

Cunninghame House,
Irvine.

18 February 2016

Licensing Committee

You are requested to attend a special Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **THURSDAY 25 FEBRUARY 2016** 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 Committee held on 3 February 2016 will be 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; 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. **Civic Government (Scotland) Act 1982, Section 13 and Schedule 1**
Submit report by the Chief Executive on updating existing dress code (copy enclosed)
5. **Urgent items**
Any other items which the Chair considers to be urgent.

Licensing Committee

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
3 February 2016

IRVINE, 3 February 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 and Donald Reid.

In Attendance

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

Also In Attendance

Inspector B. Skimming and Sergeant G. Griffiths (Police Scotland).

Chair

Councillor Marshall in the Chair (Agenda Item 3 (part) and Councillor Clarkson in the Chair (for all other items of business).

Apologies for Absence

Grace McLean and Ronnie McNicol.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Clarkson declared an indirect, non-pecuniary interest in a Taxi Driver's Licence by David Logan which formed part of Appendix A of Agenda Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters), on the grounds that the applicant was known to him. Councillor Clarkson vacated the chair for this item of business and took no part in its determination.

Councillor Easdale also declared an indirect, non-pecuniary interest in the above-mentioned application on the same grounds, and took no part in its determination.

Councillor Barr declared an indirect, non-pecuniary interest in Appendix C of Agenda Item 3 (Civic Government (Scotland) Act 1982: Licensing Matters) on the grounds that a party to the issue being raised was known to him, taking no part in the determination of this matter.

2. Minutes

The accuracy of the Minutes of the meeting of the Committee held on 9 December 2015 was confirmed, and the Minutes were 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

Submitted 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.

Part A: Hearings

3.1 Taxi Driver's Licence: Hugh Rodgers : TDL/00119 (New)

The applicant, having been duly cited to attend, was not present or represented. The Committee was advised of the content of a written submission provided by the applicant. Representatives of Police Scotland were in attendance.

The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application.

Decision

Councillor Marshall, seconded by Councillor McMillan 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.

Councillor Bruce joined the meeting at this point.

3.2 Taxi Driver's Licence: Paul McPherson: TDL/01168

The applicant, having been duly cited to attend, was not present or represented. The Committee was advised of the content of a written submission provided by the applicant. Representatives of Police Scotland were in attendance.

The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an observation in relation to the application.

Decision

Councillor Barr, seconded by Councillor Reid, moved that consideration of the application be continued to the next meeting. There being no amendment, the motion was declared carried.

3.3 Taxi Driver's Licence: David Logan: TDL/01810

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

The representatives of Police Scotland addressed the Committee on the terms of a letter setting out an observation 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 (a) to grant the application subject to the standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year; and (b) to issue a warning letter to the licenceholder in respect of his future conduct.

3.4 Taxi Driver's Licence: Charles Stewart: TDL/1848

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

Decision

The Committee agreed, Councillor Barr dissenting, that consideration of the application be continued to the next meeting.

Part B: Applications for Licences/Renewal of Licences

3.5 Late Hours Catering Licence: Wm Morrison Supermarket PLC: LHCL/121 (New)

The Committee unanimously agreed to grant the application for a Late Hours Catering Licence for the supermarket premises at 4 Irvine Road, Largs, for the period 11.00 p.m. until midnight 7 days a week, subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3.6 Late Hours Catering Licence: Wm Morrison Supermarket PLC: LHCL/120 (New)

The Committee unanimously agreed to grant the application for a Late Hours Catering Licence for the supermarket premises at Hawkhill Farm, Kilwinning Road, Stevenston, for the period 11.00 p.m. until midnight 7 days a week, subject to conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Part C: Issues in Respect of Existing Licences

3.7 Taxi Operator's Licence: Kevin Blades

The Committee unanimously agreed, on the basis of the information presented, to proceed to a Suspension Hearing in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

4. Civic Government (Scotland) Act 1982 - Taxi Stance at Hamilton Street, Saltcoats

Submitted report by the Chief Executive on the background to the proposed revocation of the appointment of the Taxi Stance at Hamilton Street, Saltcoats, and advising the Committee of its legal powers in this regard.

At its meeting on 12 August 2015, the Committee agreed to support the proposal to revoke the appointment of the Taxi Stance at Hamilton Street, Saltcoats, and instruct the Solicitor (Licensing) to commence the statutory procedure for intimating the proposal. Consultation has now been carried out according to the statutory requirement.

The Committee agreed to (a) revoke the appointment of the Taxi Stance at Hamilton Street, Saltcoats; and (b) request the Chief Executive to make appropriate alterations to signs or road markings at this location.

5. Wheelchair-Accessible Vehicles - Taxi and Private Hire Car Vehicle Specification Under Civic Government (Scotland) Act 1982, Section 10(2)

Submitted report by the Chief Executive on wheelchair-accessible vehicles as they relate to the taxi and private hire car vehicle specification under the Civic Government (Scotland) Act 1982, Section 10(2). The Council's current 'Vehicle Specification, which sets standards which a vehicle must meet, was attached as an appendix to the report.

