



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Cunninghame House,
Irvine.

27 August 2015

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 2 SEPTEMBER 2015** 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 Committee held on 12 August 2015 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 19

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

Submit 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 (copy enclosed).

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

Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).

5. Urgent items

Any other items which the Chair considers to be urgent.

Licensing Committee

Sederunt: Ian Clarkson (Chair)
Tom Marshall (Vice Chair)
Robert Barr
John Bruce
John Easdale
Grace McLean
Catherine McMillan
Ronnie McNicol
Donald Reid
Vacancy

Chair:

Attending:

Apologies:

Meeting Ended:

Licensing Committee
12 August 2015

IRVINE, 12 August 2015 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

W. O'Brien and K. Sharkey, Solicitors (Licensing), D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant, J. Armstrong, Senior Clerical Assistant, and M Anderson, Acting Committee Services Manager (Chief Executive's Service)

Also In Attendance

Inspector Skimming and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Clarkson in the Chair.

1. Chair's Remarks

The Chair, in terms of Standing Order 9.3, agreed to vary the order of business to allow consideration of Agenda Items 5 (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 - Successive Applications) and 6 (Civic Government (Scotland) Act 1982 - Taxi Stance at Hamilton Street, Saltcoats) to take place immediately after Agenda Item 4 (Civic Government (Scotland) Act 1982: Licensing Matters) (Part A: Hearings).

2. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Councillors Code of Conduct.

3. Minutes

The accuracy of the Minutes of the special meeting of the Committee held on 22 June and the ordinary meeting held on 10 June, 2015 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted report by the Chief Executive on the statutory process in respect of the Taxi Fare Scales Review. Appendix 1 to the report set out the Minute of a consultation meeting held on 21 April 2015 and attended by the Chair and Members of the Licensing Committee, representatives of the taxi trade and relevant Officers of the Council. Appendices 2 and 3 detailed the current and proposed tariffs, respectively.

At its meeting on 20 May 2015, the Committee reviewed the existing scales and the proposed new scales in terms of Section 17(4A)(b) of the Civic Government (Scotland) Act 1982, and authorised the Chief Executive to advertise the draft scales for public consultation. 53 written representations have been received, copies of which were circulated at the meeting. A Members' briefing note was also circulated.

The Chair invited those members of the taxi operator trade present to ask questions and make comment in respect of the proposed new rates.

Thereafter, the Chair, in terms of Standing Order 5.7, agreed to adjourn the meeting for a period of 30 minutes to allow Members to consider the briefing note circulated and representations made at the meeting. The meeting reconvened with the same Members and Officers present and in attendance.

Decision

The Committee, having carried out a review of the existing scales in accordance with Section 17(4A) and having considered representations received on the draft scales previously agreed by the Committee, Government guidance and the economic statistical information provided within the report, agreed, under Section 17(2) of the Civic Government (Scotland) Act 1982 (a) to fix the scales for the fares of taxis and other charges as follows:-

Tariff 1 (Day) (Tariff 4 if more than 4 passengers carried)

All journeys starting or ending in the period 06.00 a.m. to 24.00 p.m. (midnight) (except where Tariffs 2 or 3 apply):

Initial Charge - For a distance not exceeding 1,320 yards ($\frac{3}{4}$ of a mile) (or waiting time not exceeding 10 minutes) - £2.60.

Additional Charge: Each additional 1/17 of a mile (about 104 yards) or additional waiting time of up to 25 seconds - 10p.

Tariff 2 (Nights and Sundays) (Tariff 5 if more than 4 passengers carried)

All journeys (except where Tariff 3 applies):

- starting or ending in the period 24.00 p.m. (midnight) to 06.00 a.m., or
- starting or ending at any time on Sundays

Initial Charge - For a distance not exceeding 1,320 yards ($\frac{3}{4}$ of a mile) (or waiting time not exceeding 10 minutes) - £3.00.

