



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, 07 June 2023** at **10:00** to consider the undernoted business.

Meeting Arrangements

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003.

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 of the Licensing Committee held on 10 May 2023 will be confirmed and the Minutes 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

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

4 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

Eleanor Collier (Chair)
Nairn McDonald (Vice-Chair)
John Bell
Cameron Inglis
Christina Larsen
Jean McClung
Matthew McLean
Donald L. Reid
Ronnie Stalker
Angela Stephen

Chair:

Apologies:

Attending:

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving a combination of participation by remote electronic means and physical attendance within the Council Chambers, Irvine

Present (Physical Participation)

Eleanor Collier, Nairn McDonald, Cameron Inglis, Christina Larsen, Jean McClung, Matthew McLean, Donald L. Reid and Ronnie Stalker.

Present (Remote Participation)

Angela Stephen.

In Attendance

D. Robertson, Enforcement Officer (Legal Services), W. O'Brien, Solicitor, A. Toal, Administration Assistant (Licensing) and H. Clancy, Committee Services Officer (Democratic Services) (Chief Executive's Service).

Also in Attendance

Detective Chief Inspector I. Spence and Sergeant S. Syme (Police Scotland)

Chair

Councillor Collier in the Chair.

Apologies

John Bell

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the Meeting held on 19 April 2023 were confirmed and 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 Agenda Items 5 and 6 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) 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 (Scotland) Act 1973.

The 'Exempt Information' concerned is information of the type described in one or more of Paragraphs 3, 6, 14 and 15 of Part 1 of Schedule 7A to the Act:

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."

6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
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 Statutes: Licensing Matters

Submitted report by the Head of Democratic Services 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.

Appendix A: Hearings

4.1 Taxi Driver's Licence: TDL/00298 (Renewal): John Phillips

At a previous meeting on 19 April 2023, the Committee agreed to continue consideration to allow the licence holder to attend.

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

Decision

The Committee agreed to defer consideration of this application to a future meeting to allow the applicant to attend.

4.2 Private Hire Car Licence: PHCL/369 (Substitute): Kelly Scott

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.3 Taxi Driver's Licence: TDL/01773: Colin Bennett

At a previous meeting on 19 April 2023, the Committee considered a complaint against the licence holder and agreed to continue consideration until a Hearing to be held under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11(7).

The licence holder, having been duly cited to attend, was present. The complainants were also in attendance.

The complainants addressed the Committee and responded to questions. The licence holder then addressed the Committee on the issues raised and responded to questions.

The licence holder and the complainants then withdrew to allow the Committee to deliberate. Thereafter the licence holder and complainants re-joined the meeting, with the same Members and officers present and in attendance, to hear the Committee's decision.

Decision

Councillor McLean, seconded by Councillor Larsen, moved that the Committee revoke the Licence in terms of Paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that the licence holder is not a fit and proper person to be the holder of a licence.

Councillor Reid, seconded by Councillor Stalker, moved that the Committee suspend the Taxi Driver's Licence for a period of two months starting from 28 days after the date of the meeting.

On a division and a roll call vote, there voted for the amendment Councillors Collier, Inglis, McClung, Reid and Stalker (5) and for the motion, Councillors McDonald, Larsen, McLean and Stephen (4), and the amendment was declared carried.

Accordingly, the Committee agreed to suspend the Taxi Driver's Licence for a period of two months starting from 28 days after the date of the meeting.

4.4 Taxi Driver's Licence: TDL/02310 (Renewal): Nathan Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.5 Taxi Driver's Licence: TDL/02310: Nathan Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.6 Taxi Driver's Licence: TDL/02283: Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.7 Taxi Licence: TL/440: Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.8 Taxi Driver's Licence: TDL/02303: Calvin Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.9 Taxi Licence: TL/441: Calvin Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.10 Taxi Licence: TL/001: Hugh O'Neill, Calvin Smith, Jamie Dorrans, Desmond Quigley

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.11 Taxi Licence: TL/034: Hugh O'Neill, Gordon Smith, Calvin Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.12 Taxi Licence: TL/436: Hugh O'Neill, Gordon Smith, Calvin Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.13 Taxi Licence: TL/073: Hugh O'Neill, Gordon Smith, Calvin Smith, Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.14 Taxi Licence: TL/431: Hugh O'Neill, Gordon Smith, Calvin Smith, Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.15 Taxi Licence: TL/435: Hugh O'Neill, Gordon Smith, Calvin Smith, Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.16 Taxi Licence: TL/155: Hugh O'Neill, Jamie Dorrans

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.17 Taxi Licence: TL/443: Gordon Smith

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.18 Taxi Licence: TL/443: Hugh O'Neill

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

4.19 Booking Office Licence: BOL/023: Hugh O'Neill

The Committee agreed to continue consideration of this item to a Special meeting of the Committee on 31 May.

