



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Cunninghame House,  
Irvine.

13 November 2014

### **Licensing Committee**

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 19 NOVEMBER 2014** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

**1. Declarations of Interest**

Members are requested to give notice of any declarations of interest in respect of items of business on the Agenda.

**2. Minutes**

The accuracy of the Minutes of the (i) ordinary meeting of the Committee held on 1 October and (ii) the special meeting held on 20 October 2014 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copies enclosed).

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

Submit report by the Chief Executive on (a) Hearings to be determined; 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 the circumstances relating to an Application for Landlord Registration (copy enclosed).

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## Licensing Committee

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

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
1 October 2014

**IRVINE, 1 October 2014** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

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

**In Attendance**

W. O'Brien, Solicitor (Licensing) and A. Toal and M. Champion, Administrative Assistants; C. Bateman, Development Officer (Housing) and J. Wallace, Investigation Officer (Anti Social Behaviour Investigation Team) (Physical Environment); and M. Anderson, Acting Committee and Member Services Manager (Chief Executive's Service)

**Also In Attendance**

Inspector Conway and Sergeant McIntosh (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

Alan Munro.

**1. Declarations of Interest**

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

**2. Minutes**

The accuracy of the Minutes of the Ordinary Meeting of the Committee held on 25 June 2014 and the Special Meetings held on 10 July 2014, 6 August 2014, and 3 September 2014 was confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submit report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits; and (c) issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982. Information in relation to two further cases was also circulated at the meeting.

## **Part A: Hearings**

### **3.1 Street Trader Employee's Licence STL/E/260 - David Hastings**

The Committee, at its meeting on 6 August 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

#### **Decision**

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

### **3.2 Taxi Driver's Licence TDL/00705 (1 year) - William Alexander**

The Committee, at its meeting on 25 June 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

#### **Decision**

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

### **3.3 Taxi Driver's Licence TDL/01710 - Steven Doran**

The Committee, at its meeting on 6 August 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

#### **Decision**

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

### **3.4 Taxi Driver's Licence TDL/01790 (1 year) - David Denholm**

The Committee, at its meeting on 6 August 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

#### **Decision**

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

### **3.5 Taxi Driver's Licence TDL/01919 - Nigel Treverton**

The Committee, at its meeting on 6 August 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

#### **Decision**

After discussion, Councillor Barr, seconded by Councillor Marshall, moved to refuse the application.

As an amendment, Councillor Reid, seconded by Councillor McMillan, moved to continue consideration of the application to the next meeting of the Committee.

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

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

### **3.6 Street Trader Operator's Licence - Sharon Serapiglia STL/O/369**

The Committee, at its meeting on 25 June 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was not present, but had submitted a letter setting out both the reason for her absence and her response to the matters raised. 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.

After discussion, Councillor Reid, seconded by Councillor McMillan, moved to continue consideration of the matter to the next meeting of the Committee.



As an amendment, Councillor Steel, seconded by Councillor Barr, moved that the Committee proceed to determination.

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

Accordingly, the Committee agreed to proceed to determination.

The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out a request from the Chief Superintendent of Police Scotland for an 'Ordinary Suspension' of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

### **Decision**

The Committee agreed (a) since the Committee had the opinion that the conditions stated in Clauses (a) and (c) of Paragraph 11(2) existed, that the licence should be suspended; (b) that the duration of the Suspension should be the whole unexpired duration of the Licence, under Paragraph 11(11); and (c) having determined that the circumstances of the case justified immediate suspension, to order that the Licence should be suspended immediately, under Paragraph 11(10).

### **3.7 Taxi Driver's Licence TDL/01915 (1 year) - Joseph Donnelly**

The Committee, at its meeting on 25 June 2014, agreed, on the basis of the information presented, to delegate authority to the Clerk to grant the licence for the period of 1 year on receipt of information from the DVLA indicating to the Clerk's satisfaction that the ground of refusal in Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982 did not appear to exist. The Committee directed that if the Clerk was not so satisfied then the Application would be referred to a future meeting of the Committee.

