



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A Meeting of the **Licensing Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 07 February 2018** 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 meetings held on 10 January 2018 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3 Civic Government (Scotland) Act 1982 and other Licensing statutes: Licensing Matters

Submit report 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 (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

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:

Licensing Committee
10 January 2018

May 2017 - April 2022

IRVINE, 10 January 2018 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

A. Craig, Senior Manager Legal Services, W. O'Brien, Solicitor (Licensing), C. Pollock, Licensing Administration Officer, D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

Also In Attendance

Sergeant Dougan and D. Hastings, Licensing Administrator (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies for Absence

John Easdale and Todd Ferguson.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Barr, as an acquaintance of the applicant, declared an interest in Hearing 2 (McGuire) under Agenda Item 3 (Civic Government (Scotland) Act: Licensing Matters), left the meeting for that item of business and took no part in the decision thereon.

2. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 29 November 2017 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Exclusion of the Public

"The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public, for Agenda Item 3 (Civic Government (Scotland) Act 1982: 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 Act 1973. The 'Exempt Information' concerned is that described in Section 7A, 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 a crime") and 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)."

4. 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, in terms of the Civic Government (Scotland) Act 1982.

PART A: Hearings

4.1 Taxi Driver's Licence: TDL/00792 (Renewal) - George Williams

The Committee, at its meeting held on 29 November 2017, 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.

The representatives of Police Scotland addressed the Committee on a letter setting out an observation in respect of the application and a further letter containing an objection.

Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

Decision

Councillor Gallacher, seconded by Councillor Donald L. Reid, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

4.2 Taxi Driver's Licence: TDL/02068 (New) - Douglas McGuire

The Committee, at its meeting held on 29 November 2017, 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.

The Solicitor (Licensing) addressed the Committee on 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 and representatives of Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor McClung, seconded by Councillor Donald L. Reid, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

4.3 Taxi Driver's Licence: TDL/02062 (New) - Craig Moffat

The Committee, at its meeting held on 29 November 2017, 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.

The Solicitor (Licensing) addressed the Committee on 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.

Decision

Councillor Barr, seconded by Councillor Donald L. Reid, moved that the application be granted in terms of Schedule 5(1)(a) of Schedule 1 of the Civic Government (Scotland) 1982 for a period of one year. There being no amendment, the motion was declared carried.

4.4 Late Hours Catering Licence: LHCL/116 (Renewal) - Mascot Ltd

The Committee, at its meeting held on 29 November 2017, 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 represented by Mahmood Saleem, Director, accompanied by a Solicitor.

The Solicitor (Licensing) addressed the Committee on the background to the hearing as previously intimated in writing to the applicant. The applicant's solicitor addressed the Committee on the issues raised and responded to questions.

Decision

The Committee unanimously agreed to grant the application, for the period 11.00 p.m. to 5.00 a.m., in terms of Paragraph 5(1)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982, subject to conditions applied under Paragraph 5(2): (a) the Council's Standard Conditions and (b) a further condition, that no hot food be sold, or facilities for heating food used (whether by staff or customers), after 1.00 a.m.

4.5 Taxi Licence and Taxi Driver's Licence: TL/194 & TDL/01355 - Michael Ferguson

The Committee, at its meeting held on 1 November 2017, 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. The licence holder, having been duly cited to attend that meeting, was unable to be present, and the Committee unanimously agreed to continue consideration of the matter to the next meeting to allow the licence holder to attend.

The licence holder, having been duly cited to attend, was present.

The Enforcement Officer addressed the Committee on the background to the matter. Thereafter, the licence holder addressed the Committee on the issues raised and responded to questions.

The licence holder then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Barr, seconded by Councillor McTiernan, moved, in respect of Taxi Licence TL/194 and Taxi Driver's Licence/01355 held by Michael Ferguson, that the grounds of suspension (Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11(2)(a) and (d)) should be held established, but that no Suspension should be imposed. There being no amendment, the Motion was declared carried.

The Committee considered that in the circumstances the licence-holder should be sent a written warning about his future conduct and be advised (a) that his failure to comply with a condition of his Taxi Licence on 19 August 2017 after a suspension hearing on 15 March 2017 relating to a failure to observe the same condition might be considered by the Committee when he later sought the grant or renewal of any Licence (whether or not that future Application concerned the two Licences which were the subject of the present hearing) and (b) that the circumstances considered on 10 January 2018 could be taken into account if the Committee dealt with any future Suspension proceedings involving the licence holder.

PART B: Applications for Grant/Renewal of Licences

4.6 Street Trader Employee Licence: STL/E/116 (Renewal) - Angela Gilgannon

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 for a period of three years.

4.7 Tattooing Licence: SPTL/042 (New) - Reid & Reid (Hairdressers) Limited

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.

4.8 Taxi Driver's Licence: TDL/00462 (New) - Matthew Imrie

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.

4.9 Taxi Driver's Licence: TDL/00731 (Renewal) - Steven Kelly

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 for a period of three years.

