



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, 06 February 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 meetings held on 9 January and 30 January 2019 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 1 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 Head of Democratic Services on hearings to be determined, applications for the grant or renewal of licences and permits and issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

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

Submit report by the Head of Democratic Services 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:

IRVINE, 9 January 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr (Item 4.3 onwards), John Easdale, Jean McClung, Davina McTiernan and Angela Stephen.

In Attendance

W. O'Brien, Solicitor, (Licensing), D. Robertson, Enforcement Officer and A. Toal, Administrative Assistant (Legal Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Inspector David Cameron and Sergeant David Dougan (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson and Scott Gallacher.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillors McTiernan and Stephen declared an indirect, non-pecuniary interest in Items 4.6 and 5, the circumstances being that the applicants were personally known to them, and left the meeting for those items of business.

The Chair agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of Agenda Item 5 - Landlord Report immediately prior to Appendix B of Agenda Item 4 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters).

2. Minutes

The Minutes of the meetings held on 28 November and 10 December 2018 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)

Submitted report by the head of Democratic Services on the proposed timetable for the Review and Fixing of Taxi Scales in accordance with Section 17 (4A) of the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).

The Committee agreed to (a) approve the timetable for the review process as set out in the appendix to the report; and (b) to meet with the trade to carry out Trade Consultation (Stage (a)) on a suitable date.

2. 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 remaining items of business 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."

4. 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

4.1 Taxi Driver's Licence: TDL/00893 (Renewal) - William Gillies

The licence holder, having been duly cited, 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 licence holder. The representatives from Police Scotland then addressed the Committee on the terms of their objections.

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

The licence holder 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 McTiernan moved 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 one year. There being no amendment, the motion was declared carried.

4.2 Taxi Driver's Licence: TDL/01754 (New) - Derek Boyd

The applicant, having been duly cited, 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 from Police Scotland then addressed the Committee on the terms of their objections.

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

The applicant 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 McClung moved 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 one year. There being no amendment, the motion was declared carried.

4.3 Taxi Driver's Licence: TDL/02141 (New) - Brian McNamee

The Committee, at its meeting on 28 November 2018, 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, 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 from Police Scotland then addressed the Committee on the terms of their objections.

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

The applicant 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 McTiernan moved 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 one year. There being no amendment, the motion was declared carried.

4.4 Taxi Driver's Licence: TDL/02145 (New) - Steven Arrol

The Committee, at its meeting on 28 November 2018, 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, 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 from Police Scotland then addressed the Committee on the terms of their objections.

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

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

Decision

Councillor Barr, seconded by Councillor McNicol moved that the application be refused, in terms of Paragraph 5 (3) (a) (ii) of the Civic Government (Scotland) Act 1982 on the grounds that the applicant was not a fit and proper person to be the holder of the licence. There being no amendment, and with Councillor Easdale abstaining, the motion was declared carried.

4.5 Taxi Driver's Licence: TDL/02138 (New) - Nicola Drummond

The Committee, at its meeting on 28 November 2018, 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, 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 from Police Scotland then addressed the Committee on the terms of their objections.

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

The applicant 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 McTiernan moved 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 one year. There being no amendment, the motion was declared carried.

4.6 Window Cleaner's Licence: WCL/005 (New) - Partnership of James McCallum, Jamie McCallum, Ewan McCallum

The Committee, at its meeting on 28 November 2018, 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 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 applicant. The representatives from Police Scotland the addressed the Committee on the terms of their objections.

The applicants 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

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.

The representatives from Police Scotland left the meeting at this point.

4.7 Taxi Driver's Licence: TDL/01665 - Margaret Wardrop

The Committee, at its meeting on 28 November 2018, 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 licence holder, having been duly cited, was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Council's Enforcement Officer outlined two incidents where the licence holder had failed to adhere to the licence conditions in respect of the Council's Dress Code.

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

Decision

The Committee unanimously agreed to take no action at this time.

4.8 Landlord Registration under the Antisocial Behaviour etc (Scotland) act 2004, Part 8

At its meeting on 28 November 2018, the Committee considered an application to revoke a Rent Penalty Notice. The Committee at that time agreed to continue the application to revoke the Rent Penalty Notice to the next meeting to allow for the proceedings to end the Assured Tenancy to commence; and (b) that meantime the Rent Penalty Notice should remain in place.

The Registered Landlord (A.M.) was present.

The Solicitor (Licensing) updated the Committee on events since the matter was last considered by the Committee. He advised the Committee that the Notice to Quit and Notice of Proceedings had been initiated, and that the tenant had stated that she was leaving the property on 20 January 2019.

