

Cunninghame House,  
Irvine.

11 August 2016

### **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 17 AUGUST 2016** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

*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 (Page 5)**

The accuracy of the Minutes of the (i) ordinary meeting held on 15 June 2016, and the (ii) special meeting held on 21 July 2016 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: Licensing Matters (Page 13)**  
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 (Page 21)**  
Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).
- 5. Wheelchair-Accessible Vehicles - Taxi and Private Hire Car vehicle specification under Civic Government (Scotland) Act 1982, Section 10(2) (Page 29)**  
Submit report by the Chief Executive on the draft "Taxi and Private Hire Car Vehicle Approval Specification" (copy enclosed).
- 6. Urgent items**  
Any other items which the Chair considers to be urgent.

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## Licensing Committee

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

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
15 June 2016

**Irvine, 15 June 2016** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

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

**In Attendance**

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

**Chair**

Councillor Clarkson in the Chair.

**Apologies for Absence**

Grace McLean.

**1. Chair's Remarks**

The Chair, in terms of Standing Order 9.3 agreed to vary the order of business to allow consideration of the Public Charitable Collection applications for Largs, as referred to within Appendix 1 to Agenda Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters) in a single hearing.

**2. Declarations of Interest**

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

**3. Minutes**

The accuracy of the Minutes of the meeting of the Committee held on 25 May 2016 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

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

Submitted 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.

## **Part A: Hearings**

### **4.1 Public Entertainment Licence (Temporary) : Kelburn Arts Ltd PEL/300**

The applicant, having been duly cited to attend, was not present, but was represented by his Operations Manager and Depute Operations Manager.

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

#### **Decision**

Councillor Barr, seconded by Councillor Easdale, moved that the application be granted the application subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

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

### **4.2 Taxi Driver Licence: Robert Thomson TDL/01823 (Renewal)**

The Committee, at its meeting on 25 May 2016, 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 or represented.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Members asked questions and received clarification in respect of the application.

#### **Decision**

The Committee unanimously agreed (a) that the Solicitor (Licensing) and the Council's Enforcement Officer should contact the Applicant to seek exhibition of a DVLA Driving Licence so that it could be established whether or not the Application was competent under Section 13(3) of the Civic Government (Scotland) Act 1982; (b) that, if the Solicitor (Licensing) was satisfied that the Applicant was suitably licensed by the DVLA, he should use delegated powers to grant the Application; and (c) that, if the Solicitor (Licensing) was not so satisfied, a Special Meeting of the Committee would be convened to determine the Application.

### **4.3 Taxi Driver Licence: Lelanie Biddulph TDL/01831 (Renewal)**

The Committee, at its meeting on 25 May 2016, 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. A letter from the applicant's medical practitioner was circulated at the meeting.

The Solicitor (Licensing) set out 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 Bruce, seconded by Councillor McNicol, 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.

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 for a period of one year.

#### **4.4 Public Charitable Collection: Kilwinning Friends of Ayrshire Hospice**

The applicant, having been duly cited to attend, was not present or represented.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The applicant has applied for a Charitable Collection on 29 August - 2 September 2016 in the Kilwinning area, which is outwith the Council's policy which does not permit house to house collections after 6.00 p.m.

### **Decision**

The Committee unanimously agreed (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119 of the Civic Government (Scotland) Act 1982.

#### **4.5 Public Charitable Collections: Largs**

In terms of the Chair's decision to vary the order of business, the Committee considered the following applications for permission for Public Charitable Collections under Section 119 of the Civic Government (Scotland) Act 1982 in a single hearing:-

##### **(i) Public Charitable Collection: Royal British Legion Largs**

The applicant, having been duly cited to attend, was present or represented. A letter from the applicant was, however, considered by the Committee. The applicant has applied for a Charitable Collection on 27-28 August 2016, which is outwith the Council's policy.

## **(ii) Public Charitable Collection: Royal British Legion Largs**

The applicant, having been duly cited to attend, was not present or represented. A letter from the applicant was, however, considered by the Committee. The applicant has applied for a Charitable Collection on 3-4 September 2016, which is outwith the Council's policy.

## **(iii) Public Charitable Collection: Rotary Club of Largs**

The applicant, having been duly cited to attend, was present and represented. The applicant has applied for a Charitable Collection on 3 September 2016, which is outwith the Council's policy.