Additional Charge: Each additional $\frac{1}{18}$ of a mile (about 98 yards) or additional waiting time of up to 25 seconds - 10p.

Tariff 3 (Festive Periods) (Tariff 6 if more than 4 passengers carried)

All journeys starting or ending at any time on 25th or 26th December or 1st or 2nd January:

Double Tariff 1 Charges (Initial and Additional).

Extra Charges

1. If the vehicle starts by carrying more than 4 passengers, the fare is charged as Tariff 1, 2 or 3 (as appropriate) but with 50% added (Tariffs 4, 5 or 6). The higher Tariff applies until the hire ends, whether or not any of the passengers leave the vehicle earlier.
2. Soiling Charge - £50.

Notes

1. The fare scale applies only to journeys which end within North Ayrshire. Fares for journeys beyond the Council area should be agreed between the passenger and the driver before the start of the journey.
2. Luggage shall be carried free if it is of a size which can reasonably be accommodated in the car.
3. The metered charge is the maximum which can be charged. The driver can always charge less.
4. The Tariff 2 charge applies as soon as the journey starts, and it does not change if part of the journey is inside the Night Period or Sunday and part outside"

and (b) that the revised charged some into effect from 2 November 2015.

5. Civic Government (Scotland) Act 1982: Licensing Matters

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

Part A: Hearings

5.1 Public Charitable Collection: Asthma UK Scotland

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

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, providing details of the proposed event and responded to questions.

The Committee noted that (i) the application for collection from 28 August until 6 September 2015 was outwith Council policy that street collections should only be permitted on a Saturday and (ii) that permission had been granted for another charitable collection to take place at the Viking Festival. The Committee considered whether or not the particular case could be treated as an exception to the policy and whether to grant the application subject to the collection being limited to Main Street, Largs, rather than the Promenade area in which the Viking Festival would take place.

Decision

The Committee unanimously agreed, having regard to the information presented, to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on Saturday 29 August and Saturday 5 September 2015 only, subject to the collection being limited to Main Street, Largs, and to the Council's usual conditions.

5.2 Public Charitable Collection: Ayrshire Hospice

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was neither present nor represented.

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

The Committee noted that the application for collection on Sunday 30 August 2015 was outwith Council policy that street collections should only be permitted on a Saturday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

Decision

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on Sunday 30 August 2015, subject to the Council's usual conditions.

5.3 Public Charitable Collection: Isle of Cumbrae Tourist Association

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was neither present nor represented. A written submission was provided by the applicant.

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

The Committee noted that the application for collection on 26 September 2015 (evening collection) was outwith Council policy that street collections should not be permitted after 6.00 p.m. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

Decision

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on the evening of 26 September 2015, subject to the Council's usual conditions.

5.4 Public Charitable Collection: Kilwinning Friends of Ayrshire Hospice

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was neither present nor represented. A written submission was provided by the applicant.

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

The Committee noted that the application for collection between 7 and 11 September 2015 was outwith Council policy that house to house collections should not be permitted after 6.00 p.m. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

Decision

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 between 7 and 11 September 2015, subject to the Council's usual conditions.

5.5 Public Entertainment Licence: North Ayrshire Educational Services: PEL/067

The Committee considered an application for a temporary variation to a Public Entertainment Licence in respect of the Volunteer Rooms, Irvine, to allow the extension of the terminal operating hour under the principal licence by one hour on Saturday 22 August 2015.

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 providing details of the proposed event and responded to questions.

Decision

The Committee unanimously agreed, having regard to the information presented, to grant a temporary variation of the principal licence to extend the operating hours to 2.00 a.m. on 22 August 2015, subject to the Council's standard conditions in terms of Paragraph 10 of Schedule 1 of the Civic Government (Scotland) Act 1982.

5.6 Booking Office Licence: Kevin Blades: BOL/015

The Committee considered an application for a new Booking Office Licence in respect of 15 Dale Crescent, Irvine.

