



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, 08 May 2019** 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 special meeting held on 10 April 2019 at 10.00 a.m. and the ordinary meeting held on 10 April 2019 at 2.00 p.m. will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1983 (copy enclosed).

3 Licensing of Sexual Entertainment Venues - Civic Government (Scotland) Act 1982

Submit report by the Head of Democratic Services on a change in the law and proposals for further action in respect of the Licensing of Sexual Entertainment Venues (copy enclosed).

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

Submit report by the Head of Democratic Services 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).

5 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:

IRVINE, 10 April 2019 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

A. Craig, Senior Manager (Legal Services), A. Toal, Administrative Assistant (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson.

1. Chair's Remarks

The Chair welcomed everyone to the Special Meeting of the Licensing Committee and introduced all Members and officers present to the licence holder who was in attendance and the complainant who was present via Skype. He outlined the process that would be undertaken during proceedings and asked that the complainant advise if at any point he was unable to hear the discussion or questions from Members to allow these to be repeated.

2. 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.

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 item of business on the grounds that it involves 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 a hearing to be determined under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

4.1 Taxi Driver's Licence

The Committee at its meeting on 30 January 2019, considered information relating to a complaint against a licence holder. The complainant and the licence holder had submitted written statements but had been unable to attend the meeting. The Committee agreed to continue consideration of the matter to a future Special Meeting, at a date convenient to the licence holder and the complainant, to allow them both to participate in the meeting.

The Committee was advised of an error in the report at Appendix 1, Page 5, Section 3.2, which stated "The alternative vehicle the complainer in fact used was not "wheelchair accessible", and his wheelchair and luggage were carried in the boot". Following circulation of the agenda papers the complainant advised by email that "The alternative vehicle I used was fully wheelchair accessible and I travelled in my wheelchair".

The licence holder and complainant each addressed the Committee on the issues raised and responded to questions.

The Members withdrew to deliberate and returned to advise of the Committee's decision. The Skype video conferencing facilities remained live throughout.

Decision

The Committee stressed the importance of having a robust system in place so that members of the public have confidence in the taxi hire system.

Councillor McTiernan, seconded by Councillor McNicol moved that the Committee agree (a) there had been a breach of Condition 13 in that the complainant had to make the initial arrangements to contact another driver to fulfil the contract; (b) not to sanction by revocation or suspension as the licence holder permitted the use of his vehicle to fulfil the contract; and (c) that a formal written warning be issued to the licence holder advising that licence conditions must be adhered to and that any failure to do so in future will result in a further call to appear before the Committee. There being no amendment, the motion was declared carried.

The meeting ended at 11.45 a.m.

IRVINE, 10 April 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 2.00 p.m.

Present

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

In Attendance

W. O'Brien, Solicitor (Licensing), D. Robertson, Civic Licensing Standards Officer, C. McCutcheon, Senior Paralegal, A. Toal, Administrative Assistant (Legal Services) and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Sergeant Raymond Ferguson and Dawn Hastings (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 Minutes of the meeting held on 6 March 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Civic Government (Scotland) Act 1982: Taxi Fare Review

Submitted report by the Head of Democratic Services on the Taxi Fare Review process that is required to be done at maximum intervals of eighteen months. A meeting with interested parties was held on 29 March 2019 and the minute of that meeting was attached as Appendix A to the report. Appendix B outlined the current taxi scales and percentage increases. The Consumer Price Index was provided at Appendix C and a draft of the Taxi Fare Scales was attached at Appendix D to the report.

The Committee agreed to (a) approve the draft scale as set out in Appendix D to the report; (b) instruct the Chief Executive to give public notice of the draft scale; and (c) continue consideration of the review until a further meeting of the Committee at least one month after the public notice has been given.

4. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Item 5.2 – 6.1 (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."

5. 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

5.1 Caravan Site Licence: CAR/036 (New) - Mary Watson

The Committee was advised that Ms. Mary Watson had recently sold the caravan site to Ms. Catherine Lindsay-Brown and that the application for an 'old system' Licence had now transferred to Ms. Lindsay-Brown.

