



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Cunninghame House,  
Irvine.

25 September 2014

### **Licensing Committee**

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 1 OCTOBER 2014** 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. Minutes**

The accuracy of the Minutes of the ordinary meeting of the Committee held on (i) 25 June 2014; and the special meetings held on (ii) 10 July 2014, (iii) 6 August 2014, and (iv) 3 September 2014 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: Licensing Matters**

Submit report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, 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 the circumstances relating to an Application for Landlord Registration (copy enclosed).

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## Licensing Committee

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Sederunt: Ronnie McNicol (Chair)  
Tom Marshall (Vice Chair)  
Robert Barr  
John Bruce  
Ian Clarkson  
Catherine McMillan  
Alan Munro  
Donald Reid  
Robert Steel  
Vacancy

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
25 June 2014

**IRVINE, 25 June 2014** - At a Meeting of the Licensing Committee of North Ayrshire Council at 09.00 a.m.

**Present**

Tom Marshall, Robert Barr, John Bruce (from Item 2 onwards), Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel (from Item 11 onwards).

**In Attendance**

D. Drennan, Team Manager Building Standards, J. McKay, Building Standards Officer (Development and Environment); W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant, J. Armstrong, Senior Clerical Assistant and A. Little, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector Oates and PC McLean (Police Scotland).

**Chair**

Councillor Marshall in the Chair.

**Apologies for Absence**

Ronnie McNicol

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

**2. Minutes**

The Minutes of (i) the ordinary meeting of the Committee held on 30 April 2014 and (ii) the special meeting held on 6 June 2014 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. Civic Government (Scotland) Act 1982: Licensing Matters**

Submitted report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982

## **Part A: Hearings**

### **3.1 Public Charitable Collection PCC - Trevor Gray**

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

#### **Decision**

After discussion, Councillor Reid, seconded by Councillor Clarkson moved that the application should be granted.

As an amendment, Councillor Barr, seconded by Councillor McMillan, moved to continue the application to the next meeting.

On a division, there voted for the amendment 2 and for the motion 2 and on the casting vote of the Chair the motion was declared carried.

Accordingly, the Committee agreed to grant the application.

### **3.2 Taxi Driver's Licence TDL/00717 (1 year) - Robert McLeish**

The applicant, having been duly cited to attend as not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

The representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

#### **Decision**

The Committee agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

Councillor Bruce joined the meeting at this point.

### **3.3 Taxi Driver's Licence TDL/01649 (1 year) - Paul Williams**

The Committee, at its meeting on 5 March 2014, 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 from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

#### **Decision**

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.

### **3.4 Taxi Driver's Licence TDL/01854 - David Walsh**

The Committee, at its meeting on 30 April 2014, unanimously agreed, on the basis of the information presented, to proceed to a Suspension Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licenceholder, 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 as previously intimated in writing to the licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the licenceholder addressed the Committee on the issues raised and responded to questions.

The licenceholder and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

The Committee unanimously agreed, on the basis of the information before it, to (a) take no action to suspend the licence in terms of Paragraph 11 (2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 at this time; and (b) grant the renewal application terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.5 Taxi Driver's Licence TDL/01874 - Paul James Gorman**

The Committee, at its meeting on 6 June 2014, unanimously agreed (a) to suspend licence TDL/1874 in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (b) on the basis of the information presented, to proceed to a hearing, within 6 weeks, in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 in respect of licence TDL/1874.

The licenceholder, having been duly cited to attend, was not in attendance. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

Representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

The Committee unanimously agreed to suspend the licence in terms of Paragraph 11 (2) (a) and (c) with immediate effect in terms of Paragraph 11 (10) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.6 Taxi Driver's Licence TDL/01878 (1 year) - David Brown**

The Committee, at its meeting on 30 April 2014, 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.

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.



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

### **Decision**

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.

#### **3.7 Taxi Driver's Licence TDL/01901 (1 year) - John William Bruce**

The Committee, at its meeting on 30 April 2014, 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.

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

### **Decision**

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.