The Committee agreed to delegate authority to the Solicitor (Licensing) to revoke the Rent Penalty Notice on confirmation from the Anti-Social Behaviour Team that the tenant had either left the property of her own accord or had been evicted.

Appendix B: Applications for Licences/Renewal of Licences

4.9 SHDL/132 (Renewal) - MLD Zambonini Ltd

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.

4.10 SHDL/202 (New) - Dean Nimmo

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 SHDL/203 (New) - Lyndsey McSkimming

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.

4.12 TDL/01168 (New) - Paul McPherson

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 TDL/01470 (New) - Kerr Chapman

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 one year.

4.14 TDL/02142 (New) - John Hart

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 one year.

4.15 TL/116 (Renewal) - Kevin Blades

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 three years.

4.16 WCL/015 (New) - George Kearney

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.

4.17 WCL/018 (New) - John Priestly

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. Urgent Items

The Chair agreed that the following items be considered as a matter of urgency to allow the matters to be actioned without delay.

5.1 Specification for Taxis and Private Hire Cars

The Committee was advised of an enquiry from a prospective Licence applicant concerning the wheelchair accessibility specification for taxis and private hire cars and whether the obligation to have a wheelchair accessible vehicle should apply to both taxis and private hire cars, or whether the obligation should apply only to taxis.

The Committee agreed that the specification policy for taxis and private hire cars should remain unchanged and that the obligation to have a wheelchair accessible vehicle should apply to new licences for both taxis and private hire cars.

5.2 Late Hour Catering Licence: LHCL/115 (Variation) - A G Restaurants Ltd

At its meeting on 2 October 2018, the Committee considered an application for a variation to a late hours catering licence. The Committee agreed to grant the application subject to (i) the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (ii) an additional condition that appropriate security staff be on the premises during the hours of 01:00 – 05:00 on each Friday and Saturday night for 3 months after the variation is effective.

The Committee was advised that there have been no reports or objections from Police Scotland during the 3 months period. The additional condition relating to security staff had now ended and would therefore not be extended.

The meeting ended at 12.20 p.m.

IRVINE, 30 January 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, Jean McClung, Donald L. Reid and Angela Stephen.

In Attendance

W. O'Brien, Solicitor, (Licensing), A. Toal, Administrative Assistant (Legal Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Sergeant David Dougan and PC Elaine McArthur (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson, Scott Gallacher and Davina McTiernan.

1. Declarations of Interest

There were no declarations of interest in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors,

2. 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 remaining items of business 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."

3. 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

3.1 Taxi Driver's Licence

The licence holder, having been duly cited was not present, but had submitted a written statement that had been circulated to the Committee. The complainant was not present but had submitted a written statement that had been circulated to the Committee. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. He referred to statements and emails from the complainant and licence holder.

The representatives from Police Scotland then addressed the Committee on the terms of their investigation into the incident that had concluded no criminality had taken place.

Discussion took place on a range of different aspects of each of the statements and it was considered that further information was required from both the licence holder and the complainant.

The Committee agreed to continue consideration of the matter to a future Special Meeting, at a date convenient to the licence holder and complainant, to allow them both to participate in the meeting.

4. Urgent Items

The Chair agreed that the following items be considered as a matter of urgency to allow the matters to be actioned without delay.

4.1 Taxi Drivers and private Hire Car Drivers

The Committee was advised of current practice, which was that an Applicant who either had already attained the age of 70 years, or who would attain that age in the duration of the proposed Licence, should produce a letter from his/her General Practitioner confirming his/her fitness to drive.

The Committee noted that:

- (a) 'ordinary' Driving Licences issued by the Driver and Vehicle Licensing Agency (DVLA) record that the driver's entitlement extends to his/her 70th birthday; and

(b) entitlement beyond that age may be time-limited.

The Committee also noted that, as far as Licences granted by Licensing Authorities to Taxi Drivers and Private Hire Car Drivers were concerned, Section 13 of the Civic Government (Scotland) Act 1982 applied, and in particular Section 13(6):

"If a person holding a Licence under this section ceases for any reason to be authorised by law to drive on a road the vehicle to which the Licence relates, the Licence shall cease to have effect."

This means that when a driver with a Council Licence to drive a Taxi or Private Hire Car loses the driving entitlement under an 'ordinary' Driving Licence granted by DVLA, the Council Licence automatically ceases. This occurs whatever the reason for the loss of entitlement, e.g. a medical revocation or a disqualification imposed after motoring convictions.