The applicant Ms. Lindsay-Brown was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. He told the Committee that the solicitor for the seller (Ms. Watson) had sent the Council a letter drafted in conjunction with the Solicitor for the purchaser Ms. Lindsay-Brown and the Solicitor (Licensing).

This stated:

- (a) that the Application should be amended so as to restricted to the field having an area of 950 square metres or thereby, which was the southeastmost field of the four areas shown on a plan submitted by the seller's Solicitor; and

(b) that the Licence should be granted to Ms. Lindsay-Brown.

The seller's Solicitor invited the Committee to defer the conditions of the Licence for a period of 12 months to allow the purchaser to carry out improvement works.

Decision

The Committee unanimously agreed to (a) grant the application in terms of the Caravan Sites and Control of Development Act 1960; (b) to grant the Licence to Ms. Lindsay-Brown; and (c) to defer the conditions of the Licence for a period of 12 months from the date of the Committee to allow the purchaser to carry out improvement works.

5.2 Window Cleaner's Licence: WCL/067 (New) - Lee Allan

The applicant, having been duly cited, was present and accompanied by a relative. 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 from Police Scotland then addressed the Committee on a letter setting out a representation in respect of the application.

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

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

Decision

Councillor Easdale, seconded by Councillor Reid, moved that the Committee 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 for a period of 3 years. There being no amendment, the motion was declared carried.

In terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened with the same Members and officers present and in attendance.

5.3 Window Cleaner's Licence: WCL/071 (New) - The Partnership of Dean Gallacher & Stephen Spooner

The applicants, having been duly cited, were 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 applicants.

Both applicants agreed that the proceedings concerning one of them could take place in the presence of the other.

The representatives from Police Scotland then addressed the Committee on a letter setting out a representation in respect of Dean Gallagher.

Dean Gallagher then addressed the Committee on the issues raised and responded to questions.

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

Decision

Councillor McClung, seconded by Councillor Reid, moved that the Committee grant each 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 for a period of 3 years. There being no amendment, the motion was declared carried.

5.4 Window Cleaner's Licence: WCL/076 (New) - Conor Watson

The applicant, having been duly cited, was present and accompanied by a relative. 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 from Police Scotland then addressed the Committee on a letter setting out an objection in respect of the application.

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

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

Decision

The Committee unanimously agreed to continue consideration to a future meeting, no later than 30 October 2019, to allow the applicant to provide further information to the Committee.

Appendix B: Applications for Licences/Renewal of Licences

5.5 TDL/01613 (Renewal) Peter Strachan

The Committee unanimously agreed that the application be granted in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic government (Scotland) Act 1982 for a period of 3 years.

5.6 TDL/02160 (New) Brenda Barratt

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.

5.7 TL/424 (New) Russell Drummond

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 and that the applicant attend with the proposed vehicle.

5.8 TL/425 (New) Russell Drummond

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 and that the applicant attend with the proposed vehicle.

5.9 WCL/056 (New) Andrew Thomson

The Solicitor (Licensing) advised the Committee that the only response from Police Scotland was a holding letter.

The Committee agreed to instruct the Solicitor (Licensing) to (a) contact Police Scotland to enquire if they were going to make an objection (not simply a representation); and (b) failing receipt of an objection within 7 days of that enquiry, to exercise delegated powers so as to grant the Application.

Appendix C

Preliminary consideration of Revocation or Suspension complaints (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11)

5.10 Taxi Driver Licence

The Civic Licensing Standards Officer outlined the terms of the report concerning an allegation that on 13 February 2019 the licence holder had breached the licence condition prohibiting smoking in the licences vehicle.

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

5.11 Taxi Driver Licence

The Civic Licensing Standards Officer outlined the terms of the report concerning an allegation that on 8 December 2018 and 26 March 2019 the licence holder had breached the Council Dress Conditions.

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

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

6.1 S.D.

Submitted report by the Private Sector Housing Team on their involvement with a property in Kilwinning that did not meet the legally required Tolerable and Repairing Standard.

The Committee noted that the Landlord was absent but had contacted the Licensing Office.

The Committee was provided with an update in respect of the property and eviction proceedings that had been initiated by the Landlord.

