



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

## **Licensing Committee**

A Meeting of the **Licensing Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 06 June 2018** at **10:00** to consider the undernoted business.

Please note that, whilst the items on this Agenda are public documents, consideration of some reports at the meeting may necessitate the passing of a resolution to exclude from the meeting the press and public in terms of Section 50A(4) of the Local Government (Scotland) Act 1973.

**1      Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

**2      Minutes**

The accuracy of the Minutes of the meeting held on 16 May 2018 will be confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

**3      Civic Government (Scotland) Act 1982 and other licensing statutes: Licensing Matters**

Resolve in terms of Standing Order 21, to suspend Standing Order 23, to allow consideration of Hearing 1, Pizza Cake Ltd.

Submit report by the Chief Executive on hearings to be determined and applications for the grant or renewal of licences or permits, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

- 4      Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8**  
Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).

- 5      Urgent Items**  
Any other items which the Chair considers to be urgent.

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## **Licensing Committee Sederunt**

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Ronnie McNicol (Chair)  
Todd Ferguson (Vice Chair)  
Robert Barr  
John Easdale  
Scott Gallacher  
Jean McClung  
Davina McTiernan  
Donald L. Reid  
Angela Stephen  
Vacancy

Chair:

Apologies:

Attending:

**Licensing Committee  
16 May 2018**

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Robert Barr, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen.

**In Attendance**

A. Craig, Senior Manager, Legal Services, W. O'Brien, Solicitor, (Licensing), S. Montgomery, Solicitor (Litigation), D. Robertson, Civic Licensing Standards Officer, A. Toal, Administrative Assistant, M. Anderson, Committee Services Team Leader, and E. Gray and H. Clancy, Committee Services Officers (Chief Executive's Service).

**Also in Attendance**

Sergeant D. Dougan and E. Blackwood (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies**

Todd Ferguson.

**1. Chair's Remarks**

The Chair made reference to a decision by the Committee at its meeting on 7 March 2018, advising that, in respect of Item 4.7 (Late Hours Catering Licence: LHCL/127 (New) – Pizza Cake (Stevenston) Limited), the period covered by the licence should have read Monday – Sunday and not Monday – Friday.

Noted.

**2. Order of Business**

The Chair, in terms of Standing Order 9.4, agreed to vary the order of business to allow Agenda Item 4 (Taxi and Private Hire Car Vehicle Specification and Inspection Standards) to be considered in public, prior to making a resolution to exclude the public for the remaining items of business.

**3. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

#### **4. Minutes**

The Minutes of the meeting of the Special Meeting of the Committee held on 7 March 2018 and the Ordinary Meeting on 18 April 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

#### **5. Taxi and Private Car Vehicle Specification and Inspection Standards**

Submitted report by the Chief Executive on the Taxi and Private Hire Car Specification and Inspection Standards under the Civic Government (Scotland) Act 1982, Section 10(2) and 10(5).

Suggested changes to the documents were detailed at Section 3 of the report. The proposed "Taxi and Private Hire Car Vehicle Approval Specification" was set out at Appendix 1 to the report. The current "Guidance – Taxi and Private Hire Vehicle Inspections - Inspection and failure criteria" was provided at Appendix 2 and proposed revised guidance circulated separately as a 'to follow' paper.

Members discussed the background to the draft documents, receiving clarification of the need, in terms of Section 10(2) of the Civic Government (Scotland) Act 1982, to ensure taxis and private hire cars are safe for that use.

Members then considered in detail the issues set out in Section 3.3 of the report and agreed as follows:-

- Road Fund – agreed that there was no need for the Council to verify this;
- Pass with Minor Advisory – agreed that this alone should cause a 'fail' of the Section 10(2) inspection and, further, that it be remitted to the Solicitor (Licensing) and Corporate Transport Manager to amend further the detailed wording of the Inspection Standards in light of changes to the MOT Standards;
- Tow-balls – agreed there should be a cover in place when the tow-ball was not in use;
- Tyre Tread Depth – agreed, for reasons of safety, to adopt the following Inspection Standard "tread depth must be more than 2.00 mm across 75% of the centre width of the tyre and, for the remaining 25% of the width, the tread must be visible (unless it is a tyre defined as a raised tread shoulder)"
- Window Tinting – noted that this was not part of the MOT test and agreed to the Inspection Standard: Window-tinting (all windows, including the rear and side windows) – Reason for Failure: any degree of tinting is a reason for failure, except where pre-installed by the vehicle's manufacturer"
- Engine Capacity – noted three options, namely (i) the Committee could continue with the present Specification ("1.4 model"), (ii) the Committee could amend the Specification to refer to a figure measured in "Brake Horse Power" and (iii) the Committee could amend the Specification to "The minimum engine size must be suitable in the opinion of the Licensing Authority for the role as Taxi and Private Hire Car and must meet the original manufacturer's specification", and agreed to adopt option (iii), noting that the term "suitable" was sufficiently specific given that the Council's Specification already referred to luggage capacity, the size of the rear seat, the seating capacity and the number of doors