4.10 Taxi Driver's Licence: TDL/01876 (Renewal) - Alessandro Gavazzeni

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.

4.11 Taxi Driver's Licence: TDL/02067 (New) - James Ross

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 for a period of one year.

4.12 Taxi Driver's Licence: TDL/02074 (New) - John McDowall

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.

4.13 Taxi Licence: TL/420 (New) - Andrew Brannan

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. Licensing of Window Cleaners - Civic Government (Scotland) Act 1982, Section 43

Submitted report by the Chief Executive on a representation from Police Scotland requesting that the Council consider requiring the licensing of window cleaners under the Civic Government (Scotland) Act 1982, Section 43.

The report set out the statutory procedure under Section 9 for making a Resolution and suggested a timetable for that procedure.

The Committee agreed to (a) propose to resolve, under Section 9 of the Civic Government (Scotland) Act 1982 that, from and after Sunday 23 December 2018, Section 43 of that Act shall apply, so that a Window Cleaner's Licence shall be required for carrying on the trade of, or being employed as, a window cleaner; and (b) adopt, for the statutory procedure, the timetable set out at Section 3.4 of the report.

The Meeting ended at 12.05 p.m.

NORTH AYRSHIRE COUNCIL

7th February 2018

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: 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 detailed in two Appendices:
 Appendix A: Licences and Permits where Hearings have been convened;
 Appendix B: Applications for the grant or renewal of Licences and Permits

3. Proposals

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

4. Implications

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:	The Clerk has considered the "Public Sector Equality Duty" in preparing the Appendices and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.
Children & Young Persons	None
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active").
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.



ELMA MURRAY OBE
Chief Executive

Reference : WO'B/ PAT

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

Background Papers

None

Hearings

Hearing 1	Taxi Driver's Licence	TDL/00462 (New)
Applicant and Address	Matthew Imrie 1 Ross Road Saltcoats K21 6AH	
Hearing 2	Taxi Driver's Licence	TDL/01876 (Renewal)
Applicant and Address	Alessandro Sirio Gavazzeni 132 Frew Terrace Irvine KA12 9EH	
Hearing 3	Taxi Driver's Licence	TDL/02074 (New)
Applicant and Address	John P E McDowall 158 High Road Saltcoats KA21 5QP	
Hearing 4	Skin Piercing and Tattoo Licence	SPTL/042 (New)
Applicant and Address	Reid & Reid Hairdressers Ltd Jasons Barber Shop 28-30 Green Street Saltcoats KA21 5HQ	

Applications for Licences/Renewal of Licences

Type of Licence/Reference Number	Details of Applicant
LHCL/127 (New)	Pizza Cake (Stevenston) Ltd 4 Birkwood Place Newton Mearns Glasgow G77 5FW
Premises	Domino's Pizza Ashenyards Park Stevenston Road Stevenston KA20 3EG
SPTL/026 (Renewal)	Kirsty MacKison 29 Bencleuch Place Irvine KA11 1EL
Premises	Sassy's 61 East Road Irvine KA12 0AA
SPTL/027 (Renewal)	Kirstie Boyd 0/1 29 Crummock Street Beith KA15 2BD
Premises	47 Eglinton Street Beith KA15 1AB
TDL/02000 (Renewal)	Bernard Brannigan 32 Chapelhill Mount Ardrossan KA22 7LU
TDL/02076 (New)	Shaun Blakely 31 Redstone Wynd Kilwinning KA13 7GZ
TDL/02078 (New)	Brahim Sensri 15 Braefoot Girdle Toll Irvine

TDL/02080 (New)

KA11 1BY
Khalid **Mahmood**
Flat 1-2
38 Boyd Street
Largs
KA30 8LE

NORTH AYRSHIRE COUNCIL

7 February 2018

Licensing Committee

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

Purpose: To inform the Committee of Landlord Registration matters.

Recommendation:

1. 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;
2. For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and:
 - (a) Decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;
 - (b) 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.

1. Executive Summary

- 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.

2. Background

- 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.
- 2.2 The Schedules are marked "Not for Publication" and 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" described in Schedule 7A to the Act. The Schedules are in the background papers given to Committee Members and will be sent to the respective Landlords before the Meeting.

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 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 it is are not so satisfied, it 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/she 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:	If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.
Human Resources:	None.

Legal:	<p>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 to the Sheriff or the First Tier Tribunal.</p> <p>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).</p> <p>For example:</p> <p>(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);</p> <p>(b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;</p> <p>(c) the Landlord continues to have repairing obligations.</p> <p>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)).</p>
Equality:	<p>The Clerk has considered the "Public Sector Equality Duty" in preparing this report and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.</p>
Children & Young Persons	None
Environmental & Sustainability:	None.
Key Priorities:	None.
Community Benefits:	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. Consultation

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



ELMA MURRAY OBE
Chief Executive

Reference WO'B/PAT

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

Background Papers

None