#### **3.8 Taxi Driver's Licence TDL/01907 (1 year) - Gordon Anderson**

The applicant, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

The representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

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.

### **3.9 Taxi Driver's Licence TDL/01911 - Brent Norris**

The applicant, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application.

The representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

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.

### **3.10 Public Entertainment Licence PEL/208 - Michael George Lynam**

The Committee, at its Special Meeting on 6 June 2014, agreed to continue consideration of the application to the next meeting, to allow the applicant to provide all necessary information to Officers in relation to the proposed event.

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland and Building Standards were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. The representative from Buildings Standards addressed the Committee in relation to building Standards issues. Thereafter the applicant addressed the Committee on the issues raised and responded to questions.

The applicant, representatives of Police Scotland and Building Standards then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

The Committee unanimously agreed (a) to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982, and (b) that all appropriate information has been provided to Building Standards.

Councillor Steel joined the meeting at this point.

### **3.11 Street Trader Employee's Licence STL/E/168 - Neil David McIntyre**

The Committee, at its meeting on 30 April 2014, 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.

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

## **Decision**

After discussion, Councillor Clarkson, seconded by Councillor McMillan moved that the application should be granted for 1 year.

As an amendment, Councillor Barr, seconded by Councillor Steel, moved to refuse the application.

On a division, there voted for the amendment 2 and for the motion 5, and the motion was declared carried.

Accordingly, the Committee 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 1 year.

### **3.12 Public Charitable Collection PCC - David Payne**

The Committee, at its meeting on 30 April 2014, considered an application for Permission for a Public Charitable Collection made under Section 119 of the Civic Government (Scotland) Act 1982.

The Committee noted that the application was outside the Council's policy, and, instead of determining whether to grant or refuse it, directed the Solicitor (Licensing) to contact the applicant and invite the applicant to amend the application so as to conform with the policy (i.e. to apply for a Saturday only). If the application was so amended, the Committee directed that it should be granted under delegated powers. If the application was not so amended, it should be referred to a further meeting of the Committee.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant, and advised that the applicant had not amended the application and that the dates set out in the application had now passed.

### **Decision**

The Committee noted the position and that the application was no longer required.

### **3.13 Public Entertainment Licence PEL/214 - David Boyle**

Kelburn Productions Ltd has applied for a Public Entertainment Licence for an event on 4 - 7 July 2013.

The applicant, D. Boyle and his representative Z. Shaw were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the applicant and his representative addressed the Committee on the issues raised and responded to questions.

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

### **Decision**

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

## **Part B: Applications for Licences and Renewal of Licences**

### **3.14 LHCL/115 (New) AG Restaurants Ltd**

The Committee 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.

### **3.15 TDL/00462 (3 year) (New) Matthew Imrie**

The Committee 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.

### **3.16 TDL/00513 (1 year) (New) John McCubbin**

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.

### **3.17 TDL/00705 (1 year) (New) William Alexander**

The Committee 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.

### **3.18 TDL/01915 (1 year) (New) Joseph Donnelly**

The Committee 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.

### **3.19 TDL/01920 (1 year) (New) Anthony McMillan**

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.

## **Part C: Issues in Respect of an Existing Licence**

### **3.20 STL/O/369 Sharon Serapiglia**

The Committee 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. Exclusion of the Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the agenda item 7 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act ("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") might be disclosed.

#### **5. 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.

The Committee, at its meeting on 30 April 2014, considered the circumstances relating to an application for Landlord Registration and agreed:-

- (a) under Section 84(2)(b) to refuse to enter the applicant landlord in the Register in relation to 3 Brisbane Road, Largs, in respect that he was not a fit and proper person having regard to his persistent and substantial breaches of housing law;
- (b) to remove him from the Register of Landlords in respect of all properties currently registered, for the same reason;
- (c) to serve a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the property at 3 Brisbane Road, Largs; and
- (d) to continue consideration to a later Meeting of the question of whether or not to make Section 94 Orders in relation to each of the 10 houses that had previously been registered, in order to receive reports from a Council Officer on those houses.