- Mileage Range for Electric Cars – discussed, and rejected, the option of setting a minimum mileage range for electric cars

The Committee agreed (a) to approve (i) the "Taxi and Private Hire Car Vehicle Approval Specification" set out at Appendix 1 to the report and (ii) the "Guidance – Taxi and Private Hire Vehicle Inspections - Inspection and failure criteria" which was circulated as a 'to follow' paper, subject to the amendments set out above; (b) that it be remitted to the Solicitor (Licensing) and Corporate Transport Manager, to make such amendments to the wording of the documents as may be required to reflect changes to the MOT system; and (c) to note that the approved documents would be published on the Council's website.

## **6. Exclusion of the Public**

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public, for Agenda Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters) and Agenda Item 5 (Landlord Registration under the Antisocial Behaviour, etc (Scotland) Act 2004, Part 8), on the grounds that they involved the likely disclosure of exempt information as defined in Section 50J of, and Schedule 7A to, the Local Government Act 1973.

The 'Exempt Information' concerned is that described in Section 7A, Paragraph 6 (Information relating to the financial or business affairs of any particular person (other than the authority)), Paragraph 14 (Any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime) and Paragraph 15 (The identity of a Protected Informant - where Protected Informant is defined in Part III as a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance).

## **7. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters**

Submitted report by the Chief Executive on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings, and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

### **PART A: Hearings**

#### **7.1 Taxi Driver's Licence - TDL/00978 – Gordon Hewitt**

The licence holder, having been duly cited to attend was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the hearing and referred to a letter submitted by Police Scotland setting out a request for an ordinary Suspension in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

## **Decision**

Having regard to the information presented, Councillor D. L. Reid, seconded by Councillor Gallacher, moved not to take any action in respect of an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the Motion was declared carried.

### **7.2 Taxi Driver's Licence - TDL/02083 (New) – Brian Stephens**

The Committee, at its meeting on 18 April 2018, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend was present and accompanied by his father. Representatives of Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the hearing, as previously intimated in writing to the licence holder and referred to a letter submitted by Police Scotland setting out an objection in respect of the application.

The applicant then addressed the Committee on the issues raised and responded to questions.

Thereafter, the applicant and representatives of Police Scotland withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

Councillor D. L. Reid, seconded by Councillor Barr moved that the application be refused in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the ground that the applicant was not a fit and proper person to be the holder of the licence. There being no amendment, the motion was declared carried.

### **7.3 Taxi Driver's Licence - TDL/01029 (Renewal) – Michael Rawley**

The Committee, at its meeting on 18 April 2018, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder, having been duly cited to attend was present and accompanied by his wife.

The Solicitor (Licensing) set out the background to the hearing and to the fact that the applicant's DVLA entitlement would cease of 3 September 2018. The licence holder then addressed the Committee on the issues raised and responded to questions.

## **Decision**

The Committee unanimously agreed that the application be granted (i) in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year and (ii) on condition that the applicant inform the Council of the outcome of the DVLA licence renewal application.

### **PART B: Applications for Grant/Renewal of Licences**

#### **7.4 Taxi Driver's Licence: TDL/00164 (Renewal) – Craig McPherson**

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **7.5 Taxi Driver's Licence: TDL/00945 (Renewal) – James Haswell**

The Committee unanimously agreed (a) that the application be granted (i) in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year and (ii) on condition that the applicant inform the Council of the outcome of the DVLA licence renewal application.

#### **7.6 Taxi Driver's Licence: TDL/01327 (Renewal) – Craig McCready**

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **7.7 Taxi Licence: TL/01774 (Renewal) – Robert Whyte**

The Committee unanimously agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year.

#### **7.8 Taxi Driver's Licence: TDL/02097 (New) – Grant Davidson**

The Committee unanimously agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year.

