



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, 18 April 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 meetings held on 19 February and 7 March 2018 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copies enclosed).

3 Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

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

4 Licensing of Window Cleanings - Civic Government (Scotland) Act 1982, Section 43

Submit report by the Chief Executive on the current position in respect of the licensing of window cleaners (copy enclosed).

5 Taxi and Private Hire Car Vehicle Specification and Inspection Standards under the Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5)

Submit report by the Chief Executive on the current position in relation to taxi and private hire car vehicle specification and inspection standards (copy to follow).

6 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

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:

Present

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

In Attendance

W. O'Brien, Solicitor (Licensing), C. Pollock, Licensing Administration Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Davina McTiernan.

1 Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Gallagher, as an acquaintance of the applicant, declared an interest in Hearing 2 (Gavazzeni) under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters), left the meeting for that item of business and took no part in the decision thereon.

2 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 the following item of business 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).

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

Submitted report by the Chief Executive on an application for the grant of a licence in terms of the Civic Government (Scotland) Act 1982.

3.1 Taxi Driver's Licence: TDL/01876 (Renewal) – Alessandro Sirio Gavazzeni

The Committee, at its meeting held on 10 January 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 the meeting of the Committee held on 7 February 2018, was not present or represented. A written submission provided by him was, however, was circulated at the meeting. The Committee unanimously agreed to continue consideration of the application to a Special Meeting on 19 February 2018.

The applicant, having been duly cited to attend, was not present and or represented.

The Committee had regard to a letter from Police Scotland setting out a representation in respect of the application, and to the written submission by the applicant which was circulated at the last meeting.

Decision

Councillor Ferguson, 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.

The Meeting ended at 12.50 p.m.

Present

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

In Attendance

C. Boyd, Team Manager (Food /Health & Safety)(Environmental Health)(Economy and Communities); and A. Craig, Senior Manager (Legal Services), W. O'Brien, Solicitor (Licensing), C. Pollock, Licensing Administration Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

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

Chair

Councillor McNicol in the Chair.

1 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.

2 Minutes

The accuracy of the Minutes of the meeting of the Committee held on 7 February 2018 and the Special Meeting held on 19 February 2018 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3 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 the following items of business 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).

4 Civic Government (Scotland) Act 1982 and other Licensing statues: Licensing Matters

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

PART A: Hearings

4.1 Skin Piercing Licence: SPTL/042 (New) – Reid & Reid (Hairdressing) Limited

The Committee, at its meeting held on 10 January 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. At its meeting on 7 February 2018, the Committee agreed to continue consideration of the application to the next meeting.

The applicant, having been duly cited to attend, was not present or represented. However, reference was made to a written submission by the applicant.

The Solicitor (Licensing) addressed the Committee on the background to the hearing. The Team Manager (Food /Health & Safety) also addressed the Committee on outstanding issues following a recent inspection. Members asked questions of the officers and received clarification on the points raised.

Decision

Councillor Ferguson, seconded by Councillor McNicol moved that the Committee (a) continue consideration of the application to the next meeting and (b) note that, in the event of the outstanding issues in respect of the application being resolved in the meantime, the application would be determined by officers under delegated powers. There being no amendment, the motion was declared carried.

4.2 Taxi Driver's Licence: TDL/00064 – Samuel Dean

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

The Solicitor (Licensing) set out the background to the Ordinary Suspension Hearing, as previously intimated in writing to the licence holder. The representatives of Police Scotland then addressed the Committee on a letter setting out a request for an Ordinary Suspension in terms of Paragraph 11(2)(a) 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

Councillor Barr, seconded by Councillor Easdale, moved that the Committee continue consideration of the matter to a future meeting, pending the outcome of legal proceedings against the licence holder. There being no amendment, the motion was declared carried.

4.3 Taxi Driver's Licence: TDL/01253 (New) – Scott Seymour

The applicant, having been duly cited to attend, was not present, but was represented by his parents. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on a letter setting out a representation in respect of the application. The applicant's representative then addressed the Committee on the issues raised and responded to questions.

Decision

Councillor McClung, seconded by Councillor McTiernan, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of three years. There being no amendment, the motion was declared carried.

4.4 Taxi Driver's Licence: TDL/01935 (New) - Andrew Watt

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

The representatives of Police Scotland addressed the Committee on a letter setting out a representation in respect of the application. The applicant then addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Donald L. Reid, seconded by Councillor Barr, moved that the application be

granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of three years. There being no amendment, the motion was declared carried.

