

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, 10 April 2024 at 10:00 to consider the undernoted business.

Meeting Arrangements - Hybrid Meetings

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003. Where possible, the meeting will be live-streamed and available to view at <u>https://north-ayrshire.public-i.tv/core/portal/home</u>.

Licensing Exemption Para

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 Meeting of the Licensing Committee held on 13 March 2024 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 Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)

Submit report by the Head of Democratic Services advising Committee of the procedure in respect of the review and consultation process for the taxi fare review (copy enclosed).

4 Taxi Drivers Dress Code

Submit report by the Head of Democratic Services on the ongoing review of dress code requirements for taxi drivers (copy to follow).

5 Public Entertainment License Resolution

Submit report by the Head of Democratic Services on the above (copy to follow).

6 Civic Government Scotland Act 1982 and other Licensing Statutes: Licensing Matters

Submit report by the Head of Democratic Services on hearings to be determined, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

7 Urgent Items

Any other items which the Chair considers to be urgent.

Webcasting

Please note: this meeting may be filmed/recorded/live-streamed to the Council's internet site and available to view at <u>https://north-ayrshire.public-i.tv/core/portal/home</u>, where it will be capable of repeated viewing. At the start of the meeting, the Provost/Chair will confirm if all or part of the meeting is being filmed/recorded/live-streamed.

You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the webcast will be retained in accordance with the Council's published policy, including, but not limited to, for the purpose of keeping historical records and making those records available via the Council's internet site.

Generally, the press and public seating areas will not be filmed. However, by entering the Council Chambers, using the press or public seating area or (by invitation) participating remotely in this meeting, you are consenting to being filmed and consenting to the use and storage of those images and sound recordings and any information pertaining to you contained in them for webcasting or training purposes and for the purpose of keeping historical records and making those records available to the public. If you do not wish to participate in a recording, you should leave the meeting. This will constitute your revocation of consent.

If you have any queries regarding this and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause, substantial damage or distress to any individual, please contact dataprotectionofficer@north-ayrshire.gov.uk.

Licensing Committee Sederunt

Eleanor Collier (Chair) Nairn McDonald (Vice-Chair)	Chair:
John Bell Cameron Inglia	
Cameron Inglis Christina Larsen	
Jean McClung	Apologies:
Matthew McLean	
Donald L. Reid	
Ronnie Stalker	
Angela Stephen	Attending:
	, morianigi

IRVINE, 13 March 2024 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Eleanor Collier, Nairn McDonald, Cameron Inglis, Christina Larsen, Jean McClung, Matthew McLean, Donald L. Reid and Angela Stephen.

In Attendance

R. Lynch, Senior Manager (Legal Services), D. Grier, Solicitor (Legal Services), D. Robertson, Enforcement Officer, S. Dalgoutte and A. Kellas, Senior Clerical Assistants (Licensing), A. Toal, Administration Assistant (Licensing) and M. Anderson, Senior Manager (Committee and Member Services) (Democratic Services) (Chief Executive's Service).

Also in Attendance

Sergeant S. Syme (Police Scotland).

Chair

Councillor Collier in the Chair.

Apologies

John Bell and Ronnie Stalker.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

Councillor Donald L. Reid made a transparency statement advising that he had visited the site which was the subject of a Caravan Site Licence renewal application (Case 9 in respect of Agenda Item 3: Civic Government Scotland Act 1982 and Other Licensing Statutes: Licensing Matters). Having applied the objective test, Councillor Donald L. Reid assessed that it was not an interest in terms of the Councillors' Code of Conduct, but that he nonetheless would leave the meeting during consideration of this items of business.

2. Minutes

The accuracy of the Minutes of the Meeting of the Licensing Committee held on 7 February 2024 were confirmed and the Minutes signed in accordance with Paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Item 3 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) on the grounds that they involved the likely disclosure of Exempt Information as defined in Section 50J of, and Schedule 7A to, the Local Government (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, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

4.1 Taxi Driver's Licence: TDL/02437 (New): Shaun Blakely

At its meeting held on 7 February 2024, the Committee unanimously agreed to continue consideration of this application to its March 2024 meeting, to allow the applicant to submit a character reference, including any appropriate further supporting information, to assist the Committee in making its decision.

The Committee noted that the requested further information had been submitted. The applicant, having been duly cited to attend, was unable to be present.