The meeting ended at 12.05 p.m.

NORTH AYRSHIRE COUNCIL

7 June 2023

Licensing Committee

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
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Recommendation:	1) That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which any of the matters in this Report are to be considered; 2) 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 as follows:

Appendix A - Licences and Permits where Hearings have been convened

Exempt Information

2.2 The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. The information is covered by one or more of the following categories of "Exempt Information" under Schedule 7A:

Paragraph 3: "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."

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 crime."

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.

2.3 The details of the cases in the Appendix, with any relevant documents (such as letters from the Police or objectors) are in the background papers given to Committee Members and will be sent to the respective Applicants or Licence-Holders before the Meeting. The Schedules 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".

2.4. The Committee is entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of "Exempt Information" (Section 50A(4)).

2.5. For example:

Paragraph 3 could apply in relation to information or advice requested by a member of the public.

Paragraph 6 could apply to a business activity (such as where an Applicant wants a Licence for business or employment).

Paragraphs 14 or 15 could apply where it was alleged that there was criminal conduct or anti-social behaviour committed by or against a Licence-Holder or Applicant for a Licence, or where the Committee was told that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

2.6. Accordingly, if a Resolution is made:

- (a) the publicly-accessible Minutes will exclude so much of the proceedings during which the public were excluded (Section 50C);
- (b) the Minutes will include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).

3. Proposals

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

4. Implications/Socio-economic Duty

Financial

4.1 There are possible financial implications in relation to any Licensing decision.

Human Resources

4.2 None

Legal

4.3 There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council

"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."

Section 149(1) ("Public sector equality duty"): the Council

"must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];
- (b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;
- (c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."

The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

The Clerk has considered these Duties in preparing this Report and any specific impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant impacts to be considered

Climate Change and Carbon

4.5 None.

Key Priorities

4.6 An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress

towards one of the Priority Outcomes of the North Ayrshire Council Plan 2019-2024:
"North Ayrshire's residents and communities are safe."

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

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

Aileen Craig
Head of Democratic Services

For further information please contact **William O'Brien, Solicitor (Licensing)**, on
Licensing@north-ayrshire.gov.uk.

Background Papers

None

Appendix A

Case 1	Taxi Driver Licence	TDL/00298 (Renewal)
Applicant	John Phillips	
Case 2	Public Charitable Collection	
Applicant	Ali Mundell (Hansel)	
Case 3	Public Entertainment Licence	PEL/720 (Temporary)
Applicant	Kelburn Arts Ltd	
Case 4	Taxi Licence	TL/409 (Renewal)
Applicant	Catherine Wilkie	
Case 5	Taxi Licence	TL/445 (New)
Applicants	Kirsten Stahly and Piotr Stachowski	
Case 6	Taxi Licence	TL/446 (New)
Applicants	Alasdair Drummond and Russell Drummond	
Case 7	Taxi Licence	TL/447 (New)
Applicants	Alasdair Drummond and Russell Drummond	
Case 8	Taxi Licence	TL/448 (New)
Applicants	Alasdair Drummond and Russell Drummond	

Case 9	Taxi Licence	TL/449 (New)
Applicants	Alasdair Drummond and Russell Drummond	
Case 10	Short Term Let Licence	NA00038N
Applicant	James Heinemann	
Case 11	Short Term Let Licence	NA00055P
Applicant	Steve Greatrex	
Case 12	Short Term Let Licence	NA00098P
Applicant	Kevin McKay	
Case 13	Short Term Let Licence	NA00099P
Applicant	Kevin McKay	
Case 14	Short Term Let Licence	NA00092P
Applicant	Josephine McKenna	