4.5 Taxi Driver's Licence: TDL/02076 (New) - Shaun Blakely

The Committee, at its meeting held on 7 February 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. Representatives of Police Scotland were also in attendance.

The representatives of Police Scotland addressed the Committee on a letter setting out a representation in respect of the application. The applicant then addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

The representatives of Police Scotland left the meeting at this point.

4.6 Taxi Driver's Licence: TDL/02080 (New) - Khalid Mahmood

The Committee, at its meeting held on 7 February 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.

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

Decision

Councillor Barr, seconded by Councillor McTiernan, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

Councillor Easdale left the meeting at this point.

4.7 Late Hours Catering Licence: LHCL/127 (New) - Pizza Cake (Stevenston) Limited

The Committee, at its meeting held on 7 February 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 company, having been duly cited to attend, represented by an office-bearer.

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

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

Decision

Councillor McTiernan, seconded by Councillor Ferguson, moved that the application on behalf of Pizza Cake (Stevenston) Limited be granted for the period from 11.00 p.m. until 1.00 a.m., Monday – Friday, subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982. There being no amendment, the motion was declared carried.

The Committee then adjourned for a short comfort break at 11.20 a.m. reconvening at 11.30 a.m. with the same Elected Members and Officers present and in attendance.

Thereafter, the Chair, in terms of Standing Order 9.3, agreed to vary the order of business to allow consideration of Appendix C to the report at this point.

PART C: Issues in respect of existing Licences and Permits

4.8 Booking Office Licence: BOL/018 - Elaine Connor

The Senior Manager, Legal Services, addressed the Committee on the background to a letter of complaint received in respect of the operation of the Booking Office Licence.

Councillor Ferguson, seconded by Councillor McTiernan, moved that, on the basis of the information presented, the Committee proceed to a Hearing under Paragraphs 11(7) and 10(2) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

Part A: Hearings

4.9 Temporary Public Entertainment Licence: PEL/526 (Temp) - Wesley Smith

The applicant, having been duly cited to attend, was present. The applicant has applied for a temporary Public Entertainment Licence for the whole of the car park at “The Braes”, Saltcoats, for the period from 29 March 2018 to 2 April 2018:-

Thursday 29 March: 6.00 p.m. – 9.00 p.m.

Friday 30 March: 1.00 p.m. – 9.00 p.m.

Saturday 31 March 1.00 p.m. - 9.00 p.m.

Sunday 1 April 1.00 p.m. – 9.00 p.m.

Monday 2 April 1.00 p.m. – 9.00 p.m.

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

Decision

Councillor Barr, seconded by Councillor Donald L. Reid, moved that the application for a temporary Public Entertainment Licence be granted, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982, with the licence differing from the applicant's proposal as follows:-

(a) hours:

Thursday 29 March: 6.00 p.m. - 9.00 p.m.

Friday 30 March: 1.00 p.m. – 9.00 p.m.

Saturday 31 March: 1.00 p.m. – 9.00 p.m.

Sunday 1 April: 1.00 p.m. – 9.00 p.m.

Monday 2 April: 1.00 p.m. – 6.00 p.m.

and (b) location: the licence would only grant permission to use the part of the car park to the east of the access road from "The Braes", instead of the whole car park.

There being no amendment, the motion was declared carried.

4.10 Skin Piercing and Tattoo Licence: SPTL/026 (Renewal) - Kirsty Mackison

The Committee, at its meeting held on 7 February 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 Solicitor (Licensing) advised the Committee that the matters which were to have been the subject of a hearing had been resolved and the licence granted under delegated powers.

Decision

Noted.

4.11 Taxi Driver's Licence: TDL/02000 (Renewal) - Bernard Brannigan

The Committee, at its meeting held on 7 February 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 not present or represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

Decision

Councillor Barr, seconded by Councillor Ferguson, 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.

4.12 Taxi Driver's Licence TDL/02078 (New) - Brahim Sensri

The Committee, at its meeting held on 7 February 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.

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

Decision

Councillor Donald L. Reid, seconded by Councillor McClung, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

4.13 Taxi Licence: TL/420 (New) - Andrew Brannan

The applicant, having been duly cited to attend, was present and accompanied by his partner.

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

Decision

Councillor Ferguson, seconded by Councillor Donald L Reid, moved that the Committee (a) should treat the particular application as an exception to the Council's Taxi Numbers Limitation Policy under Section 10(3) of the Civic Government (Scotland) Act 1982; and (b) that authority should be delegated to the Solicitor (Licensing) to grant and issue the Licence if and when satisfied under Section 10(2) as to the safety, suitability and insurance of the proposed vehicle.