The Committee unanimously agreed to defer consideration of the case and instructed the Solicitor (Licensing) to write to the Landlord reporting that the Committee was making the continuation conditional on the following conditions:

- (a) after the current tenant leaves and prior to any new tenancy starting that the Landlord must contact the Council's Private Sector Housing Team to arrange an Officer to carry out a pre-tenancy inspection; if any works are identified at time of the Council's inspection then the Landlord must provide evidence that the work has been completed to the Council's satisfaction prior to anyone else moving in.
- (b) the Landlord must carry out a pre-tenancy inspection before allowing anyone else to live in the house;
- (c) the Landlord must fix any outstanding defects before allowing anyone else to live in the house;
- (d) the Landlord must give the new Tenant the documents prescribed by Law.

The meeting ended at 3.30 p.m.

NORTH AYRSHIRE COUNCIL

8 May 2019

Licensing Committee

Title:	Licensing of Sexual Entertainment Venues - Civic Government (Scotland) Act 1982
Purpose:	To advise the Committee of a change in the Law, and to make proposals for further action.
Recommendation:	<ol style="list-style-type: none">1. That the Committee should note this Report.2. That the Committee should consider whether or not the Council should adopt a scheme of licensing Sexual Entertainment Venues;3. That, if the Committee has decided that, in principle, there should be a licensing scheme, the Committee should:<ol style="list-style-type: none">(a) give directions as to the form and duration of public consultation, and(b) Continue consideration of this matter until after that consultation has taken place.

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 This Report is intended to inform the Committee of a change in the Law related to the Scottish Government Policies:

'Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls'

'Trafficking and Exploitation Strategy'

2. Background

- 2.1 At present lap-dancing clubs do not require to be licensed anywhere in Scotland. There are no lap-dancing clubs in North Ayrshire, or in most of Scotland. There are about 19 clubs in Scotland (mostly in Glasgow, Edinburgh, Dundee and Aberdeen).
- 2.2 These clubs hold a Premises Licence under the Licensing (Scotland) Act 2005. This Act regulates the sale of alcohol and that Licence is granted by a Licensing Board (as opposed to a Licence granted by the Council under the Civic Government (Scotland) Act 1982). The Court of Session has decided that Licensing Boards are not entitled to place conditions regulating lap-dancing clubs (for example, regulating the working

environment in the Premises, requiring CCTV coverage of staff-only areas, and prohibiting physical contact between workers and customers). The Court held that the licensing regime in the 2005 Act was limited to the regulation of the sale of alcohol and could not extend to matters not linked to the sale of alcohol.

- 2.3 Accordingly the Scottish Parliament amended the 1982 Act so as to enable Licensing Authorities to adopt a new Licensing system to require that "Sexual Entertainment Venues" ("SEVs") should obtain a Licence granted by the Council. This was done by the Air Weapons and Licensing (Scotland) Act 2015, which added new provisions to the Civic Government (Scotland) Act 1982. These provisions came into force on 26 April 2019. The Committee Meeting on 8 May 2019 is the earliest Meeting after then.
- 2.4. Premises are classed as an SEV where "sexual entertainment" is provided before a live audience for the direct or indirect financial benefit of the organiser. Sexual entertainment is defined by the legislation as any live performance or live display of nudity provided for the sole or principal purpose of sexual stimulation of members of the audience. However, premises where sexual entertainment is provided on no more than 4 occasions in a twelve month period are not to be treated as SEVs (so would not need a Licence).
- 2.5. The new licensing system does not apply automatically. Instead of the Scottish Parliament simply prohibiting new lap-dancing clubs altogether, individual Councils throughout Scotland have to decide whether or not to apply the new licensing system in their area, even if there is no likelihood of a lap-dancing club being planned in their area.
- 2.6. Before deciding whether or not to make a Resolution, the Council must also have cognisance of other relevant legislation such as the EU Services Directive, the Regulatory Reform (Scotland) Act 2014 and the Convention rights of SEV operators. Local authorities should consider whether the decision to licence SEV is proportionate and justifiable. The Council is a "Regulator" under the Regulatory Reform (Scotland) Act 2014 and therefore has a duty, in exercising its regulatory functions, to contribute to achieving sustainable economic growth, except to the extent that it would be inconsistent with the exercise of those functions to do so.
- 2.7. The Scottish Government recognises that there are competing considerations. In exercising their functions under the new legislation, the Council is obliged to have regard to the Guidance issued by the Scottish Government in March 2019, which includes:

"19. The Scottish Government accepts the freedom of adults to engage in legal activities and employment. However, it will continue to promote, through all relevant means, gender equality and actions that tackle out-dated attitudes that denigrate or objectify particular groups or individuals.