The applicant was in attendance and provided information on:-

- repairs and improvements undertaken to the property at 3 Brisbane Road, Largs to the satisfaction of the tenant; and
- details of the occupied and unoccupied properties owned by the applicant and properties owned by others.

The applicant was advised that the Rental Agreement used for the property at 49 Nelson Street, Largs required to be amended to remove the requirement for the tenant to be responsible for all repairs and to include the period of the tenancy, including the start date.

The Committee agreed to continue consideration to a later meeting of the question whether or not to make Section 94 Orders in relation to the 4 properties owned by the applicant that are currently occupied, (Largs: 10 Boyd St., 2/R, 12 Boyd St., 1/L, 49 Nelson St, G/L, 42 Nelson St., G/L) in order to receive a report from Housing Services on the condition of 3 Brisbane Road, Largs and the 4 properties detailed above.

The meeting ended at 12.10 p.m.





Licensing Committee  
10 July 2014

**IRVINE, 10 July 2014** - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.25 a.m.

**Present**

Tom Marshall, Robert Barr, John Bruce, Catherine McMillan, Donald Reid and Robert Steel.

**In Attendance**

W. O'Brien, Solicitor (Licensing) and A. Toal, Administrative Assistant, C. Pollock, Administrative Officer and G. Kellas, Senior Clerical Assistant (Chief Executive's Service).

**Chair**

Councillor Marshall in the Chair.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

**2. Exclusion of Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public on the grounds that otherwise "Exempt Information" of the type described in Paragraph 14 of Part 1 of Schedule 7A to the Act ("14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.") might be disclosed.

**3. Civic Government (Scotland) Act 1982: Licensing Matters**

**3.1 TDL/01878 David Brown**

The Chief Superintendent of Police Scotland requested an emergency suspension under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982 pertaining to licence TDL/01878.

The Solicitor (Licensing) outlined information provided by Police Scotland in relation to the licenceholder.

The Committee discussed the information presented and unanimously agreed (a) to suspend the licence in terms of Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982; and (b) on the basis of the information presented, to proceed to a hearing, within 6 weeks, in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 .

### **3.2 PEL/067 (variation) North Ayrshire Council**

North Ayrshire Council has applied for a temporary variation of a Public Entertainment Licence for the Volunteer Rooms, High Street, Irvine to 2.00 a.m. on Saturday 24 August 2013.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant.

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting ended at 10.35 a.m.

Licensing Committee  
6 August 2014

**IRVINE, 6 August 2014** - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel.

**In Attendance**

W. O'Brien, Solicitor (Licensing), K. Sharkey, Trainee Solicitor, J. Wallace, Investigation Officer, A. Toal, Administrative Assistant, J. Armstrong, Senior Clerical Assistant (Legal Section) and A. Little, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector Skimming and Sergeant McIntosh (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**1. Declarations of Interest**

In terms of Standing Order 16 and Section 5 of the Code of Conduct for Councillors, Councillor Reid, due to his association with the organisation, declared an interest in Agenda Item 3.6 (Public Charitable Collection PCC Kilwinning Events) and left the meeting for that item of business.

**2. Exclusion of Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act might be disclosed.

**3. Civic Government (Scotland) Act 1982: Licensing Matters**

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

**Part A: Hearings**

**3.1 Taxi Driver's Licence TDL/00462 : Matthew Imrie**

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

### **Decision**

After discussion, Councillor Bruce, seconded by Councillor Barr moved that the application should be refused.

As an amendment, Councillor Marshall, seconded by Councillor Steel, moved that the application be granted.

On a division, there voted for the amendment 4 and for the motion 4 and on the casting vote of the Chair the motion was declared carried.

Accordingly, the Committee agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

### **3.2 Taxi Driver's Licence TDL/01787 : David Brown**

The licenceholder, having been duly cited to attend, was not present. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the licenceholder.

Representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

### **Decision**

The Committee unanimously agreed to (a) to suspend the licence in terms of Paragraph 11(2)(a) and (c) of Schedule 1 to the Civic Government (Scotland) Act 1982; (b) to direct that that Suspension should be for the whole unexpired duration of the Licence, in terms of Paragraph 11(11); and (c) that, having determined that the circumstances of the case justified immediate suspension, to Order that that Suspension should take effect immediately, in terms of Paragraph 11(10)."

### **3.3 Taxi Driver's Licence TDL/01915 : Joseph Donnelly**

The applicant, 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 as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

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

#### **Decision**

After discussion, Councillor Marshall, seconded by Councillor McMillan moved that the application should be granted on receipt of satisfactory information from the Driving and Vehicle Licensing Agency (DVLA).

As an amendment, Councillor Barr moved that the application be refused. There being no seconder, the motion fell.

Accordingly, the Committee agreed to delegate authority to the Clerk to grant the licence for the period of 1 year on receipt of information from the DVLA indicating to the Clerk's satisfaction that the ground of refusal in Paragraph 5(3(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 did not appear to exist. The Committee directed that if the Clerk is not so satisfied then the Application will be referred to a future meeting of the Committee.

### **3.4 Public Charitable Collection PCC : Anne Jaconelli (Ivy Fundraising)**

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, 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**

After discussion, Councillor Marshall, seconded by Councillor Reid moved that the application should be granted.

As an amendment, Councillor McMillan, seconded by Councillor Clarkson, moved that the application be refused.

On a division, there voted for the amendment 2 and for the motion 6, and the motion was declared carried.

Accordingly, the Committee agreed to grant the application for permission in terms of Section 119 of the Civic Government (Scotland) Act 1982 subject to conditions attached under Section 119(5); (a) the Committee's standard conditions; and (b) subject to the further condition: 'that at all times that the Collection is carried out that the Applicant should display a visible written notice which can be seen by individual members of public prior to donations of money being invited, informing them of the minimum percentage of the money collected which will be received by the ultimate beneficiary of the collection.

### **3.5 Public Charitable Collection PCC : Philip W Chinery (Royal British Legion (Scotland))**

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, 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**

The unanimously Committee agreed to grant the application subject to conditions in terms of Section 119 of the Civic Government (Scotland) Act 1982.

## **Part B Applications for Licences and Renewal of Licences**

### **3.6 Public Charitable Collection PCC : Kilwinning Community Events**

The Committee unanimously agreed to grant the application subject to conditions in terms of Section 119 of the Civic Government (Scotland) Act 1982.

### **3.7 STL/E/260 (New) : David Hastings**

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.

### **3.8 TDL/01710 (New) : Steven Doran**

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.

### **3.9 TDL/01790 (Renewal) : David Allen Denholm**

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.

### **3.10 TDL/01919 (New) :Nigel Treverton**

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.

### **3.11 TDL/01916 (New) : Martin Muir**

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

## **4. Licensing of Houses in Multiple Occupation (HMOs) under Housing (Scotland) Act 2006, Part 5**

Submitted report by the Chief Executive that provided information on a house which is part of a building containing two dwellings in Lamlash, Isle of Arran. That house is being occupied as a main residence by several unrelated persons, and is not covered by either a House in Multiple Occupation (HMO) Licence or a Landlord Registration.

The Committee unanimously agreed to make an Order under Section 144 (commonly known as a 'Rent Suspension Order') in respect of the house.

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

Submitted report by the Chief Executive that provided information on a complaint in respect of a Registered Landlord and his property in Stevenston.

The Registered Landlord, the complainers, and Mr Wallace, Investigation Officer (Anti Social Behaviour Investigation Team) were in attendance.

The Solicitor (Licensing) set out the background to the complaint as previously intimated in writing to the Registered Landlord. The Registered Landlord, the complainers and the Investigation Officer addressed the Committee on the issues raised and responded to questions.

The Registered Landlord, the complainers and the Investigation Officer then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

After discussion, Councillor Marshall, seconded by Councillor McMillan moved to remove the Landlord from the Register held under the 2004 Act, and to issue a Notice under (section 94 (commonly called "a "Rent Penalty Notice") in respect of the house.