#### **7.9 Taxi Driver's Licence: TDL/02090 (New) – Malcolm McPherson**

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.



### **7.10 Taxi Driver's Licence: TDL/02098 (New) – Alasdair Barr**

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **7.11 Taxi Driver's Licence: TDL/02104 (New) – Graeme McKee**

The Committee unanimously agreed to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years.

## **8. Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8**

Submitted report by the Chief Executive on the circumstances relating to an application for Landlord Registration under the 2004 Act.

### **8.1 G.L.**

At its meeting held on 7 March 2018, the Committee unanimously agreed to continue consideration of this matter to allow the applicant a further opportunity to attend a hearing.

The applicant, having been cited to attend, was present.

The Solicitor (Licensing) addressed the Committee on the background to the hearing and the terms of a letter submitted by the applicant. The applicant addressed the Committee on the issues raised and responded to questions.

The applicant withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

### **Decision**

Councillor D.L. Reid, seconded by Councillor McTiernan, moved to grant the application for Landlord Registration. There being no amendment, the motion was declared carried.

The meeting ended at 11.45 p.m.

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**NORTH AYRSHIRE COUNCIL**

**6 June 2018**

**Licensing Committee**

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**Title:** **Civic Government (Scotland) Act 1982 and other Licensing statutes: Licensing Matters**

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**Purpose:** To advise the Committee of:

- a) Hearings to be determined;
- b) Applications for the grant or renewal of licences and permits; under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit.

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**Recommendation:** That the Committee consider and determine the matters before them.

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**1. Executive Summary**

- 1.1 The Licensing Committee's remit is to exercise the Council's licensing functions. These functions arise under many statutes, mainly the Civic Government (Scotland) Act 1982. Depending on the legislation and the circumstances of each individual case, the Committee is entitled to grant, refuse, renew, vary, suspend and revoke Licences.

**2. Background**

- 2.1 The Committee's business under the 1982 Act is detailed in two Appendices:

Appendix A: Licences and Permits where Hearings have been convened;

Appendix B: Applications for the grant or renewal of Licences and Permits

**3. Proposals**

- 3.1 It is proposed that the Committee consider and determines each of the listed cases in accordance with the required procedure.

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to any Licensing decision.
<b>Human Resources:</b>	None
<b>Legal:</b>	There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.
<b>Equality:</b>	The Clerk has considered the “Public Sector Equality Duty” in preparing the Appendices and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.
<b>Children and Young People:</b>	None
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active").
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

#### 5. Consultation

- 5.1 Consultations have been undertaken where appropriate with Police Scotland, Scottish Fire and Rescue, and Council Directorates.



Elma Murray OBE  
Chief Executive

For further information please contact **William O'Brien, Solicitor (Licensing)** on **01294 324305**.

#### Background Papers

N/A

## Hearings (Appendix A)

<b>Hearing 1</b>	<b>Late Hour's Catering Licence</b>	<b>LHCL/127</b>
<b>Licenceholder and Address</b>	<b>Pizza Cake Ltd</b> 4 Birkwood Place Newton Mearns Glasgow G77 5FW	
<b>Premises</b>	<b>Dominos Pizza</b> Ashenyards Park Stevenston Road Stevenston	
<b>Hearing 2</b>	<b>Street Trader Operator's Licence</b>	<b>STL/O/478 (new)</b>
<b>Applicant and Address</b>	<b>Kala</b> Dmitri Prokopov 25 Morven Road Glasgow G72 8PB	
<b>Hearing 3</b>	<b>Taxi Driver's Licence</b>	<b>TDL/00164 (renewal)</b>
<b>Applicant and Address</b>	<b>Craig McPherson</b> 65 Hawthorn Court Kilwinning KA13 6DW	
<b>Suspension Hearing 4</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01235</b>
<b>Licenceholder and Address</b>	<b>Kevin Blades</b> 15 Dale Crescent Irvine KA12 0RU	
<b>Hearing 4</b>	<b>Taxi Operator's Licence</b>	<b>TL/043 (renewal)</b>
<b>Applicant and Address</b>	<b>Kevin Blades</b> 15 Dale Crescent Irvine KA12 0RU	