20. 'Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls' was first published in 2014 and updated in 2016 and again in 2018. It sets out a definition of violence against women and girls which includes 'commercial sexual exploitation, including prostitution, lap dancing, stripping, pornography and human trafficking'.

21. *Whilst recognising the conflict between this definition and the licensing of SEV, this guidance will help to ensure that such activities take place in safe and regulated environments. When deciding whether to licence, and whether to limit, SEV in their area, local authorities will need to consider the interaction with their own local policies and strategies, as well as the legal implications around limiting a legitimate business activity to minimise the risk of legal challenge.*

22. *Equally Safe's aim is to work collaboratively with key partners across all sectors to prevent and eradicate all forms of violence against women and girls and the attitudes which perpetuate them. Its priorities are: achieving gender equality; intervening early and effectively to prevent violence; and maximising the safety and wellbeing of women, children and young people. 'Equally Safe: A Delivery Plan for Scotland's strategy to prevent and eradicate violence against women and girls' was published in November 2017. It will help to ensure that the ambitions of the Equally Safe Strategy make a tangible difference.*

23. *The 'Trafficking and Exploitation Strategy' required under section 35 of the Human Trafficking and Exploitation (Scotland) Act 2015 was published on 30 May 2017. It sets out the Scottish Government's strategy to work with partners to make Scotland a more hostile place for human trafficking. The aims of the strategy are to identify victims and support them to safety and recovery; identify perpetrators and disrupt their activity; and address the conditions that foster trafficking and exploitation.*

24. *In developing the licensing regime, care has therefore been taken to balance the freedom of individuals to engage in legal employment and activities with the right of local authorities to exercise appropriate control and regulation of SEV that operate within their areas."*

2.8. The Guidance also contains:

"32. *In considering whether to pass a resolution to licence SEV, local authorities may wish to look carefully at their localities and consider a range of issues such as:*

- whether there are any sexual entertainment venues already operating;*
- the location of schools;*
- the location of places of worship;*
- the location of heavily residential areas;*
- the location of women's refuges and shelters and other services focussed on supporting women, children and young people;*
- whether there have been incidents involving anti-social behaviour, sexual assaults, prostitution or more minor harassment reported in any particular area; and*
- whether there have been incidents of human trafficking or exploitation locally."*

2.9. The consequences of the Council's decision are:

- (a) *if the Council chooses not to require new lap-dancing clubs to hold Licences, then an operator could open a club anywhere in North Ayrshire.*

(b) if the Council chooses to require new lap-dancing clubs to hold Licences, this is done by making a Resolution. The Resolution for SEVs does not follow the usual procedure for introducing new Licensing systems, where the new system commences one month after the Resolution. A SEV Resolution takes effect at least 12 months after it is made. In that period, the Council must publish a SEV Policy Statement, developed in consultation with relevant interest groups (including violence against women partnerships).

2.10. Any SEV Policy Statement is to be published at least 28 days before the Resolution takes effect (so at least 11 months after the Resolution is made). The Council is entitled to set a limit to the number of SEVs in localities throughout North Ayrshire (for example, the Council might prohibit SEVs within a set distance of schools, residential areas and places of worship). This would be done by the Policy Statement.

2.11. Applications would be referred to the Licensing Committee whether or not they appeared to be excluded by that Policy, and delegated powers would not be used to grant a SEV Licence (once granted, delegated powers would be used for renewal of a SEV Licence in the same way that those powers would be used for any other type of Licence).