The applicant, having been duly cited to attend, was present and represented. Representatives of 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 setting out an objection in relation to the application. Thereafter, the applicant and his representative addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Barr, seconded by Councillor McLean, moved that consideration of the application be continued pending the outcome of legal proceedings involving the applicant.

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

On a division, there voted for the amendment 5 and for the motion 4, and the amendment was declared carried.

Accordingly, the Committee 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.

5.7 Taxi Operator Licences: Kevin Blades: TL/067, 041, 074, 116, 151, 050 and 043

The licence-holder, having been duly cited to attend, was present and represented. 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 requesting an 'Ordinary Suspension' of the licences under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. Thereafter, the applicant and his representative addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Barr, seconded by Councillor McLean, moved that consideration of the application be continued to the next meeting pending the outcome of legal proceedings involving the applicant.

As an amendment, Councillor Marshall, seconded by Councillor McNicol, moved that the Committee approve the 'Ordinary Suspension' of the licences under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

On a division, there voted for the amendment 3 and for the motion 6, and the motion was declared carried.

Accordingly, the Committee agreed to continue consideration of the application to the next meeting pending the outcome of legal proceedings involving the applicant.

5.8 Street Trader Employee Licence: David Hastings: STL/E/260

The licence-holder, 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 requesting an 'Ordinary Suspension' of the licences under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed not to take any action in respect of the request by Police Scotland for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

5.9. 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 remainder of the business of Agenda Item 4 (Civic Government (Scotland) Act 1982: Licensing Matters) (Part A: Hearings) 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.

5.10 Street Trader Operator's Licence: Neil McIntyre: STL/O/414

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 an objection 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.

5.11 Taxi Driver's Licence: Ryan Kerr: TDL/01963

The applicant, having been duly cited to attend, was present and represented. 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 an objection in relation to the application. Thereafter, the applicant's agent addressed the Committee on the issues raised and responded to questions. Two character references were also submitted on behalf of the applicant.

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.

The Committee adjourned for a short comfort break at 12.40 p.m., reconvening at 12.50 p.m.

5.12 Taxi Driver's Licence: Alasdair Drummond: TDL/01968

The applicant, having been duly cited to attend, was present and represented. 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's agent addressed the Committee on the issues raised and responded to questions. A character reference was also submitted on behalf of the applicant.

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.

5.13 Taxi Driver's Licence: Gurupreet Singh: TDL/01983

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.

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.

Councillor Easdale left the meeting at this point.

5.14 Taxi Driver's Licence: Roy Stephens

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.

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.

5.15 Taxi Driver's Licence: Rashid Kamran: TDL/01965

The Solicitor (Licensing) advised that this application had been withdrawn by the applicant.

Noted.

6. Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 - Successive Applications

Submitted report by the Chief Executive on a prospective application in terms of Schedule 1, Paragraph 6 of the Civic Government (Scotland) Act 1982.

At its meeting on 10 June 2015, the Committee agreed to refuse an application for a Public Entertainment Licence under Section 41 of the 1982 Act. The 12-month bar applies to this matter, meaning that the applicant would not be entitled to re-apply for a Licence until 10 June 2016, unless the Committee was satisfied that there had been a "material change of circumstances". The applicant has engaged with various officers of the Council and believes that he can address the issues raised previously.

The Committee heard from the applicant and his representative, who set out the circumstances which they considered had materially changed since the original application.

The Committee unanimously agreed, being satisfied that a material change of circumstances existed, to permit the applicant to re-apply for a Public Entertainment Licence.

7. Civic Government (Scotland) Act 1982 - Taxi Stance at Hamilton Street, Saltcoats

Submitted report by the Chief Executive on the taxi stance at Hamilton Street, Saltcoats, which is little used.