4.14 Temporary Public Entertainment Licence: PEL/527 (Temp) - William Newsome

The applicant, having been duly cited to attend, was present. The applicant had applied for a temporary Public Entertainment Licence for Central Avenue Park, Ardrossan for the period Wednesday 14 March to Sunday 18 March 2018:

Wednesday 6.00 pm - 9.00 pm

Thursday 6.00 pm - 9.00 pm

Friday 6.00 pm - 9.00 pm

Saturday 1.00 - 9.00 pm

Sunday 1.00 - 6.00 pm

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

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

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

Decision

Councillor McClung, seconded by Councillor McNicol moved that the application for a temporary Public Entertainment Licence be refused on the grounds stated in Paragraph 5(3)(c)(i), (iv) and (v) of Schedule 1 of the Civic Government (Scotland) Act 1982.

As an amendment, Councillor Donald L. Reid, seconded by Councillor Ferguson, moved that the application be granted for the period and location requested, subject to (a) the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982, and (b) the entrance being relocated to the northern part of the site, to the satisfaction of officers.

On a division, there voted for the amendment 5 and for the motion 3, and the amendment was declared carried.

Accordingly, the Committee agreed to grant the application for a temporary Public Entertainment Licence for the period and location required, subject to (a) the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 and (b) the entrance being relocated to the northern part of the site, to the satisfaction of officers.

PART B: Applications for Grant/Renewal of Licences

4.15 Skin Piercing and Tattooing Licence (Amendment) - Andrew Melvin

The Committee unanimously agreed, on the basis of the information presented, (a) to proceed to a Hearing in terms of Paragraph 9(2) of Schedule 1 to the Civic Government (Scotland) Act 1982 and (b) to proceed to a Hearing under Paragraph 11(7) of Schedule 1 to the Civic Government (Scotland) Act 1982.

4.16 Taxi Driver's Licence: TDL/00190 (Renewal) - Raymond Potts

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.

4.17 Taxi Driver's Licence: TDL/01121 (New) – Paul Forbes

The Committee unanimously agreed, on the basis of the information presented, 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.

4.18 Taxi Driver's Licence: TDL/02086 (New) – Fazal Hussain

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.

4.19 Taxi Operator's Licence: TL/050 (Renewal) - Kevin Blades

The Committee unanimously agreed, on the basis of the information presented, 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.

5 Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8

Submitted report by the Chief Executive on the circumstances relating to applications for Landlord Registration under the 2004 Act:-

5.1 J.C.

The Committee, at its meeting held on 7 February 2018, agreed to continue consideration of this matter to the next meeting of the Committee to allow a hearing to take place.

The applicant, having been duly cited to attend, was present and accompanied by his solicitor.

The applicant's solicitor addressed the Committee on the issues raised and answered questions.

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

Decision

Councillor Donald L. Reid, seconded by Councillor Stephen, moved that the Committee refuse the application on the grounds that the applicant is not a "fit and proper" person to be entered on the Landlords' Register. There being no amendment, the motion was declared carried.

5.2 G.L.

The Committee, at its meeting held on 7 February 2018, agreed to continue consideration of this matter to the next meeting of the Committee to allow a hearing to take place.

The applicant, having been duly cited to attend, was not present or represented. However, reference was made to a written submission by the applicant.

The Solicitor (Licensing) addressed the Committee on the background to the hearing.

Decision

The Committee unanimously agreed to continue consideration of the application to the next meeting to allow the applicant a further opportunity to attend a hearing.

5.3 S.C.

The applicant, having been duly cited to attend, was not present or represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

The Solicitor (Licensing) addressed the Committee on the background to the hearing.

Decision

Agenda Item 2

Councillor Barr, seconded by Councillor McClung, moved that the Committee refuse the application on the grounds that the applicant is not a “fit and proper” person to be entered on the Landlords’ Register. There being no amendment, the motion was declared carried.

The Meeting ended at 1.50 p.m.

NORTH AYRSHIRE COUNCIL

18 April 2018

Licensing Committee

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

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.

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

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

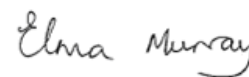
- 3.1 It is proposed that the Committee consider and determines each of the listed cases in accordance with the required procedure.