## **(iv) Public Charitable Collection: Channan's Fundraisers**

The applicant, having been duly cited to attend, was present and represented. The applicant has applied for a Charitable Collection on 27 August to 4 September 2016, which is outwith the Council's policy.

Members asked questions and received clarification from the Solicitor (Licensing) and the parties in attendance in respect of the applications.

Thereafter, those present withdrew to allow the Committee to deliberate, returning to hear the Committee's decision in respect of all applications.

## **Decision**

The Committee unanimously agreed (a) that there were sufficient grounds to treat the cases as exceptions to the Council's policy on street collections; (b) to grant the applications in terms of Section 119 of the Civic Government (Scotland) Act 1982, subject to (i) the Council's standard conditions; and (ii) subject to additional conditions applied to particular Permissions under Section 119(5), namely the British Legion, Largs collections being limited to the immediately vicinity of the applicant's gazebo, the Rotary Club of Largs collection being limited to Largs Promenade and having a maximum of six collectors, Channan's Fundraisers collections being permitted only on Saturday 27 August and Saturday 3 September 2016 and taking place only in Main Street, Largs, and the British Heart Foundation collection taking place only within 50 metres of the British Heart Foundation's Largs premises.

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

### **4.6 Taxi Driver Licence: Alan Paul Forster : TDL/00201 (New)**

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.



#### **4.7 Taxi Driver Licence: Gordon Fitzgerald McKenzie : TDL/01539 (Renewal)**

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.

#### **4.8 Taxi Driver Licence: Derek Griffiths : TDL/01840 (Renewal)**

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.

#### **4.9 David William Clarkson :TDL/01889 (New)**

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.

### **Part C: Issues in Respect of Existing Licences**

#### **4.10 John McCubbin: TDL/00513**

The Committee was advised of the content of a letter of complaint from a member of the public in respect of the licence-holder. The Committee also viewed video footage of the incident in question.

The Committee unanimously agreed to (a) note the matter; and (b) take no further action.

The meeting ended at 11.05 a.m.



Licensing Committee  
21 July 2016

**Irvine, 21 July 2016** - At a special Meeting of the Licensing Committee of North Ayrshire Council at 09.30 a.m.

**Present**

Ian Clarkson, Robert Barr and Catherine McMillan.

**In Attendance**

C. Andrew, Senior Manager (Legal Services), W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing) and A. Little, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector J. McMillan (Police Scotland) and PC R Paterson.

**Chair**

Councillor Clarkson in the Chair.

**Apologies for Absence**

John Bruce, John Easdale, Tom Marshall, Grace McLean, Ronnie McNicol and Donald Reid.

**1. Declarations of Interest**

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

**2. Exclusion of 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 on the grounds that otherwise "Exempt Information" of the type described in Paragraph 14 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.") might be disclosed.

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

**(a) Taxi Driver Licence**

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 Section 13(3) of the Act and Paragraph 5 (3) (d) of the said Schedule, given that the Committee did not know that the Applicant had held a Driving Licence for a continuous period of 12 months immediately before making the Application, or that the Applicant currently held such a Licence, and that that was a good reason for refusing the Application.

**(b) Street Trader's Licence**

The Licensing Authority had previously granted the Licence, but had later received information from the Chief Constable. Accordingly the Committee held a hearing to consider questions under the Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11 and 12.

The Police and the Licence Holder (who was represented by a Solicitor) presented their cases and answered questions from Members.

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

The Committee unanimously agreed:

- (1) that the ground for Suspension stated in Paragraph 12(1) ("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") was not established;
- (2) that the ground for Suspension stated in Paragraph 11(2)(b) ("the activity to which the Licence relates is being managed by or carried on for the benefit of a person, other than the Licence holder, who would have been refused the Grant or Renewal of the Licence under Paragraph 5(3) above") was established;
- (3) that the Licence should be Suspended under Paragraph 11(1);
- (4) that the period of Suspension should be the unexpired portion of the duration of the Licence;

Further, the Committee considered the possible application of Paragraph 11(10) and unanimously were satisfied that the circumstances of the case justified immediate Suspension, and ordered that the Licence should be Suspended immediately.

The meeting ended at 11.10 a.m.