<b>Hearing 5</b>	<b>Taxi Operator's Licence</b> Kevin <b>Blades</b> 15 Dale Crescent Irvine KA12 0RU	<b>TL/074 (renewal)</b>
<b>Hearing 6</b>	<b>Taxi Driver's Licence</b>	<b>TDL/02090 (new)</b>
<b>Applicant and Address</b>	Malcolm <b>McPherson</b> 1C Parkend Road Saltcoats KA21 5PL	
<b>Hearing 7</b>	<b>Taxi Driver's Licence</b>	<b>TDL/02089 (new)</b>
<b>Applicant and Address</b>	Alasdair S <b>Barr</b> 68 Eastern Avenue Largs KA30 9EQ	
<b>Hearing 8</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01327 (renewal)</b>
<b>Applicant and Address</b>	Craig <b>McCready</b> 36 Archers Avenue Irvine KA11 2GB	
<b>Hearing 9</b>	<b>Taxi Operator's Licence</b>	<b>TL/006 (new)</b>
<b>Applicants and Addresses</b>	Connie <b>Dalzell</b> 39 James Crescent Irvine KA12 0UL  Chantel <b>Dalzell</b> 55 Morris Crescent Hurlford Kilmarnock KA1 5BJ  Patrick <b>Young</b> 20 Pine Court Greenhills East Kilbride G75 9HA	

**Hearing 10**

**Public Entertainment  
Licence**

**PEL/546 (temporary)**

**Applicant and Address**

Juliana **Gray**  
28 Harvey Gardenst  
Ardrossan  
K22 8LG

**Premises**

Central Park  
Ardrossan

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## Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
<b>HMO/020 (new)</b> <b>Housing (Scotland) Act 2006</b>	Graham <b>Conrathe</b> Moorpark House School Road Kilbirnie KA25 7LD
<b>Premises</b>	Moorpark House School Road Kilbirnie KA25 7LD
<b>TDL/00256 (renewal)</b>	Daniel <b>Tudhope</b> 66 Keir Hardie Crescent Kilwinning KA13 7 JR
<b>TDL/01539 (renewal)</b>	Gordon <b>McKenzie</b> 109 Livingstone Terrace Irvine KA12 9ER
<b>TL/421 (new)</b>	Edward <b>McCallie</b> 64 Simson Avenue West Kilbride  Pauline <b>Alexander</b> 62 Keppernburn Avenue Fairlie

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**NORTH AYRSHIRE COUNCIL**

**6 June 2018**

**Licensing Committee**

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**Title:** **Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8**

**Purpose:** To inform the Committee of Landlord Registration matters.

**Recommendation:**

1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;
2. For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and:
  - (a) Decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;
  - (b) If appropriate, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' thereafter referred to as a RPN) in respect of any house, or to delegate authority to the Clerk to issue such a Notice.

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**1. Executive Summary**

- 1.1 The Licensing Committee has delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

**2. Background**

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.
- 2.2 The Schedules are marked "Not for Publication" and are excluded from the published Agenda under Local Government (Scotland) Act 1973, Section 50B(2) and (5). This has been done as the Clerk considers that the meeting is likely not to be open to the public while those Schedules are being considered, as they contain "Exempt Information" described in Schedule 7A to the Act. The Schedules are in the background papers given to Committee Members and will be sent to the respective Landlords before the Meeting.



### 3. Proposals

- 3.1 The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.
- 3.2 If the Committee decides to refuse an Application, or to remove a Registration, and if it is satisfied that the house is presently occupied by a Tenant, it should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3 If it is are not so satisfied, it may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he/she was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

### 4. Implications

<b>Financial:</b>	If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.
<b>Human Resources:</b>	None.

<b>Legal:</b>	<p>Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Landlord may appeal to the Sheriff or the First Tier Tribunal.</p> <p>If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) &amp; (8).</p> <p>For example:</p> <ul style="list-style-type: none"> <li>(a) the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the RPN);</li> <li>(b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;</li> <li>(c) Landlord continues to have repairing obligations.</li> </ul> <p>If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).</p>
<b>Equality:</b>	The Clerk has considered the "Public Sector Equality Duty" in preparing this report and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.
<b>Children and Young People:</b>	None
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	None.
<b>Community Benefits:</b>	Preventing unfit Landlords from operating may contribute to the wellbeing of the community. Preventing Housing Benefit being paid to unregistered Landlords safeguards public funds.

## 5. Consultation

- 5.1 No consultations are appropriate. Depending on the circumstances, the Schedules contain information supplied by the Police, North Ayrshire Council Directorates, or other agencies.



Elma Murray OBE  
Chief Executive

Reference WO'B/PAT

For further information please contact **William O'Brien, Solicitor (Licensing)** on **01294 324305**.

### Background Papers

None