4. Implications

Financial:	There are possible financial implications in relation to any Licensing decision.
Human Resources:	None
Legal:	There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.
Equality:	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.
Children and Young People:	None
Environmental & Sustainability:	None
Key Priorities:	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").
Community Benefits:	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)

Agenda Item 3

Hearing 1

Permanent Public Entertainment Licence

PEL/531

Applicant and Address

Kenneth **Stirling**
25 Mansecroft Place
Glasgow
G32 6FA

Premises

The Old Police Station Site
Kilbirnie

Suspension Hearing 2

Elaine **Connor**
31 Gogo Street
Largs
KA30 8BU

BOL/018

Premises

Bond Cars
31 Gogo Street
Largs
KA30 8BU

Hearing 3

Skin Piercing Licence

SPTL/042 (New)

Applicant and Address

Reid & Reid (Hairdressing)
Ltd
Jasons Barber Shop
28-30 Green Street
Saltcoats
KA21 5HQ

Hearing 4

Taxi Driver's Licence

TDL/00064

Applicant and Address

Samuel **Dean**
62 Ford Avenue
Dreghorn
Irvine
KA11 4BN

Hearing 5**Taxi Driver's Licence**

Agenda Item 3
TDL/00190
(Renewal)

Applicant and Address

Raymond **Potts**
20c Wilson Street
Beith
KA15 2BG

Hearing 6**Taxi Driver's Licence**

TDL/02086 (New)

Applicant and Address

Fazal **Hussain**
17 Greenacres
Ardrossan
KA22 7PP

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
TDL/02020 (Renewal)	Michael Rawley Flat 1 39 Gogo Street Largs KA30 8JW
TDL/02083 (New)	Brian Stephens 14 Campsie Way Bourtreehill Irvine KA11 1JQ

NORTH AYRSHIRE COUNCIL

18 April 2018

Licensing Committee

18t

Title: **Licensing of Window Cleaners – Civic Government (Scotland) Act 1982, Section 43**

Purpose: To advise the Committee of the present state of affairs.

Recommendation: That the Committee decide whether or not to make a Resolution requiring that Window Cleaners hold a Licence; and if so to determine the other questions set out in Part 3 of this Report.

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.
- 1.2. Many activities under the 1982 Act are covered by the "Optional Provisions", which means that the activities only require a Licence if and when the local Council so resolves. Examples of the Licences covered by the "Optional Provisions" are Taxi and Private Hire Car Licences (Section 10, often called "Operator's Licences" to distinguish them from the "Driver's licences" under Section 13); Taxi Driver's and Private Hire Car Driver's Licences (Section 13) and Second-hand Dealer's Licences (Section 24).
- 1.3. In North Ayrshire, all but one of the "Optional Provisions" are included in Council Resolutions. The exception is Section 43, which is:

"A Licence, to be known as a "Window Cleaner's Licence" shall be required for carrying on the trade of, or being employed as, a window cleaner."

This exception arises from a decision by Cunninghame District Council over 30 years ago. When the 1982 Act was commenced the Council resolved to adopt all but one of the "Optional Provisions" - the exception being window cleaning.

- 1.4. It is possible that an activity might need a Licence in one Council area but not in a neighbouring Council area. An example is the position with Window Cleaners. At present, Window Cleaners do not need a Licence in North Ayrshire Council or South Ayrshire Council, but they do in East Ayrshire Council.

2. Background

2.1 The Committee on 10 January 2018 considered a representation from Chief Inspector Brian Shaw of Police Scotland asking that North Ayrshire Council consider Licensing Window Cleaners. He reported that over the past 12 months there were 17 alleged offences committed by people who at time of detection gave their occupation as a window cleaner. These offences are:

- Housebreaking (two offences)
- Theft from Motor Vehicle and Fraud
- Possession of Drugs (3 offences)
- Serious Assault (3 offences, one involving Carrying an Offensive Weapon)
- Shoplifting
- Road Traffic offences
- Drinking in Public
- Stalking & Indecently communication
- Culpable & Reckless Conduct
- Drink Driving
- Abusive Behaviour offence (against a rival window cleaner)

2.2. He stated:

"Window Cleaners have by the nature of their business opportunities to gain access to premises without necessarily drawing much suspicion and they should therefore be trusted individuals and fit and proper people to have that kind of access. I am not sure whether we can say we have that assurance currently as no checks would appear to take place. I think this could be viewed as a similar position to taxi drivers who do go through a process and are accountable for their actions to the board ultimately."