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## NORTH AYRSHIRE COUNCIL

### Agenda Item 3

17 August 2016

#### Licensing Committee

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**Title:** 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. Executive Summary

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. Background**

### **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**

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any application.
<b>Human Resources:</b>	None
<b>Legal:</b>	There are possible legal implications in relation to the refusal of any application.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

**5. Consultation**

- 5.1 Consultations have been undertaken with Police Scotland, Strathclyde Fire and Rescue, and the appropriate Council Services.

A handwritten signature in black ink that reads "Elma Murray". The script is cursive and fluid.

ELMA MURRAY  
Chief Executive

Reference : PAT

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

**Background Papers**

None





<b>Hearings</b>		
<b>Hearing 1</b>	<b>Metal Dealer's Licence</b>	<b>MDL/055 (New)</b>
Applicant and Address	<b>Lowmac Alloys</b> Unit 22 Oldhall West Industrial Estate Shewalton Irvine KA11 5AR	
<b>Premises</b>	Unit 22 Oldhall West Industrial Estate Shewalton Irvine KA11 5AR	
<b>Hearing 2</b>	<b>Metal Dealer's Licence</b>	<b>MDL/051 (Itinerant) (New)</b>
Applicant and Address	Jason <b>McKinney</b> 5 Birch Road Parkhall Clydebank West Dunbartonshire G31 3PD	
<b>Hearing 3</b>	<b>Public Charitable Collection</b>	<b>PCC</b>
Applicant and Address	<b>Royal British Legion (Largs)</b> Mr S Rumble 2c Kelvon Street LARGS KA30 9BA	
<b>Hearing 4</b>	<b>Taxi Driver's Licence</b>	<b>TDL/02001 (New)</b>
Applicant and Address	John <b>Graham</b> 25 Harbour Point Saltcoats KA21 5EQ	
<b>Hearing 5</b>	<b>Street Trader Operator's Licence</b>	<b>STL/O/437</b>
Applicant and Address	William <b>Kerr</b> 57 Fleming Crescent Saltcoats KA21 6EQ	
Proposed Site	The Braes Car Park	

	Saltcoats	
<b>Hearing 6</b>	<b>Taxi Driver's Licence</b>	<b>TDL/02003</b>
	Ravinder <b>Singh</b> 40 Bank Street Irvine KA12 0LP	

Applications for Licences/Renewal of Licences	
Type of Licence/Reference Number	Details of Applicant
<b>LHCL/109 (Renewal)</b>	Certas Energy UK Ltd 302 Bridgewater Place Birchwood Park Warrington WA3 6XG
<b>Premises</b>	Castlebay Irvine Road Largs KA30 8HS
<b>TDL/00937 (New)</b>	Carolyn Ann <b>Wright</b> 76 Rubie Crescent Irvine KA12 8HB
<b>TDL/01851 (Renewal)</b>	Robert <b>McBride</b> 102 Maree Place Irvine KA12 9PH



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 4**

**17 August 2016**

#### **Licensing Committee**

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<b>Title:</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>	<ol style="list-style-type: none"><li>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;</li><li>2. For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and:<ol style="list-style-type: none"><li>a. decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;</li><li>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.</li></ol></li></ol>

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#### **1. Executive Summary**

- 1.1. The Licensing Committee have delegated authority from the Council to administer the Council's functions under the Landlord Registration Scheme regulated by the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8.
- 1.2. The persons named in the attached Schedules are either:
  - Applicants for Registration, or
  - already Registered under the 2004 Act, or
  - are not Registered.

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

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

For convenience, in this Report:

- (a) Applicants seeking Registration, and
- (b) people who are already Registered ("Registered Persons"), and
- (c) people who own houses occupied as residences,

are called "Landlords" and the occupiers are called "Tenants".

### Exempt Information

- 1.3. Landlord Registration cases are referred to the Committee using two documents:
  - (a) this Report, and
  - (b) one or more Schedules.
- 1.4. This is done because the Committee may consider that the cases involve "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A, so that information about the cases should not be disclosed to the public. The Committee are entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of "Exempt Information" (Section 50A(4)).
- 1.5. Since the Committee have frequently made the necessary Resolution in the past, it is permissible for future Schedules to be withheld from publication. Although a Committee's Agenda and connected Reports are generally to be made public (Section 50B(1)), publication of the Schedules to this Report (but not the Report itself) has been withheld under Section 50B(2), as the proper officer has the opinion that they relate to items during consideration of which the Meeting is likely not to be open to the public, i.e. that the Committee are likely to make a Resolution to exclude the public during consideration of the Schedules.