The Solicitor (Licensing) set out the background to the matter. A letter was circulated at the meeting which set out the opinion of the applicant's medical practitioner on the applicant's fitness to drive a taxi and indicated the medical practitioner's satisfaction, within the parameters set by the DVLA, that the applicant is able to drive a taxi.

### **Decision**

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

### **3.8 Taxi Driver's Licence TDL/589 - Gordon Crews**

The Committee was advised of a request from the Chief Superintendent of Police Scotland for an emergency suspension of the Licence under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Representatives from Police Scotland were in attendance and addressed the Committee on the terms of a letter setting out their observations.

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

#### **Decision**

The Committee unanimously agreed (a) being of the opinion that the carrying on of the activity to which the Licence relates is causing or is likely to cause a serious threat to public order or public safety, to suspend the Licence with immediate effect under Paragraph 12; and (b) to continue consideration to a hearing to be assigned on the questions of whether or not Suspension under Paragraph 11 was justified and, if so, what the duration of that Suspension should be, and whether that Suspension should be immediate.

### **3.9 Taxi Driver's Licence TDL/1893 - James Carroll**

The Committee was advised of a request from the Chief Superintendent of Strathclyde Police for an immediate suspension of the licence under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982.

Representatives from Police Scotland were in attendance and addressed the Committee on the terms of a letter setting out their observations.

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

#### **Decision**

The Committee unanimously agreed (a) being of the opinion that the carrying on of the activity to which the Licence relates is causing or is likely to cause a serious threat to public order or public safety, to suspend the Licence with immediate effect under Paragraph 12; and (b) to continue consideration to a hearing to be assigned on the questions of whether or not Suspension under Paragraph 11 was justified and, if so, what the duration of that Suspension should be, and whether that Suspension should be immediate.

### **3.10 Late Hours Catering Licence - AG Restaurants Ltd LHCL/115**

The Committee, at its meeting on 25 June 2014, agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was 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 representatives addressed the Committee on the issues raised and responded to questions.

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

#### **Decision**

After discussion, Councillor Barr, seconded by Councillor Marshall, moved to grant the application, but only to cover the period 11.00 p.m. to 1.00 a.m. (rather than the Applicant's request to 5.00 a.m.), in accordance with the Council's policy in terms of late hours catering.

As an amendment, Councillor Bruce, seconded by Councillor Clarkson, moved that the application should be granted without that qualification.

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

Accordingly, the Committee agreed to grant the application in terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

#### **3.11 LHCL/116 (New) Mascot Scotland Ltd**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

#### **3.12 PEL/112 (New Permanent) James Newton**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.13 TDL/01253 (New) Scott Robb Seymour**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.14 TDL/01463 (Renewal) Robert Hamilton**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.15 TDL/01923 (New) Steven Young**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.16 TDL/01925 (New) David Taylor**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.17 TDL/01926 (New) Peter Smith**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

### **3.18 TDL/01927 (1 year) (New) Sandra McLellan**

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

### **3.19 TDL/01928 (1 year) (New) Neil McLellan**

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

### **3.20 TDL/01931 (1 year) (New) Mark Taylor Lovie**

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

### **3.21 TDL/01932 (New) Andrew Morrison**

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.

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

### **3.20 TDL/01901 John William Bruce**

The Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

## **4. Exclusion of the Public**

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the agenda items 5.1 and 5.2 (Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8) on the grounds that otherwise "Exempt Information" of the type described in Paragraphs 14 and 15 of Part 1 of Schedule 7A to the Act ("14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime", 15. "The identity of a protected informant") might be disclosed.

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

The Committee resumed consideration of two cases which had first called at previous Meetings.

### **5.1 Registered Landlord: Hugh Begbie**

The Committee, at its meeting on 6 August 2014, agreed to continue consideration of a complaint in respect of the Registered Landlord who holds a Registration covering 7 houses. The Committee considered whether, under Section 89, that Registration should be removed.

The Registered Landlord, the Development Officer (Housing) and the Investigation Officer (Anti Social Behaviour Investigation Team) were in attendance.