2.3. The statutory procedure leading to a Resolution follows a number of stages

- (a) The Committee first considers whether or not to propose to make a Resolution;
- (b) If the Committee makes a proposal, this is advertised in local newspapers,
- (c) After at least 28 days, the Committee considers the matter further, taking into account any representations made by the public and others;
- (d) the Committee decides whether or not to make a Resolution;
- (e) If the Committee decide to make a Resolution, there is a second newspaper advertisement, advising;
 - that the Resolution has now been made;
 - that Window Cleaners should apply for, and have granted, a Licence before the Resolution takes effect on a specified date (this date is at least nine months after the Resolution);

- that Window Cleaners working without a Licence would commit a criminal offence;
- that Licence Application forms can be lodged with the Council after a specified date (one month after the Resolution was made);

(f) If the Committee decide not to make a Resolution, there is no further newspaper advertisement. The Committee's decision would appear as usual in the publicly-available Minutes.

2.4. The Hearing on 18 April 2018 is Stage (c). The Committee first considered this matter on 10 January 2018. The Committee considered the representation from Police Scotland and decided to propose making a Resolution extending the requirement to be licensed to Window Cleaners. That Proposal was advertised in local newspapers and the consultation period has expired. There have been no comments from the public.

2.5. The Committee should consider several questions outlined in Part 3 of this Report ("Proposals"). For the purpose of discussion, a possible Resolution might be:

"The Committee resolves, under Section 9 of the Civic Government (Scotland) Act 1982, that from and after Monday 21 January 2019, Section 43 of that Act shall apply, so that a Window Cleaner's Licence shall be required for carrying on the trade of, or being employed as, a window cleaner, except that no Licence will be needed:

- a) *if the activity is done without payment of money or other consideration, and without the expectation of payment; or*
- b) *is done to raise funds for a charity or other good cause."*

2.6. The commencement date in January 2019 arises because the legislation delays the effective date of a new Resolution by at least nine months (unless the Committee is limiting or rescinding a prior Resolution, when the new Resolution may take effect the following day).

This delay allows anyone affected by the Resolution to apply for and have granted a new Licence before the Resolution takes effect. Therefore, if the Committee makes the Resolution, the newspaper advertisement will include words to the effect of:

"Any Window Cleaner should apply for a Licence as soon as possible after Monday 21 May 2018. This is because once the Resolution takes effect on 21 January 2019 it will be a criminal offence to carry out the activity even if the person has already applied for a Licence. It will not be enough simply to apply for a Licence. The Application must have been granted by the Council before the Effective Date, or an appeal in the Sheriff Court must be pending. Window Cleaners should allow for the time that it takes for the Council to carry out statutory consultation and refer the Licence Application to the Licensing Committee for a decision. This can take up to 6 months."

3. Proposals

3.1 The Committee should consider several questions

Q.1. "should there be a Resolution?"

If 'yes' - Window Cleaners are to need Licences - further questions arise:

Q.2. "... should they need them throughout North Ayrshire, or only in particular parts?"

Q.3. "... should there be situations where they wouldn't need them?"

Q.4. "... how much should these cost?"

Q.1. "should there be a Resolution?"

3.1. The Committee is not obliged to make a Resolution, since the purpose of the earlier Proposal was simply to raise the issue for discussion. The Committee was not stating a view that there should be, or there should not be, licensing here.

3.2. In deciding whether or not to require Licensing of Window Cleaners, the Committee should seek to balance the potential advantages to the community if Window Cleaners were licensed with the potential disadvantages. The Committee should consider:

- the representation made by the Police;
- the Council's duties as a "Regulator" (see below);
- that operators would have to pay a Licence Fee (the suggested level is £126.00 for a 3-year Licence - see below);
- that operators might have to maintain Public Liability Insurance (if the Committee so decide - some Councils which already license Window Cleaners require insurance, but not all do);
- that the Council would have to establish a new Licensing system, with a new set of Licence conditions and an application form being drafted;
- that the Council would have to determine the scope of Application consultation. All Licence Applications under the 1982 Act are sent to the Police for comment, but the extent of further consultation is a matter for the Committee (for example, should other Council Core Services be consulted before a Licence is granted?);
- that the Committee would have to decide whether or not Applications should be referred for a Hearing even where the Scheme of Delegations would not require this.

The Council's duties as a "Regulator"

3.3. The Regulatory Reform (Scotland) Act 2014, Section 4(1) is:

"In exercising its regulatory functions, each Regulator must contribute to achieving sustainable economic growth, except to the extent that it would be inconsistent with the exercise of those functions to do so."

In making a decision to create or extend a Licensing requirement, the Committee must have regard to the Code of Practice issued by Scottish Ministers under Section 5.