The Committee agreed that it had sufficient information available to allow it to make a decision in respect of this matter.

Decision

Councillor McDonald, seconded by Councillor McLean, moved that the Committee agree to grant the application for a period of one year, 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.

4.2 Taxi Driver's Licence: TDL/02442 (New): Jordan Devine

The applicant, having been duly cited to attend, was not present or represented. A representative from Police Scotland was in attendance.

The representative of Police Scotland addressed the Committee on the terms of a letter setting out their objection. The Committee's attention was also drawn to a minor typographical error within the letter in respect of the applicant's date of birth and the correct date was noted.

Decision

Councillor Collier, seconded by Councillor McDonald, moved that the application be refused on the basis that the applicant was not a fit and proper person to hold the Licence applied for, in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

4.3 Short Terms Lets: NA00245P: Charles Fforde Short Term Lets: NA00257, NA00258, NA00259P, NA00260P and NA00261P: Strabane Enterprises Limited

The Senior Manager (Legal Services) introduced the Short Term Let applications, advising a letter, dated 12 March 2024, from the applicant's solicitor requesting that the Committee agree to continue consideration of the applications until its May 2024 meeting.

The representative of Police Scotland confirmed that there was no objection to the proposed continuation.

Members then asked questions of clarification of the Senior Manager (Legal Services).

Decision

The Committee unanimously agreed to continue consideration of this matter to its May 2024 meeting.

Councillor Donald L. Reid left the meeting during consideration of the following item of business and took no part in the determination.

The Senior Manager (Legal Services) also left the meeting during consideration of the following item of business in light of previous interaction in respect of the case.

4.4 Caravan Site Licence: CSL/004 (Renewal): Willow Park Mobile Homes Limited

The applicant, having been duly cited to attend, was present. Two representatives of the Willow Park Residents Association were also in attendance to address the Committee on their representations.

The Enforcement Officer addressed the Committee on the background to the application.

At the invitation of the Chair, the representatives of the Residents Association then addressed the Committee on the terms of their written submission dated 21 February 2024 with regard to:

- the site's septic tank/drainage and sanitation arrangements, including correspondence with SEPA;
- a perceived lack of clarity in respect of the site manager's remit and responsibilities;
- arrangements in relation to fire safety on the site;
- salt bin provision and arrangements for gritting

Further written submissions were circulated at the meeting, namely in respect of:

- licence conditions on site maintenance and site manager arrangements, together with associated correspondence;
- emergency planning arrangements for the site and associated correspondence;
- the siting of salt/grit bins, together with photographs of the site.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 11.00 a.m. to allow Members to read the further written submissions by the representatives of the Residents Association. The meeting reconvened at 11.20 a.m., with the same Members and officers present and in attendance as previously.

Members asked questions of clarification of the representatives of the Residents Association.

The applicant then addressed committee on the terms of her written submission dated 11 March 2024, which addressed the following:

- planning permission for the installation of a new sewerage treatment plant to serve the site;
- fire safety arrangements for the site; and
- the provision of salt bins on site.

Members then asked questions of clarification of the applicant.

The applicant and representatives of the Residents Association then withdrew to allow the Committee to deliberate, rejoining the meeting to hear the Committee's decision.

On a point of clarification, the Committee requested, and received, information from the applicant on the provision of "Protected Site Agreements" to residents/their solicitors.

Decision

Councillor McDonald, seconded by Councillor Inglis, moved that the Committee agree to grant the application under The Caravan Sites and Control of Development Act 1960. There being no amendment, the motion was declared carried and the previous licence conditions remain in force.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 12.35 p.m. The meeting reconvened at 1.10 p.m., with the same Members and officers present and in attendance, the exception of Councillor Stephen.

Councillor Donald L. Reid rejoined the meeting at this point.

4.5 Short Terms Lets: NA00298P: Jacqueline Lamb

The applicant, having been duly cited to attend, was present and represented by her solicitor.

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

Decision

Councillor McDonald, seconded by Councillor Donald L. Reid, moved that the Committee agree to grant the application under The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32 ("the STL Order") subject to (a) the Mandatory Conditions set out in Schedule 3 to the STL Order; and (b) the additional local condition set out as "The First Exception" in Paragraph 10(b) of the Committee's "Licensing Policy Statement on Short-Term Let Licensing". There being no amendment, the motion was declared carried.

5. Urgent Items

There were no urgent items.

