



NORTH AYRSHIRE
COUNCIL

Cunninghame House,
Irvine.

18 July 2013

Licensing Committee

You are requested to attend a Special Meeting of the above mentioned Committee of North Ayrshire Council to be held in Committee Room 2, Cunninghame House, Irvine on **FRIDAY 26 JULY 2013** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

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. Civic Government (Scotland) Act 1982: Licensing Matters

Submit report by the Chief Executive on Hearings to be determined all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

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

Submit report by the Chief Executive on circumstances relating to a registered Landlord (copy enclosed).

Licensing Committee

Sederunt: Ronnie McNicol (Chair)
Tom Marshall (Vice Chair)
Robert Barr
John Bruce
Ian Clarkson
Ruth Maguire
Alex McLean
Alan Munro
Donald Reid
Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

NORTH AYRSHIRE COUNCIL

Agenda Item 2

26 July 2013

Licensing Committee

Subject: **Civic Government (Scotland) Act 1982: Licensing Matters**

Purpose: To advise the Committee of issues arising in respect of existing licences

Recommendation: That the Committee considers and determines the matters before it.

1. Introduction

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.

2. Current Position

- 2.1 The attached appendices detail the matters before the Committee for determination as follows:-

Appendix A:

Issues in respect of existing licences

3. Proposals

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

4. Implications

Financial Implications

- 4.1 There are possible financial implications in relation to the refusal of any application.

Human Resource Implications

- 4.2 None

Legal Implications

- 4.3 There are possible legal implications in relation to the refusal of any application.

Equality Implications

- 4.4 None

Environmental Implications

- 4.5 None

Implications for Key Priorities

- 4.6 None

5. Consultations

- 5.1 Consultations have been undertaken where appropriate.

6. Conclusion

- 6.1 The Committee is requested to consider and dispose of the matters before it.



ELMA MURRAY
Chief Executive

Reference : PAT

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

Background Papers

None

APPENDIX A

Issues in respect of Existing Licences

Case 1 - Suspension Hearing **Street Trader Operator's Licence** **STL/O/325**

Licenceholder and Address Ian **Ewing**
166 Hunter Drive
Irvine
KA12 9AZ

Vehicle Details Ford Transit SE51 DHZ

Duration of Licence 24/05/2011 - 31/05/2014

Case 2 - Suspension Hearing **Street Trader Operator's Licence** **STL/O/261**

Licenceholder and Address David Duncan **McIntyre**
18 Dalgarven Wynd
Kilwinning
KA13 6DD

Vehicle Details Ford Transit Y985 UGE

Duration of Licence 01/10/2012 - 30/09/2013

Case 3 - Suspension Hearing **Taxi Driver's Licence** **TDL/01767**

Licenceholder and Address Leonard Thomas **Guiney**
5 Greenhead Avenue
Stevenston
KA20 4EE

Duration of Licence 01/03/2013 - 28/02/2014

Case 4 - Suspension Hearing **Taxi Driver's Licence** **TDL/01432**

Licenceholder and Address Ian David **Crews**
23 Morris Moodie Avenue
Stevenston
KA20 3NP

Duration of Licence 03/10/2012 - 30/09/2015

Case 5 - Suspension Hearing	Street Trader Operator's Licence	STL/O/306
Licenceholder and Address	John Cowan 60 Dirrans Terrace Kilwinning KA13 7PJ	
Duration of Licence	expired 30/06/2013 renewal pending	
Case 6	Street Trader Operator's Licence	STL/O/306 (Renewal)
Licenceholder and Address	John Cowan 60 Dirrans Terrace Kilwinning KA13 7PJ	
Case 7	Taxi Operator's Licence	TL/019 (renewal)
Licenceholder and Address	Fiona Wagstaff 31 Coyle Avenue Drongan KA6 7DL	
Vehicle Details	no vehicle presented	
Case 8	Taxi Operator's Licence	TL/194 (renewal)
Licenceholder and Address	Fiona Wagstaff 31 Coyle Avenue Drongan KA6 7DL	
Case 9	Taxi Operator's Licence	TL/194 (substitute vehicle)
Licenceholder and Address	Fiona Wagstaff 31 Coyle Avenue Drongan KA6 7DL	

NORTH AYRSHIRE COUNCIL

Agenda Item 3

26 July 2013

Licensing Committee

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

Purpose: To inform the Committee of the circumstances of an Application.