As an amendment, Councillor Steel, seconded by Councillor McNicol, moved to continue consideration of the case to the next meeting.

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

Accordingly, the Committee agreed, Councillor Marshall dissenting, to continue consideration of the case to the next meeting.

The meeting ended at 5.10 p.m.



Licensing Committee  
3 September 2014

**IRVINE, 3 September 2014** - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, Catherine McMillan, Donald Reid and Robert Steel.

**Also Present**

John Hunter.

**In Attendance**

W. O'Brien, Solicitor (Licensing), K. Sharkey, Trainee Solicitor, A. Toal, Administrative Assistant and D. McCaw, Committee Services Officer (Chief Executive's Service)

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

John Bruce.

**1. Declarations of Interest**

There were no declarations of interest by Members in terms of Standing Order 16 and Section 5 of the Councillors Code of Conduct.

**2. Civic Government (Scotland) Act 1982: Licensing Matters**

Submitted report by the Chief Executive on a Hearing to be determined in terms of the Civic Government (Scotland) Act 1982.

**Part A: Hearings**

**2.1 Public Entertainment Licence PEL/226 (Temporary): David Boyle**

David Boyle of Kelburn Productions has applied for a temporary Public Entertainment Licence for an event at Kelburn Country Park from 6.00pm on Saturday 13 September to 04.00am on Sunday 14 September 2014.

The applicant's representatives Z. Shaw, Operations Manager and A. Boyter, Depute Operations Manager were in attendance.

The Solicitor (Licensing) set out the background to the Hearing. Thereafter the applicant's representatives addressed the Committee providing details of the proposed event and responded to questions.

## **Decision**

The Committee unanimously agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting ended at 10.10 a.m.

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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 3**

**1 October 2014**

#### **Licensing Committee**

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**Subject:** **Civic Government (Scotland) Act 1982: 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; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982.

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

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#### **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.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
  - (a) the rule about 'confidential information' (as defined) or
  - (b) by Resolution.

(Local Government (Scotland) Act 1973, Section 50A, and especially Subsection 50A(4)).
- 1.3. Under the Resolution procedure, the Committee is entitled to resolve to exclude from the Meeting the press and the public for any one or more items of business on the grounds that otherwise "Exempt Information" of any type described in Part 1 of Schedule 7A to the Act might be disclosed.
- 1.4. The types of "Exempt Information" which may arise during Committee business include those described in Paragraphs 14 and 15 of that Schedule:

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 to mean a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.)
- 1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

## **2. Current Position**

### **Appendix A:**

Licences where Hearings have been convened;

### **Appendix B:**

Applications for the grant or renewal of licences and permits; and

### **Appendix C:**

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 and Sustainability Implications

4.5 None

Implications for Key Priorities

4.6 None

**5. Consultations**

5.1 Consultations have been undertaken with Police Scotland, Strathclyde Fire and Rescue, and the appropriate Council Services.

**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



## Hearings

<b>Hearing 1</b>	<b>Street Trader Employee's Licence</b>	<b>STL/E/260</b>
<b>Applicant and Address</b>	<b>David Hastings</b> 113 Craufurdland Road Onthank Kilmarnock KA3 2HX	
<b>Hearing 2</b>	<b>Taxi Driver's Licence</b>	<b>TDL/00705</b>
<b>Applicant and Address</b>	<b>William Alexander</b> 3 Whitecraig Road Ardrossan KA22 7EF	
<b>Hearing 3</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01710</b>
<b>Applicant and Address</b>	<b>Steven Doran</b> 3 Montgomerieston Place Kilbirnie KA25 6AD	
<b>Hearing 4</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01790</b>
<b>Applicant and Address</b>	<b>David Denholm</b> 45 Mains Avenue Beith KA15 2AT	
<b>Hearing 5</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01919</b>
<b>Applicant and Address</b>	<b>Nigel Treverton</b> 29 Broughton Green Lawthorn Irvine KA11 2EJ	