The Committee decided that the current practice should be discontinued, and that instead Licences should contain this condition:

"Within 14 days after the Licence-Holder's 70th birthday, and within 14 days of each later birthday, the Licence-Holder must give the Licensing Office evidence that he/she continues to have a driving entitlement under the Road Traffic Acts (for example, by producing to the Licensing Office the current photocard part of the 'ordinary' Driving Licence issued by Driver and Vehicle Licensing Agency (DVLA))."

The Committee agreed that applicants, aged 70 years and over, submit their driving licence with their taxi driver application.

4.2 Window Cleaner Licence WCL/018 – John Priestly

The applicant, having been duly cited, was present and represented. Representatives from Police Scotland were in attendance

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of their objections.

The Solicitor (Licensing) provided a summary of the applicant's "Protected Convictions" and asked the Committee to determine whether justice could not be done except by having regard to the applicant's "Protected Convictions" in terms of the Rehabilitation of Offenders Act 1974, Section 7(3). The Committee agreed that justice could not be done except by having regard to the applicant's "Protected Convictions" and details of the "Protected Convictions" was then provided.

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

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

Decision

Councillor Barr, seconded by Councillor Easdale moved 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 one year. There being no amendment, the motion was declared carried.

The meeting ended at 11.30 a.m.

NORTH AYRSHIRE COUNCIL

6th February 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

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 and Young People:	Licensing does not automatically affect under 18s but in particular cases the Committee will be given relevant information.
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, e.g. monitoring the 'fit and proper' status of licence holders; and the safety of hire 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



Andrew 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	Second Hand Dealer's Licence	SHDL/132 (Renewal)
Applicant	MLD Zambonini Ltd	
Premises	Cash Generator Unit 2 30 Bridgegate Irvine KA12 8BQ	
Case 2	Second Hand Dealer's Licence	SHDL/202 (New)
Applicant	Dean Nimmo	
Premises	2B Alexandra Terrace Kilwinning	
Case 3	Second Hand Dealer's Licence	SHDL/203 (New)
Applicant	Lyndsey McSkimming	
Premises	Springside Tyre and Valet Centre 4A Overtoun Road Springside	
Case 4	Taxi Driver's Licence	TDL/01168 (New)
Applicant	Paul McPherson	
Case 5	Window Cleaner's Licence	WCL/015 (New)
Applicant	George Kearney	
Case 6	Private Hire Car Licence	PHCL/368 (New)
Applicant	Dean Coulson	
Case 7	Taxi Driver's Licence	TDL/01565 (Renewal)
Applicant	Douglas Howat	

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
CAR/033 (variation)	Robin Bell
Premises	Bridgend Campsite 1 Bridgend Cottages Shiskine Isle of Arran KA27 8EN
STL/O/490 (New)	Tracey Martin
TDL/01615 (Renewal)	Kevin Kyle
TDL/01935 (New)	Andrew Watt

Note

CAR - ~Caravan Licence

STL/O – Street Trader Operator Licence

TDL – Taxi Driver's Licence

NORTH AYRSHIRE COUNCIL

6th February 2019

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 persons named in the attached Schedules are Landlords who are either applying for Registration or who are unregistered. The Clerk has information suggesting that there may be a basis for the Committee concluding that the Landlords are not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed (each person has one Schedule). The rented houses concerned are listed in the Schedules. The Schedules are marked "Not for Publication".

2.2 Exempt Information

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 Schedules are in the background papers given to Committee Members and will be sent to the respective Landlords 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, or where a Landlord lets a house).

Paragraphs 14 or 15 could 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/her 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).

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 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:	There are possible financial implications in relation to any Licensing decision. If a RPN is made, the Benefit Authorities will be informed, so that the Landlord will no longer receive Housing Benefit or Universal Credit, if any is claimed for the house.
Human Resources:	None

Legal:	<p>There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.</p> <p>If the Council makes 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/she already had (and 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 First-Tier Tribunal grants an Eviction Order;</p> <p>(c) the Landlord will continue 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 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.</p>
Children and Young People:	<p>None - where the Clerk has information about under-18s living in rented houses, this may be set out in the Schedules.</p>
Environmental & Sustainability:	<p>None</p>
Key Priorities:	<p>An effective licensing system, e.g. monitoring the 'fit and proper' status of Landlords and the suitability of rented houses, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active")</p>
Community Benefits:	<p>Not applicable, as the Report does not relate to tendering or procurement exercises.</p>

5. Consultation

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



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Head of Democrat Services

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

Background Papers

None