The Committee was invited to consider whether or not the appropriate statutory procedure should be carried out with a view to revoking the appointment of the stance. Members heard that the stance in question is little used and that an alternative taxi stance is available within the nearby Sainsbury car park.

The Committee agreed to (a) support the proposal to revoke the appointment of the Taxi Stance at Hamilton Street, Saltcoats; and (b) instruct the Solicitor (Licensing) to commence the statutory procedure for intimating the proposal.

8. Civic Government (Scotland) Act 1982: Licensing Matters

Part B: Applications for Licences and Renewal of Licences

8.1 SPTL/033 (New) Robert Alexander

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.

8.2 TDL/01432 (New) John Cooper

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.

8.3 TDL/01981 (New) William Gorman

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.

8.4 TDL/01983 (New) John Cannon

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.

8.5 TDL/01986 (New) George John McFarlane

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.

8.6 TDL/01987 (New) Niall O'Flaherty

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.

8.7 TDL/01988 (New) Gordon Law

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.

8.8 TDL/01991 (New) John Muir

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.

8.9 TL/250 (Renewal) and TL/213 (Renewal) William Myers

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.

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

The Solicitor (Licensing) advised that this report had been withdrawn.

Noted.

The meeting ended at 1.40 p.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

2 September 2015

Licensing Committee

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

Purpose: To advise the Committee of (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.

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

1. Introduction

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

Appendix B:

Applications for the grant or renewal of licences and permits.

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, Scottish 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.

A handwritten signature in black ink, reading 'Elma Murray' in a cursive style.

ELMA MURRAY
Chief Executive

Reference : PAT

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

Background Papers

None

Hearings		
Hearing 1	Public Charitable Collection	
Applicant and Address	Alzheimer Scotland Susan Maxwell 38 Parkhouse Road Ardrossan KA22 8AN	
Hearing 2	Public Entertainment Licence	PEL/267 (Temp)
Applicant and Address	Kelburn Productions Kelburn Fairlie KA29 0BE	
Premises	Kelburn Country Park Fairlie KA29 0BE	
Hearing 3	Taxi Driver's Licence	TDL/01986 (New)
Applicant and Address	George MacFarlane 14 Ladeside Court Kilbirnie KA25 6HE	
Hearing 4	Taxi Driver's Licence	TDL/01987 (New)
Applicant and Address	Niall O'Flaherty 40 Kinloch Road Kilmarnock KA1 3NY	
Hearing 5	Taxi Driver's Licence	TDL/01988 (New)
Applicant and Address	Gordon Law 8 Old Woodwynd Road Kilwinning KA13 7DL	
Hearing 6	Taxi Driver's Licence	TDL/01991 (New)
Applicant and Address	John Muir 4 Blacklands Crescent Kilwinning KA13 6HS	

Hearing 7	Taxi Operator's Licence	TL/213 (Renewal)
Applicant and Address	William Myers 8 Knockrivoch Gardens Ardrossan KA22 7QB	
Hearing 8	Taxi Operator's Licence	TL/250 (Renewal)
Applicant and Address	William Myers 8 Knockrivoch Gardens Ardrossan KA22 7QB	
Suspension Hearing 9	Taxi Operator Licences	TL/067, 041, 074, 116, 151, 050 and 043
Licenceholder and Address	Kevin Blades 15 Dale Crescent Irvine KA12 0RU	
Hearing 10	Private Hire Car Operator Licences	PHCL/332 and 333
Licenceholder and Address	William Taylor Atlas Minibus 15 Dornoch Court Kilwinning KA13 6QN	

Applications for Licences/Renewal of Licences		
Type of Licence/Reference Number	Details of Applicant	Comments
MDL/038 (Itinerant) (New)	Robert Kerr 5 Martin Avenue Irvine KA12 9NU	Police Observation received
PCC	Hansel Foundation Tammy Robinson Hansel Murdoch House Broadmeadows Symington KA1 5PU	Outwith Council policy
TDL/01837 (Renewal)	Mohamed Asli 27 Irvine Mains Crescent Irvine KA12 0UB	Police Observation received
TDL/01995 (New)	John Young 39 Howden Avenue Kilwinning KA13 7AN	Police Observation received