<b>Suspension Hearing 6</b>	<b>Street Trader Operator's Licence</b>	<b>STL/O/369</b>
<b>Licenceholder and Address</b>	Sharon <b>Serapiglia</b> 75 Dundonald Crescent Irvine KA11 5AX	
<b>Vehicle</b>	Mercedes Sprinter HX08 ZYE	
<b>Hearing 7</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01915</b>
<b>Applicant and Address</b>	Joseph <b>Donnelly</b> 4 Barony Court Girdle Toll Irvine KA11 1AX	
<b>Hearing 8</b>	<b>Late Hour Catering Licence</b>	<b>LHCL/115</b>
<b>Applicant and Address</b>	<b>A G Restaurants Ltd</b> c/o Alexander Sloan CA 38 Cadogan Street Glasgow G2 7HF	
<b>Premises</b>	McDonalds Riverway Retail Park New Street Irvine	



## Applications for Licences/Renewal of Licences

Type of Licence/Reference Number	Details of Applicant	Comments
<b>LHCL/116 (New)</b>	<b>Mascot Scotland Ltd</b> 1 Glencairn Street Stevenston KA20 3BE	Outwith Policy and Police Objection received
Premises	Petrol Station 1 Glencairn Street Stevenston KA20 3BE	
<b>PEL/112 (New Permanent)</b>	James <b>Newton</b> 44A Marine Parade Millport KA28 0EF	Observation received from Building Standards
Premises	Garrison Grounds Millport	
<b>TDL/01253 (New)</b>	Scott Robb <b>Seymour</b> 1 Scott Drive Largs KA30 9PA	Police observation received and non-disclosure
<b>TDL/01463 (Renewal)</b>	Robert <b>Hamilton</b> 43 Milton Road Kilbirnie KA25 7EP	Police observation received and non-disclosure
<b>TDL/01923 (New)</b>	Steven <b>Young</b> 77 Mill Road Irvine KA12 0JP	Police objection received
<b>TDL/01925 (New)</b>	David <b>Taylor</b> 48A Main Road Fairlie Largs KA29 0DW	Police observation received

<b>TDL/01926 (New)</b>	Peter <b>Smith</b> 45 St Margarets Road Ardrossan KA22 7EW	Previous convictions received
<b>TDL/01927 (New)</b>	Sandra <b>McLellan</b> 82 Hillside Street Stevenston KA20 3JJ	Police observation and non-disclosure
<b>TDL/01928 (New)</b>	Neil <b>McLellan</b> 3 Bute Court Stevenston KA20 3JB	Police observation received
<b>TDL/01931 (New)</b>	Mark Taylor <b>Lovie</b> 44 Ravenscroft Irvine KA12 9DE	Police observation received
<b>TDL/01932 (New)</b>	Andrew <b>Morrison</b> 60 Scott Road Irvine KA12 8EY	Police observation and non-disclosure

**Issues in Respect of Existing Licences**

<b>Case 1</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01901</b>
<b>Licenceholder and Address</b>	John William <b>Bruce</b> 30 Churchill Avenue Kilwinning KA13 7JW	
<b>Licence dates</b>	25 June 2014 - 31 May 2015	



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 4**

**1 October 2014**

#### **Licensing Committee**

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

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

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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 this Report is to be considered;
2. For each Review Proposal described in the Schedules:  
That the Committee should consider each case and:  
(a) decide whether or not the Relevant Person should be removed from the Register;  
(b) if removing, to decide whether or not to make an order under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house referred to in the Registration, or to delegate authority to the Clerk to make such an order.

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#### **1. Introduction**

- 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.
- 1.2. The persons named in the attached Schedules are either Applicants for Registration, or are already Registered, under the 2004 Act (each person has one Schedule). The rented houses concerned are listed in the Schedules.

#### Exempt Information

- 1.3. The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. Depending on the circumstances of the individual case, the Schedules contain:
  - (a) information about the Relevant Person's criminal convictions or their prosecution; and/or

- (b) information that suggests that he is not a 'fit and proper' person by reason of his conduct in relation to alleged Anti-Social Behaviour; and/or
- (c) information that suggests that he is not a 'fit and proper' person by reason of his breach of the legal obligations on Landlords; and/or
- (d) information about conduct involving nuisance or crime (whether or not there have been any criminal Court proceedings).

