, although the judge said the determination would not have to be "elaborate or detailed". But in any case the policy statement proceeded the same erroneous legal advice and it fell short of explaining reasons for the nil determination.

The judicial review hearing took place on 1 and 2 December 2022 and evidence was led that the council had held a consultation in April and July 2021, followed by deputations who presented their case to the council's Regulatory Committee on 31 March 2022. At that point the council was to set the appropriate number of SEVs it would allow in the city and draft a licensing policy statement. The judge said the committee could have been in no doubt as to the effect the ban would have on the livelihoods of those who presented to them.

The council was advised by officers to have due regard to the safety of women and girls and the prevention of violence against them. And officers warned that if the number of licenses was reduced to zero that would lead to premises closing and a loss of income for owners and staff.

The Scottish Government's Equally Safe Strategy defines sexual entertainment as a form of violence against women and girls. Other local authorities have set a nil cap on the number of SEVs but that was usually where there had not already been any such premises in operation. In Edinburgh there were four such venues operating with licences.

The council approved the nil cap policy in October on the basis that the council should work with others (the Scottish Government) to reduce demand for commercial sexual exploitation. But it also granted a motion lodged at full council on 27 October by Cllr Lewis Younie to reconsider the nil cap as it might lead to 'the further deterioration of performers' safety in the city'.

Commenting on the decision, Steve MacDonald, a spokesperson for the Club Operators Action Group said: "The Club Operators Action Group would like to take this opportunity to thank the court and our legal team. The decision is, of course, very welcome.

"We look forward to working with the Regulatory Committee and the Licensing Board in continuing to provide a proven safe working environment for all our staff members, customers and particularly our performers.

Importantly, we also acknowledge the support of the USW Union – our partners in this action, as well as the continued support of the Police and the LSO in assisting the clubs in maintaining the licencing objectives."