3. Proposals

3.1 If the Committee decide that, in principle, SEVs should be licensed, the Committee should consider a further matter. The Committee is invited to give directions on how public consultation is to be carried out. The Committee might proceed by publishing a notice on the Council's website, informing the public that the Council is considering whether or not to make a Resolution. The notice would be accompanied by a summary of the new legislation, referring to the Scottish Government Guidance.

The notice would:

(a) invite the public to make written representations to the Council in the period up to one week before the Committee Meeting on 21 August 2019,

(b) inform the public that when the Committee meets to decide the Resolution question, that part of the meeting would be open to the public and the Committee would accept oral representations;

(c) the notice would also say that, if there was to be a Resolution, there would be further consultation on the content of a SEV Policy Statement.

3.2 The matter would then be before the Committee Meeting on 21 August 2019, or a later Meeting, and the Committee would then consider any representations received and decide whether or not a Resolution should be made.

4. Implications/Socio-economic Duty

Financial:	There are no financial implications at this preliminary stage, but if a licensing scheme is adopted there may be financial implications arising from the determination of any Application.
Human Resources:	None.

Legal:	There may be legal implications whenever a Licence is granted, refused, revoked or suspended. Depending on the legislation, there may be a right of appeal. A failure to consult prior to making a decision to license SEVs may lead to a judicial challenge.
Equality/Socio-economic Duty:	<p>Equality Act 2010 imposes duties on the Council:</p> <p>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."</p> <p>Section 149(1) ("Public sector equality duty") the Council "must, in the exercise of its functions, have due regard to the need to—</p> <ul style="list-style-type: none"> (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." <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>The impacts to be considered at the preliminary stage of deciding whether or not to require SEV licensing are outlined in the Report. The legislation directs the Local Authority in deciding whether or not to make a SEV Resolution, and when preparing a SEV Policy Statement, to consider a number of factors, including reducing violence against women.</p>
Children and Young People:	The legislation directs the Local Authority in deciding whether or not to make a SEV Resolution, and when preparing a SEV Policy Statement, to consider a number of factors including the protection of children and young people from harm.
Environmental & Sustainability:	None.

Key Priorities:	An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders and the suitability of premises, helps progress towards one of the "priority areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire".
Community Benefits:	Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

- 5.1 At this point there is no requirement for consultation, but the Committee should carry out consultation before deciding whether or not to make a SEV Resolution. If there are Licence Applications later these will be referred to the Committee after appropriate consultation with Police Scotland, Scottish Fire and Rescue, and Council Directorates.

Andrew A Fraser
Head of Democratic Services

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

Background Papers

N/A

NORTH AYRSHIRE COUNCIL

8 May 2019

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: 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.

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:

1. Licences and Permits where Hearings have been convened – Appendix A
2. Applications for the grant or renewal of Licences and Permits – Appendix B

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 Appendices, 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:	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/Socio-economic Duty:	<p>Equality Act 2010 imposes duties on the Council:</p> <p>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council</p> <p>"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."</p> <p>Section 149(1) ("Public sector equality duty") the Council</p> <p>"must, in the exercise of its functions, have due regard to the need to—</p> <p>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</p> <p>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</p> <p>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</p> <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>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</p>
Children and Young People:	See "Equality/Socio-economic Duty"
Environmental & Sustainability:	None
Key Priorities:	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 areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire".
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.

Andrew A Fraser
Head of Democratic Services

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

Background Papers

None

Hearings (Appendix A)		
Case 1	Taxi Driver's Licence	TDL/02160 (New)
Applicant	Brenda Barratt	
Case 2	Taxi Driver's Licence	TDL/00410
Licenceholder	John Blair	
Case 3	Taxi Driver's Licence	TDL/02114
Licenceholder	Andrew Dysart	
Cases 4 & 5	Taxi Licences	TL/424 (New) & TL/425 (New)
Applicant	Russell Drummond	

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
PHCL/369 (New)	Kelly Scott
TDL/00061 (Renewal)	Peter McGuinness
TDL/02177 (New)	Francis Clarke
TL/248 (Renewal)	Partnership of Edward Hail , James McCallum , Kevin Warden and Pamela Angelini

Note

PHCL – Private Hire Car Licence

TDL – Taxi Driver's Licence

TL – Taxi Licence