Recommendation: That the Committee should consider whether:

(1) to grant an Application to be entered on the Register of Landlords made by Alan McLaughlan, 35 Glenapp Place, Kilwinning (DOB 4 November 1949) (NAC ref. 318570-310-09161) under Section 84; and

(2) to issue a Notice (often called a 'Rent Penalty Notice') in respect of the house at 2a Deerpark Avenue, Stevenston under Section 94.

1. Introduction

- 1.1 The Landlord Registration scheme operates under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8 (Sections 82-101). Under this scheme, landlords may register in their own names, or may engage Agents to do so.
- 1.2 The Act specifies conditions which registered people must meet. One of these conditions is that the Landlord is a 'fit and proper person' (Section 84(3)(c)). The considerations which are relevant to this question are set out by the Act. It is relevant to consider any material which appears to the Council to be relevant to the question of whether the person is a fit and proper person: Section 85(4). Where the Council is not satisfied that the conditions for Registration are met, the Council is obliged to refuse Registration (Section 84(2)(b)).
- 1.3 If a Landlord rents a house without being Registered then two things can happen:
 - (a) the Council may issue a Notice under Section 94 (often called a 'Rent Penalty Notice'), meaning:
 - (i) the Tenant ceases to be liable for rent (but otherwise the Lease continues, so the Tenant remains in occupation and cannot be evicted for non-payment); and

- (ii) Housing Benefit stops being paid.
- (b) the Landlord can be prosecuted for a criminal offence under Section 93. The penalty is a fine up to £50,000.

2. Current Position

- 2.1 An Application for Registration has been made under Section 84 by Alan McLaughlan, 35 Glenapp Place, Kilwinning (DOB 4 November 1949 ('the Applicant'). The Applicant has since moved to 21 St. Winning's Road, Kilwinning KA13 6JX.
- 2.2 On 24 October 2012 the Applicant was sentenced at Kilmarnock Sheriff Court for three offences:
 - 1. under the Sexual Offences (Scotland) Act 2009, Section 34(1);
 - 2. breach of Bail by entering the street where the complainer lived, from which he had been excluded by a Bail Condition;
 - 3. failing to appear in Court earlier.
- 2.3 The Applicant pleaded guilty to all charges. Charge 1 was that on several occasions in 2012 he wrote letters containing sexually explicit material to a girl aged 14.
- 2.4 The Court certified Charge 1 under the Sexual Offences Act 2003 (commonly known as 'placing a person on the Sex Offenders Register'), which means he must regularly notify the Police of his address and movements. The Court also imposed a "Community Payback Order" consisting of
 - 1. an "Offender Supervision Requirement" – for 3 years from then; and
 - 2. an "Unpaid work Requirement" – requiring him to do 240 hours of unpaid work within a 6 month period.
- 2.5 The Council's Chief Revenues and Benefits Officer confirms that there is currently a Tenant in the house, and that Housing Benefit has been claimed and will soon be paid. Given that the house is rented out to an existing Tenant, and that Housing Benefit will continue to be due whether or not the Landlord is Registered, the Committee should consider issuing a 'Rent Penalty Notice' (RPN).

3. Proposals

3.1 The Committee requires to decide:

1. whether or not the Application should be granted;
2. If refused, whether or not a Rent Penalty Notice should be made.

4. Implications

4.1 Financial Implications

If a Rent Penalty Notice is issued, the Housing Benefit Office will be informed, so that the Landlord will not receive HB.

4.2 Human Resource Implications

None.

4.3 Legal Implications

Where the Council makes any decision to refuse or remove Registration, to make a RPN, or to refuse to recall a RPN, the person affected may appeal to the Sheriff.

If the Committee issues a 'Rent Penalty Notice', only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected, e.g. 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 Notice), and the Landlord continues to have repairing obligations.

4.4 Equality Implications

None.

4.5 Environmental Implications

None.

4.6 Implications for Key Priorities

None.

5. Consultations

51. No consultations are appropriate.

6. Conclusion

6.1 The Committee is invited to take the actions recommended.

A handwritten signature in black ink that reads "Elma Murray". The signature is written in a cursive style with a large, stylized 'E' and 'M'.

ELMA MURRAY
Chief Executive

Reference : GEN09

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

Background Papers

None