- 1.6. Accordingly, individual cases do not appear on the public agenda. The Report operates as a 'front page', and only appears once, regardless of how many individual cases are being referred to the Committee. The Report is general and sets out the legal structure. The Schedules detail the alleged facts of the particular cases and how the legislation appears to apply.
- 1.7. Depending on the circumstances of the individual case, the Schedules contain:
- (a) information about the Landlord's criminal convictions or their prosecution; and/or
  - (b) information that suggests that he is not a 'fit and proper' person by reason of his conduct in relation to alleged Anti-Social Behaviour; and/or
  - (c) information that suggests that he is not a 'fit and proper' person by reason of his breach of the legal obligations on Landlords; and/or
  - (d) information about conduct involving nuisance or crime (whether or not there have been any criminal Court proceedings).
- 1.8. The information is covered by one or other or both of the following categories of "Exempt Information" under Schedule 7A:
- Paragraph 14: *"Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."*
- Paragraph 15: *"The identity of a Protected Informant."*
- 1.9. "Protected informant" is defined in Part III of the Schedule and means:
- "a person giving the Local Authority information which tends to show that—*
- (a) a criminal offence,*
  - (b) a breach of statutory duty,*
  - (c) a breach of planning control, within the meaning of section 123(1) of the Town and Country Planning (Scotland) Act 1997, or*
  - (d) a nuisance, has been, is being or is about to be committed".*
- 1.10. For example, Paragraph 15 would apply where it was alleged:
- (a) that there was anti-social behaviour committed by the Tenant of a rented house, involving crime or nuisance, or
  - (b) that the state of repair of the rented house indicated that the Landlord had defaulted in his legal obligations, or
  - (c) that the Landlord had defaulted in another obligation applying to Landlords, or
  - (d) that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

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

#### The Landlord Registration Scheme

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

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. Background**

- 2.1 The Clerk has received information set out in the Schedule. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.

## **3. Proposals**

- 3.1. The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.
- 3.2. If the Committee decide to refuse an Application, or to remove a Registration, and if they are satisfied that the house is presently occupied by a Tenant, they should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.
- 3.3. If they are not so satisfied, they may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

#### 4. Implications

<b>Financial:</b>	If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.
<b>Human Resources:</b>	None.
<b>Legal:</b>	<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) &amp; (8).</p> <p>For example:</p> <ul style="list-style-type: none"> <li>(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);</li> <li>(b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;</li> <li>(c) the Landlord continues to have repairing obligations.</li> </ul> <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>
<b>Equality:</b>	None.
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	None.
<b>Community Benefits:</b>	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, NAC Departments, or other agencies.



ELMA MURRAY  
Chief Executive

Reference : GEN09/WOB

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

### **Background Papers**

Schedules (not to be published - Local Government (Scotland) Act 1973, Section 50B(2))



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## NORTH AYRSHIRE COUNCIL

### Agenda Item 5

17 August 2016

#### Licensing Committee

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<b>Title:</b>	<b>Wheelchair-Accessible Vehicles - Taxi and Private Hire Car vehicle specification under Civic Government (Scotland) Act 1982, Section 10(2)</b>
<b>Purpose:</b>	To advise the Committee of the Law and their existing Policy.
<b>Recommendation:</b>	That the Committee consider whether or not to approve the draft "Taxi and Private Hire Car Vehicle Approval Specification".

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#### 1. Executive Summary

1.1. The Council is the Licensing Authority under the Civic Government (Scotland) Act 1982 and licenses the operation of Taxis and Private Hire Cars.

1.2. Section 10(2) of the Act is:

*"A Licensing Authority shall not Grant or Renew a Taxi Licence or Private Hire Car Licence unless they are satisfied that the vehicle to which the Licence is to relate is suitable in type, size and design for use as a Taxi or Private Hire Car, as the case may be, and is safe for that use, and that there is in force in relation to the vehicle such a policy of insurance or such security as complies with Part VI of the Road Traffic Act 1972."*

1.3. On 3 February 2016 the Licensing Committee considered this matter, and agreed:

- (a) to undertake a review of its Taxi and Private Hire Car Vehicle Specification, including consultation with the Disability Forum; and
- (b) that, immediately following the meeting, Members take the opportunity to inspect the side-loading and rear-loading vehicle types referred to by a Taxi Operator.