- 1.4. The information is covered by one or other or both of the following categories of "Exempt Information" under Schedule 7A:

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."*

- 1.5. "Protected informant" is defined in Part III of the Schedule and means:

*"a person giving the Local Authority information which tends to show that—*

- (a) a criminal offence,*
- (b) a breach of statutory duty,*
- (c) a breach of planning control, within the meaning of section 123(1) of the Town and Country Planning (Scotland) Act 1997, or*
- (d) a nuisance,*

*has been, is being or is about to be committed".*

- 1.6. For example, Paragraph 15 would apply where it was alleged:

- (a) that there was anti-social behaviour committed by the Tenant of a rented house, involving crime or nuisance, or
- (b) that the state of repair of the rented house indicated that the Landlord had defaulted in his legal obligations, or
- (c) that the Landlord had defaulted in another obligation applying to Landlords, or
- (d) that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

- 1.7. 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)).
- 1.8. Accordingly, if a Resolution is made:
- (a) the Minutes must exclude so much of the proceedings during which the public were excluded (Section 50C);
  - (b) the publicly-accessible Minutes shall include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).
- 1.9. Although the Committee's Agenda and connected Reports are generally to be made public (Section 50B(1)), publication of the Schedules to this Report (but not the Report itself) has been withheld under Section 50B(2), as the proper officer has the opinion that they relate to items during consideration of which the Meeting is likely not to be open to the public, i.e. that the Committee is likely to make a Resolution to exclude the public during consideration of the Schedules.
- 1.10. Although the Schedules have not been published, in each case the individual Relevant Persons have been given appropriate copies and notice of the Committee Meeting.

#### The Landlord Registration Scheme

- 1.11. The general rule is that a person wishing to let out a house must be Registered with the Council. Registration lasts 3 years. A person must re-apply within that time to remain Registered. The requirement to be Registered is subject to many exceptions, e.g. lets to family-members do not require Registration. The Act specifies conditions which Landlords 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.
- 1.12. Once a Landlord has been Registered, the Council is entitled to review the Registration. If not satisfied that the 'fit and proper' condition for Registration is met, the Council is obliged to remove Registration (Section 89).

1.13. If a Landlord rents a house without being Registered, or if Registration is removed, two things can happen:

(a) the Council may issue a Notice under Section 94 (often called a 'Rent Penalty Notice' or 'RPN'), 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 the Landlord remains responsible for repairs); and

(ii) any Housing Benefit stops being paid.

(b) the Landlord can be prosecuted for a criminal offence under Section 93(1). The penalty is a fine up to £50,000.

In addition, if Registration is removed, the Landlord can be prosecuted if he tries to obtain a new Tenant, e.g. by advertising the house for letting, or discussing terms with a prospective Tenant: Section 93(2). The penalty is a fine up to £50,000.

## **2. Current Position**

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 Relevant Person is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.

## **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 make an order under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house referred to in the Registration.

3.3. If it is not so satisfied, it may delegate authority to the Clerk to make 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 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**

##### Financial Implications

- 4.1 If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.

##### Human Resource Implications

- 4.2 None.

##### Legal Implications

- 4.3. Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Applicant or Landlord may appeal to the Sheriff.

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) & (8).

For example:

- (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 Notice);
- (b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;
- (c) the Landlord continues to have repairing obligations.

##### Equality Implications

- 4.4 None

##### Environmental and Sustainability Implications

- 4.5 None

##### Implications for Key Priorities

- 4.6 None

## Community Benefit Implications

- 4.7 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. Consultations

- 5.1 No consultations are appropriate. Depending on the circumstances, the Schedules contain information supplied by the Police, NAC Departments, or other agencies.

## 6. Conclusion

- 6.1 The Committee is invited to take the actions recommended.



ELMA MURRAY  
Chief Executive

Reference : WO'B/MCG

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

## Background Papers

None