The meeting ended at 1.25 p.m.

Agenda Item 3

NORTH AYRSHIRE COUNCIL

10th April 2024

	Licensing Committee Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)		
Title:			
Purpose:	To advise Committee of the procedure in respect of the review and consultation process for the taxi fare review.		
Recommendation:	 That the Committee agree a) To approve the proposed timetable for the Review and Fixing Process, as set out in the Appendix to this Report: and b) To approve the suggested process of Trade Consultation with Taxi Operators. 		

1. Executive Summary

- 1.1 The Licensing Committee exercise the functions of the Council as "Licensing Authority" under many statutes, including the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).
- 1.2 Taxi fares and other charges are limited to the Scales fixed by the Licensing Authority (1982 Act, Section 17). These are the maximum amounts which may be charged. It is open to Operators to discount these rates if they wish. The fares charged by Private Hire Cars are not regulated.
- 1.3 The Licensing Authority must periodically review the Scales and fix new Scales. Each review must conclude with a decision to fix new Scales within 18 months of the current Scales coming into effect. The current Scales came into force on 4 May 2023 so, accordingly the Licensing Authority would have had to fix the new Scales by 3 November 2024. The current Scales remain in effect whether or not they are reviewed by that date.
- 1.4 The Appendix to this Report sets out a possible timetable for the review process. There is a statutory obligation to consult with Taxi Operators.

2. Background

- 2.1 The procedure for reviewing and fixing Scales is set by the 1982 Act, and consists of a number of stages:
 - (a) <u>First Committee Meeting Trade Consultation (Section 17(4A)(a))</u>

Before fixing Scales, the Licensing Authority must consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area. The legislation specifies that consultation must happen, but does not prescribe the form that that consultation must take. Although later stages of the review process involve consultation with the general public, Stage (a) only involves the Trade. Consultation proceeded by Taxi Operators meeting Committee Members in one of the meeting rooms at Cunninghame House. The Council would send emails to the principal trade associations and to individual holders of Taxi Licences inviting them to attend, inform them of the date and time of the meeting with Committee Members, and invite them to respond if they wish to participate in that meeting. In addition, a Notice would be posted on the Council's Facebook page explaining the procedure and telling operators how they can participate. Whether or not operators wished to participate directly, they would be told that they could make representations by sending emails to the Licensing office.

(b) <u>Second Committee Meeting - Proposal (Section 17(4A)(b))</u>

Following the Trade Consultation, the Licensing Authority must review the existing Scales, and propose new Scales, whether at altered rates or the same rates; (at this stage all that the Council are doing is proposing new Scales; the decision to fix them does not happen until later, after public consultation);

(c) <u>Public Consultation - First Advertisement (Section 17(4A)(c))</u>

Following such Review the Licensing Authority must publish the proposed Scales in a newspaper circulating in its area, stating that any person may make representations in writing until a specified date falling at least one month after the first publication. Previous advertisements have appeared in local newspapers.

(d) <u>Third Committee Meeting - Fixing the Scale (Section 17(2))</u>

The Licensing Authority must consider such representations, and fix the Scales.

(e) Notification to Trade (Section 17(4D), 17(5))

The Licensing Authority informs both individual operators and trade organisations within 7 days of the Scales being 'fixed'. Any of them may appeal to the Traffic Commissioner within 14 days of receiving Notice, and any Appeal suspends the decision to fix new Scales (Section 18(4)).

(f) and (g) Second Advertisement (Section 18A)

The Licensing Authority is to publish the new Scales in local newspapers. The date of publication depends on whether or not there is an appeal:

- If there has been no appeal, publication occurs as soon as practicable after the expiry of the 14-day appeal period.

- If there is an appeal, publication occurs as soon as practicable after the determination of the appeal.

Publication is not a 'consultation', but is simply informing the public that the new Scales have been fixed and will shortly come into effect.

3. Proposals

- 3.1 It is proposed that the Committee agree to:
- (a) approve the proposed timetable for the review process as set out in the appendix to the report; and
- (b) set a date and time to meet with the Trade to carry out Trade Consultation (Stage (a)).

4. Implications/Socio-economic Duty

<u>Financial</u>

4.1 The Taxi fare structure has substantial implications for both the trade and the community. In addition, legal costs to the Licensing Authority may arise if the fare review becomes subject to an appeal to the Traffic Commissioner, which may affect future Licence fees.