NORTH AYRSHIRE COUNCIL

Agenda Item 4

2 September 2015

Licensing Committee

Subject:	Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8
Purpose:	To inform the Committee of Landlord Registration matters.
Recommendation:	<p>a. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;</p> <p>b. For each Application or Review Proposal described in the Schedules: that the Committee should consider each case and:</p> <p>(i) decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;</p> <p>(ii) if appropriate, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house, or to delegate authority to the Clerk to issue such a Notice.</p>

1. Introduction

- 1.1. The Licensing Committee have 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
 - already Registered under the 2004 Act, or
 - are not Registered.

Each person has one Schedule. The rented houses concerned are listed in the Schedules.

Although the scheme under the Antisocial Behaviour etc. (Scotland) Act 2004 is described as "Landlord Registration", it is the fact that living accommodation is occupied that is important, not the question of whether or not a formal Lease has been entered into or rent paid or the occupier has the formal status of "tenant". The Act applies to both (i) a Lease and (ii) an Occupancy Arrangement, and most of the laws relating to rented housing also apply as much to occupiers as tenants.

For convenience, in this Report:

- (a) Applicants seeking Registration, and
 - (b) people who are already Registered ("Registered Persons"), and
 - (c) people who own houses occupied as residences,
- are called "Landlords" and the occupiers are called "Tenants".

Exempt Information

- 1.3. Landlord Registration cases are referred to the Committee using two documents:
 - (a) this Report, and
 - (b) one or more Schedules.
- 1.4. This is done because the Committee may consider that the cases involve "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A, so that information about the cases should not be disclosed to the public. The Committee are 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)).
- 1.5. Since the Committee have frequently made the necessary Resolution in the past, it is permissible for future Schedules to be withheld from publication. Although a 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 are likely to make a Resolution to exclude the public during consideration of the Schedules.

- 1.6. Accordingly, individual cases do not appear on the public agenda. The Report operates as a 'front page', and only appears once, regardless of how many individual cases are being referred to the Committee. The Report is general and sets out the legal structure. The Schedules detail the alleged facts of the particular cases and how the legislation appears to apply.
- 1.7. Depending on the circumstances of the individual case, the Schedules contain:
- (a) information about the Landlord'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).
- 1.8. 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."*

- 1.9. "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".

- 1.10. 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).
- 1.11. Accordingly, if a Resolution is made the publicly-accessible Minutes:
- (a) must exclude so much of the proceedings during which the public were excluded (Section 50C); but
 - (b) shall include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).
- 1.12. Although the Schedules have not been published, in each case the individual Landlords have been given appropriate copies and notice of the Committee Meeting.

The Landlord Registration Scheme

- 1.13. 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 - Registration is not automatically renewed. The requirement to be Registered is subject to many exceptions, e.g. lets to family-members do not require Registration.
- 1.14. 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.
- 1.15. 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).

- 1.16. 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.
- 1.17 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 Landlord 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 decide to refuse an Application, or to remove a Registration, and if they are satisfied that the house is presently occupied by a Tenant, they should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3. If they are not so satisfied, they may delegate authority to the Clerk to issue 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 Landlord may appeal by Summary to the Sheriff or the First Tier Tribunal.
- 4.4 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 RPN);
 - (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.
- 4.5 If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).

Equality Implications

- 4.6 None

Environmental and Sustainability Implications

- 4.7 None

Implications for Key Priorities

- 4.8 None

5. Consultations

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

6. Conclusion

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

A handwritten signature in black ink, reading 'Elma Murray' in a cursive style.

ELMA MURRAY
Chief Executive

Reference : WO'B/PAT

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

Background Papers

None