The Code of Practice

3.4. The "Scottish Regulators' Strategic Code of Practice" (approved 18 February 2015), Paragraph 2 is:

"2. Regulators should adopt the following high level operational approaches:

- *Adopt a positive enabling approach in pursuing outcomes that contribute to sustainable economic growth.*
- *In pursuing their core regulatory remit be alive to other interests, including relevant community and business interests; taking business factors appropriately and proportionately into account in their decision making processes; and protecting public health and safety.*
- *Adopt risk and evidence based protocols which help target action where it's needed and help to ensure the achievement of measurable outcomes.*
- *Develop effective relationships with those they regulate and have clear two-way communication in place.*
- *Tailor their approach depending on the nature of the sector they are regulating and the desired outcomes. This includes a commitment to advice and support for those who seek to comply, allied with robust and effective enforcement when justified.*
- *Recognise, in their policies and practice, a commitment to the five principles of better regulation: regulation should be transparent, accountable, consistent, proportionate and targeted only where needed.*
- *Pursue continuous improvement in regulatory practice based on the principles of better regulation."*

3.5. The Committee should consider whether or not the creation of a new licensing requirement would attain the legislation's goal of "achieving sustainable economic growth". Genuine window-cleaners have operated without a Licensing system for many years. One of the benefits of creating a system would be that less-scrupulous operators might cease to compete with licensed window cleaners.

3.6. Licensing of Window Cleaners would meet all 5 principles of Better Regulation:

"transparent" - the regulation is applied by Law and is to be overseen by Elected Members sitting on a Committee whose Agenda and Minutes are public (subject to the Law permitting private hearings) or administered under the usual Scheme of Delegations;

"accountable" - any licensing function is subject to judicial control by the Sheriff;

"consistent" - subject to express exceptions decided on by the Committee, the Resolution would apply the licensing requirement to all Window Cleaners;

"proportionate" - once a need for some degree of regulation is established, there is no middle ground (again subject to exceptions). The Committee either has a Licensing scheme or it does not;

"targeted" - this licensing is aimed at a business activity which has the potential to hide criminal conduct.

Q.2. "If window cleaners are to need Licences, should they need them throughout North Ayrshire, or only in particular parts?"

3.7. Civic Government (Scotland) Act 1982 Act, Section 9(3)(b) permits a Resolution to cover the whole or any part of the area of the Licensing Authority.

The Committee is invited to adopt an 'all-or-nothing' approach - either require licences everywhere, or do not require them at all. Any territorial restriction depends on the boundaries being clearly understood by the public and the Licence-Holder.

Q.3. "If window cleaners are to need Licences, should there be situations where they wouldn't need them?"

3.8. Civic Government (Scotland) Act 1982 Act, Section 9(3)(c)(ii) permits a Resolution to contain exceptions. The draft Resolution set out above contains exceptions.

Q.4. "If window cleaners are to need Licences, how much should these cost?"

3.9. It is suggested that the Licence fee might be £126.00, renewable at the same rate (most Licences under the 1982 Act last 3 years). This is the same as the fee charged from 1 April 2018 for "Street Trader Employee Licences". Those Licences are held by people working in burger vans or doing other Street Trading, as opposed to the Licence for the vehicle or kiosk itself which is held by the Street Trader (£252.00). The higher fee is justified by the need to have the vehicle or kiosk inspected by Environmental Health officers, and by the need to consult with other Council offices as to the suitability of the proposed location. The "Employee" fee has been chosen as a comparator as:

- it is likely to involve the same basic level of consultation (Police);
- includes the cost of a photocard issued by the Licensing Department confirming that the person is licensed, similar to that already issued to Street Trader Employees.

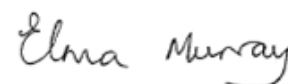
4. Implications

Financial:	There will be costs to both window cleaners and the Council if a Licensing system is set up.
Human Resources:	Staff time will be engaged in establishing a system and processing applications.
Legal:	None at present, although if a licensing requirement is applied then operators will face criminal prosecution if they are unlicensed. There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.
Equality:	The Clerk has considered the "Public Sector Equality Duty" in preparing this Report. There are no significant equalities impacts to be considered.
Children and Young People:	None
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, e.g. monitoring the 'fit and proper' status of business operators, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active").
Community Benefits:	Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

5.1 Statutory consultation has already taken place, and no other consultation is appropriate.

If the Committee decides to make a Resolution, that will be advertised in newspapers and Applicants will be able to apply for Licences.



Elma Murray OBE
Chief Executive

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

Background Papers

N/A