The Development Officer (Housing) set out the background to the complaint and the outcome of an Inspection Report on the property at 35 Sinclair Street, Stevenston. The Registered Landlord and the Development Officer (Housing) addressed the Committee on the issues raised and responded to questions.

The Registered Landlord, the Development Officer (Housing) and the Investigation Officer (Anti Social Behaviour Investigation Team) then withdrew to allow the Committee to deliberate, returning, together with the complainers, to hear the Committee's decision.

## **Decision**

The Committee unanimously agreed (a) to remove the applicant from the Register of Landlords in respect of all 7 properties currently registered forthwith; (b) to issue a Notice Section 94 (commonly known as a 'Rent Penalty Notice') in respect of the house at 35 Sinclair Street, Stevenston, that Notice to take effect 7 days after the date of the Meeting; and (c) to request the Development Officer (Housing) to conduct an inspection of the other six properties.

Councillor Steel left the meeting at this point.

## **5.2 Registered Landlord: Alistair Mills**

The Committee, at its meeting on 25 June 2014, agreed to remove the Landlord's Registration and to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of 3 Brisbane Street, Largs.

The Committee then agreed to continue consideration to a later meeting the question of whether or not to issue Rent Penalty Notices in relation to 4 other houses owned by the Landlord, which he confirmed were all occupied (Largs: 10 Boyd Street, 2/R, 12 Boyd Street, 1/L, 49 Nelson Street, G/L, 42 Nelson Street, G/L) in order to receive a report from Housing Services on the condition of those four houses.

The Development Officer (Housing) addressed the Committee on the issues raised and responded to questions.

The Development Officer (Housing) then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

The Committee unanimously agreed (a) to continue consideration of the question of whether or not to issue Rent Penalty Notices in relation to those other houses; and (b) to receive a report at the next Ordinary Meeting of the Committee on the properties now owned by the Registered Landlord's former spouse.

The meeting ended at 1.00 p.m.

Licensing Committee  
20 October 2014

**IRVINE, 20 October 2014** - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, Ian Clarkson, John Easdale and Robert Steel.

**In Attendance**

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

**Also In Attendance**

Inspector Conway and Sergeant McIntosh (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

John Bruce.

**1. Declarations of Interest**

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

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

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

**2.1 Taxi Driver's Licence TDL/00589: Gordon Crews**

The licenceholder, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the licenceholder. 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 (a) suspend the licence in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982; (b) suspend the licence for a period of one hour, given that the Committee was about to consider at the same meeting an application for renewal of that licence; and (c) direct that that suspension should take effect immediately, in terms of Paragraph 11(10).

### **2.2 Taxi Driver's Licence TDL/00589 (Renewal): Gordon Crews**

The licenceholder, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licenceholder. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out the observations of Police Scotland in relation to the licenceholder. 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 refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

### **2.3 Taxi Driver's Licence TDL/01893: James Carroll**

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

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

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



## **Decision**

The Committee unanimously agreed to (a) suspend the licence in terms of Paragraph 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982; (b) suspend the licence for the unexpired portion of the duration of the licence; and (c) direct that that suspension should take effect immediately, in terms of Paragraph 11(10).

### **2.4 Public Charitable Collection PCC: Largs Round Table**

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

The Committee noted that the application was outside the Council's policy that collections should not happen after 6.00 p.m. Therefore the Committee considered whether or not the particular case could be treated as an exception to the Policy.

The Committee agreed that on this occasion the Solicitor (Licensing) should be granted a special delegation to grant the application, provided that the Police made no adverse representations, subject to the attachment of the Council's usual conditions under Section 119(5).

The meeting ended at 10.50 a.m.



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 3**

**19 November 2014**

#### **Licensing Committee**

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

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**Purpose:** To advise the Committee of (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

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

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#### **1. Introduction**

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
  - (a) the rule about 'confidential information' (as defined) or
  - (b) by Resolution.

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

15. "The identity of a Protected Informant" (where "Protected Informant" is defined in Part III to mean a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.)