1.4. On 25 May 2016 the Committee agreed:

- (a) in principle, the Vehicle Specification should be amended to allow the use as taxis of rear-loading Wheelchair Accessible Vehicles; and
- (b) that the Solicitor (Licensing) submit a list of vehicles to a future meeting of the Committee for approval.

## **2. Background**

- 2.1. To apply the 'suitability' part of Section 10(2) and 10(5), NAC have a 'Vehicle Specification', which sets standards which a vehicle must meet, e.g. setting engine capacity. This has been changed from time-to-time, last on 22 August 2012.
- 2.2. One of the requirements of the current 'Vehicle Specification' is:

*"The proposed vehicle: ...*

*b) must be a "Wheelchair Accessible Vehicle" (WAV):*

- (i) If it is a "Taxi", it must be side-loading;*
- (ii) If it is a "Private Hire Car", it does not have to be side-loading - it can be rear-loading or side-loading."*

## **3. Proposals**

- 3.1. In implement of the Committee's instruction the Solicitor (Licensing) has prepared a draft "Taxi and Private Hire Car Vehicle Approval Specification", attached as an Appendix to this Report.
- 3.2. The doc is in two parts:
  - (a) a list of vehicle types by manufacturer and model
  - (b) "other requirements".
- (b) is included because manufacturers frequently vary their models and specifications, so that a list of (a) alone would go out-of-date. The Committee should consider whether or not the "other requirements" represent the minimum standards which would be required of any vehicle proposed as a Taxi or PHC.
- 3.3. What would happen in practice is that if a vehicle met the Vehicle Approval Specification (and the other parts of the Council's specification) it would be accepted as meeting the "suitability" test required by Section 10(2). Therefore the Licence Application could be granted under Delegated Powers. However, in cases where the proposed vehicle did not satisfy both (a) and (b), the Application would be referred to the Licensing Committee.
- 3.4. The publication of the Vehicle Approval Specification does not affect the status of any vehicle which is already covered by a Licence - a vehicle that was already licensed but was not on the list would not be affected.

#### 4. Implications

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any application.
<b>Human Resources:</b>	None.
<b>Legal:</b>	There are possible legal implications in relation to the refusal of any application.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is only one consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None.
<b>Key Priorities:</b>	None.
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

#### 5. Consultation

5.1 There is no requirement for consultation where the Licensing Authority adopts or reviews a Policy, but the Licensing Authority may choose to consult first. Accordingly after the Committee considered this matter on 3 February 2016 letters were sent, inviting views, to:

- (a) Irvine T.O.A.
- (b) Three Towns T.O.A.
- (c) North Ayrshire Access Panel

Only NAAP commented and their comment was before the Committee on 25 May 2016.



ELMA MURRAY  
Chief Executive

Reference : GEN01/GEN37/WOB

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

#### Background Papers

Appendix attached.





**Draft**

**North Ayrshire Council**

**Taxi and Private Hire Car Vehicle Approval Specification**

**Civic Government (Scotland) Act 1982, Section 10(2)**

Any vehicle listed below which meets the "other requirements" below (and the other parts of the Council's specification) will be accepted as meeting the "suitability" test required by Section 10(2).

Any vehicle which is not on the list and/or does not meet the requirements is not approved. If a person wants to license an unapproved vehicle, the request will be referred to the Licensing Committee. He should give the Committee pictures produced and specifications published by the manufacturer, and the proposed vehicle (or an example of the type) should be available for inspection by the Committee or their staff if they request it.

The publication of this Vehicle Approval Specification does not affect the status of any vehicle which is already covered by a Licence.

List

Mercedes-Benz M8 Vito

Ford Tourneo Connect

Fiat Dublo Eurocab

Fiat Scudo

Peugeot Partner Tepee

Other Requirements

In all cases, the vehicle will only be treated as suitable if all of these requirements are met:

1. it is wheel-chair accessible (either side-loading or rear-loading);
2. it is fitted with a lifting mechanism which:
  - (a) can raise an occupied wheelchair from ground level without requiring it to be pushed by the driver or anyone else; and
  - (b) secures the wheelchair against moving backwards on the ramp, before commencing the lift;
3. it has a means of securing the wheelchair against movement once in the vehicle;
4. it has at least one other passenger seat;

5. the wheelchair is front-facing; and
6. the wheel-chair compartment is glazed on 3 sides.