Human Resources

4.2 None

<u>Legal</u>

4.3 Possible appeal to the Traffic Commissioner.

Equality/Socio-economic

4.4 None. An "Equality Impact Assessment" is not considered necessary. There are no socio-economic implications of the proposals.

Climate Change and Carbon

4.5 None

Key Priorities

4.6 North Ayrshire Council has priorities for Aspiring Communities in the Council Plan 2019-2024. An effective licensing system, e.g. monitoring the 'fit and proper' status of hirecar drivers and the safety of their cars, helps achieve Priority Outcome: "North Ayrshire's residents and communities are safe".

Community Wealth Building

4.7 There are no Community Wealth Building Issues.

5. Consultation

5.1 No consultations are necessary or appropriate at this stage of the statutory process, which will later involve consultation with the Trade and the general public.

Aileen Craig Head of Democratic Services

For further information please contact **Raymond Lynch**, **Senior Manager**, **Legal Services**, on **licensing@north-ayrshire.gov.uk**.

Background Papers

Possible proposed timetable

Possible timetable – Taxi Fare Review 2024

Stage	Event
-	FIRST COMMITTEE MEETING on 10 April 2024
	The initial timetabling meeting - Members set date for the Trade Meeting.
Stage (a)	Trade Meeting (usually within one month after the FIRST COMMITTEE MEETING)
Stage (b)	SECOND COMMITTEE MEETING on 5 June 2024
	The Committee:
	1. adopts <u>draft</u> proposals, and
	2. authorises that these be advertised for public comment
Stage (c)	public consultation period (one month or more)
Stage (d)	THIRD COMMITTEE MEETING on 14 August 2024.
	Committee:
	1. considers the Trade views and the consultation responses.
	2. Fixes the Scales, setting a date for them to be effective - that date re-starts the 18-month 'review clock'.
Stage (e)	Notification to Trade The Licensing Authority informs both individual operators and trade organisations within 7 days of the Scales being 'fixed'.
Stage (f)	Publication of new Scales

Agenda Item 6

NORTH AYRSHIRE COUNCIL

10 April 2024

Licensing Committee

Title:Civic Government (Scotland) Act 1982 and other Licensing
statutes: Licensing MattersPurpose:To advise the Committee of:
a) Hearings to be determinedRecommendation: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:

Appendix A - Licences and Permits where Hearings have been convened

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 Appendix, 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/Socio-economic Duty

Financial

4.1 There are possible financial implications in relation to any Licensing decision.

Human Resources

4.2 None

<u>Legal</u>

4.3 There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council

"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."

Section 149(1) ("Public sector equality duty"): the Council

"must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];
- (b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;
- (c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."

The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

The Clerk has considered these Duties in preparing this Report and any specific impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant impacts to be considered

Climate Change and Carbon

4.5 None.

Key Priorities

4.6 North Ayrshire Council has priorities for "Communities and Local Democracy" and "Wellbeing" in the Council Plan 2023-2028 An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Strategic Aim-Wellbeing.

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

5.1 Consultations have been undertaken where appropriate with Police Scotland, Scottish Fire and Rescue, and Council Directorates.

Aileen Craig Head of Democratic Services

For further information please contact **Raymond Lynch**, **Manager**, **Legal Services**, on **Licensing@north-ayrshire.gov.uk**.

Background Papers None

A	p	p	eı	nc	lix	ĸ	A	
<i>'</i> `	<u> </u>	~ `	<u> </u>		,	•	<i>'</i> '	

Case 1 Applicant	Public Entertainment Licence Wesley Smith	PEL/749 (Temporary)
Case 2 Applicant	Public Entertainment Licence Wesley Smith	PEL/750 (Temporary)
Case 3 Applicant	Street Trader Operator NB Catering	STL/O/546 (New)
Case 4 Applicant	Taxi Driver Licence Adrian Frew	TDL/02414 (New)
Case 5 Applicant	Taxi Driver Licence Elaine Davidson	TDL/02450 (New)
Case 6 Licence Holder	Taxi Licence Graham Cooper	TL/401 (Exemption)
Case 7 Applicant	Short Term Lets John/Janet Smith	NA00162P (New)
Case 8 Applicant	Short Term Lets Lynda Heinemeier	NA00399P (New)
Case 9 Applicant	Short Term Lets Mandy Coulter	NA00335P (New)