1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

## **2. Current Position**

### **Appendix A:**

Licences where Hearings have been convened;

### **Appendix B:**

Applications for the grant or renewal of licences and permits.

## **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.



ELMA MURRAY  
Chief Executive

Reference : PAT

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

**Background Papers**

None



## Hearings

Hearings		
<b>Hearing 1</b>	<b>Public Entertainment Licence</b>	<b>PEL/112 (New)</b>
Applicant and Address	James <b>Newton</b> 44A Newton Parade Millport KA28 0EF	
Premises	Fairground Garrison Grounds Millport	
<b>Hearing 2</b>	<b>Late Hours Catering Licence</b>	<b>LHCL/115 (New)</b>
Applicant and Address	<b>Mascot Scotland Ltd</b> 1 Glencairn Street Stevenston KA20 3BE	
Premises	1 Glencairn Street Stevenston KA20 3BE	
<b>Hearing 3</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01253 (New)</b>
Applicant and Address	Scott <b>Seymour</b> 1 Scott Drive Largs KA30 9PA	
<b>Hearing 4</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01463 (Renewal)</b>
Applicant and Address	Robert <b>Hamilton</b> 43 Milton Road Kilbirnie KA25 7EP	
<b>Hearing 5</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01923 (New)</b>
Applicant and Address	Steven <b>Young</b> 77 Mill Road Irvine KA12 0JP	

<b>Hearing 6</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01925 (New)</b>
Applicant and Address	David <b>Taylor</b> 48A Main Road Fairlie Largs KA29 0DW	
<b>Hearing 7</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01926 (New)</b>
Applicant and Address	Peter <b>Smith</b> 45 St Margarets Road Ardrossan KA22 7EW	
<b>Hearing 8</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01932 (New)</b>
Applicant and Address	Andrew <b>Morrison</b> 60 Scott Road Irvine KA12 8EY	
<b>Suspension Hearing 9</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01901</b>
Licenceholder and Address	John W <b>Bruce</b> 30 Churchill Avenue Kilwinning KA13 7JW	
<b>Hearing 10</b>	<b>Taxi Operator's Licence</b>	<b>TL/063 (Variation)</b>
Applicant and Address	John W <b>Bruce</b> 30 Churchill Avenue Kilwinning KA13 7JW	
Variation	Partnership amendment to existing licence in the name of James Williamson	
<b>Suspension Hearing 11</b>	<b>Taxi Operator's Licence</b>	<b>TL/034</b>
Licenceholder and Address	Gordon <b>Crews</b> 5E Parterre Irvine KA12 0DA	



<b>Hearing 12</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>Heel and Toe Children's Charity</b> Mandy Hammond 1 The Green Woodland Crescent Kelloe Co Durham DH6 4NU	
<b>Hearing 13</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>Irvine Meadow XI Football Club</b> Stewart Griffiths 17 Mill Crescent Irvine KA12 0JR	
<b>Hearing 14</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>New Irvine Community Choir</b> Ms Jean Carr 44 Campsie Avenue Bourtnehill Irvine KA11 1JF	
<b>Hearing 15</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>Project Trust</b> Ava Gornell 21 Fullerton Drive West Kilbride KA23 9HS	
<b>Hearing 16</b>	<b>Public Charitable Collection</b>	
Applicant and Address	<b>EFL Events for Tree of Hope</b> James Masterson 21 Milrig Road Rutherglen Glasgow G73 2NL	



## Applications for Licences/Renewal of Licences

Type of Licence/Reference Number	Details of Applicant	Comments
TDL/01171 (New)	Colin <b>Ross</b> 42 Ardrossan Road Seamill KA23 9LT	Police observation receiver
TDL/01937 (New)	Dennis <b>McLaughlin</b> 65 Overtoun Road Springside Irvine KA11 3BW	Police Observation and non-disclosure



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 4**

**19 November 2014**

#### **Licensing Committee**

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<b>Subject:</b>	<b>Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.</b>
<b>Purpose:</b>	To inform the Committee of Landlord Registration matters.
<b>Recommendation:</b>	<p>1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report is to be considered;</p> <p>2. For each Application described in the Schedules:</p> <p>That the Committee should consider each Application and:</p> <p>(a) decide whether or not to grant it;</p> <p>(b) if refusing, to decide whether or not to make an order under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house referred to in the Application, or to delegate authority to the Clerk to make such an order.</p> <p>3. For each Review Proposal described in the Schedules:</p> <p>That the Committee should consider each case and:</p> <p>(a) decide whether or not the Relevant Person should be removed from the Register;</p> <p>(b) if removing, to decide whether or not to make an order under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house referred to in the Registration, or to delegate authority to the Clerk to make such an order.</p>

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#### **1. Introduction**

- 1.1. The Licensing Committee has delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.

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

In this Report, both Applicants and Registered Persons are called "Landlords".

#### Exempt Information

- 1.3. The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. Depending on the circumstances of the individual case, the Schedules contain:

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

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

Paragraph 14: *"Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."*

Paragraph 15: *"The identity of a Protected Informant."*

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

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

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

(d) *a nuisance,*

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

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

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

1.7. The Committee is entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of "Exempt Information" (Section 50A(4)).

1.8. Accordingly, if a Resolution is made:

- (a) the Minutes must exclude so much of the proceedings during which the public were excluded (Section 50C);
- (b) the publicly-accessible Minutes shall include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).

1.9. Although the Committee's Agenda and connected Reports are generally to be made public (Section 50B(1)), publication of the Schedules to this Report (but not the Report itself) has been withheld under Section 50B(2), as the proper officer has the opinion that they relate to items during consideration of which the Meeting is likely not to be open to the public, i.e. that the Committee is likely to make a Resolution to exclude the public during consideration of the Schedules.

1.10. Although the Schedules have not been published, in each case the individual Relevant Persons have been given appropriate copies and notice of the Committee Meeting.

## The Landlord Registration Scheme

- 1.11. The general rule is that a person wishing to let out a house must be Registered with the Council. Registration lasts 3 years. A person must re-apply within that time to remain Registered. The requirement to be Registered is subject to many exceptions, e.g. lets to family-members do not require Registration. The Act specifies conditions which Landlords must meet. One of these conditions is that the Landlord is a 'fit and proper person' (Section 84(3)(c)). The considerations which are relevant to this question are set out by the Act.
- 1.12. Once a Landlord has been Registered, the Council is entitled to review the Registration. If not satisfied that the 'fit and proper' condition for Registration is met, the Council is obliged to remove Registration (Section 89).
- 1.13. If a Landlord rents a house without being Registered, or if Registration is removed, two things can happen:
  - (a) the Council may issue a Notice under Section 94 (often called a 'Rent Penalty Notice' or 'RPN'), meaning:
    - (i) the Tenant ceases to be liable for rent (but otherwise the Lease continues, so the Tenant remains in occupation and cannot be evicted for non-payment, and the Landlord remains responsible for repairs); and
    - (ii) any Housing Benefit stops being paid.
  - (b) the Landlord can be prosecuted for a criminal offence under Section 93(1). The penalty is a fine up to £50,000.

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

## **2. Current Position**

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the 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 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') in respect of any house referred to in the Registration.
- 3.3. If it is not so satisfied, it may delegate authority to the Clerk to 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 covered by the proposed Registration, or the current 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 to the Sheriff.

If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) & (8).

For example:

- (a) the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the Notice);
- (b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;
- (c) the Landlord continues to have repairing obligations.

#### Equality Implications

- 4.4 None.

#### Environmental Implications

- 4.5 None.

#### Implications for Key Priorities

- 4.6 None.

#### Community Benefit Implications

- 4.7 Preventing unfit Landlords from operating may contribute to the wellbeing of the community. Preventing Housing Benefit being paid to unregistered Landlords safeguards public funds.

### **5. Consultations**

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

### **6. Conclusion**

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



ELMA MURRAY  
Chief Executive

Reference : WOB/GEN09

For further information please contact William O'Brien, Solicitor (Licensing)  
on 01294-324345

### **Background Papers**