The Committee was advised of the terms of a letter and supporting documentation submitted by a Taxi Operator, which requested an amendment to the existing Vehicle Specification. The Operator requested that the requirement that all new or replacement vehicles licences as taxis must be side-loading in order to qualify as a Wheelchair Accessible Vehicle is removed. The operator requested that the Specification be amended to allow both side loading and rear-loading taxis to qualify as Wheelchair Accessible Vehicles. The Operator also requested a hearing on this matter and invited Members to inspect an examples of the permitted and proposed vehicle types.

The Taxi Operator (Mr George Torbet), his partner (Ms Elaine Connor) and a fellow Taxi Operator (Ms Christine Boyd) addressed the Committee on the background and reasons for the request that the Council review its Vehicle Specification, and responded to questions from Members.

The Committee 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 the Taxi Operator.

The meeting ended at 11.20 a.m.

NORTH AYRSHIRE COUNCIL

Agenda Item 3

25 February 2016

Licensing Committee

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

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.

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

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

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

ELMA MURRAY
Chief Executive

Reference : PAT

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

Background Papers

None

Hearings		
Hearing 1	Public Charitable Collection	
Applicant and Address	Ivy Fundraising Anne Jaconelli Trident House 175 Renfrew Road Paisley PA3 4EF	
Premises	Bridgegate Shopping Mall Irvine	
Hearing 2	Taxi Driver's Licence	TDL/01168
Applicant and Address	Paul McPherson 10 Birkscairn Place Irvine KA11 1ED	
Hearing 3	Taxi Driver's Licence	TDL/01968
Applicant and Address	Charles Stewart 1 Geirston Road Kilbirnie KA23 7LF	
Hearing 4	Taxi Driver's Licence	TDL/01070
Applicant and Address	John D Simpson 15 Inverclyde View Largs KA30 9DP	

Applications for Licences/Renewal of Licences		
Type of Licence/Reference Number	Details of Applicant	Comments
TDL/00139 (New)	Gary George Williamson 73 Merryvale Road Irvine KA12 8ET	Police observation received
TDL/00140 (New)	Alan Thom 8c Redburn Gate Kilwinning Road Irvine KA12 8TH	Police observation received
TDL/00142 (New)	Robert Currie Haggarty 15A Tollerton Drive Irvine KA12 0QA	previous conviction declared
TDL/01956 (Renewal)	Robert Crozier Boyd 68 Dirrans Terrace Kilwinning KA13 7PJ	medical conditions declared

NORTH AYRSHIRE COUNCIL

Agenda Item 4

25 February 2016

Licensing Committee

Title: Civic Government (Scotland) Act 1982, Section 13 and Schedule 1

Purpose: Updating existing Dress Code

Recommendation: That Licensing Committee review the proposal

1. Executive Summary

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council as the Licensing Authority may attach Conditions to the grant of a licence for the driving and operation of both taxis and private hire cars.
- 1.2 The Council operate a policy on "dress code" for licensed drivers which is given effect to in Licence conditions.

2. Background

- 2.1 The Dress Code Condition for taxi drivers and private hire car drivers is currently

"Condition 4 1. When the vehicle is operating as a taxi the licenceholder must conduct himself/herself in a proper and civil manner and be clean and tidy in appearance. The Licensing Authority operates a **dress code** in respect of licenceholders and when working as a taxi driver male licenceholders are required to wear trousers or slacks and, for female licenceholders, a skirt, trousers or slacks, and all drivers a shirt, polo shirt, a blouse or similar top. You are not permitted to wear track suits, shorts or similar articles of casual clothing or articles more commonly associated with sporting activities. If you wish to wear a tie then the Licensing Authority requires, for reasons of your safety, that it be a clip on tie".

- 2.2 The Taxi Operator's Licence also has a condition "The licenceholder must ensure that, when the vehicle is operating as a taxi, **the driver** is clean and tidy in appearance".

The Private Hire Car Licence has a similar Condition.

3. Proposals

- 3.1 The following amendments of the Conditions in the driver's licences are suggested:

Licenceholders must, when operating the licensed vehicle (whether or not it is at the time under hire), conform to the following "Dress Code".

1. Male drivers - trousers, a shirt or tee shirt (in either case with a collar)
2. Female drivers - slacks or a skirt, a blouse or similar top
3. No clothing shall have printing or lettering
4. No hat, cap or other head wear may be worn while driving
5. You are not permitted to wear tracksuits, shorts or similar articles of casual clothing or articles more commonly associated with sporting activities (including head gear and foot wear)
6. This means that the following are not permitted - jeans of any colour or description, training shoes, baseball shoes, sandals, baseball caps, cargo pants, hooded sweatshirts or military-style clothing. Any tie must be a "clip-on".

- 3.2 Where the Licence-Holder is told by an officer of the Licensing Authority that, in the officer's opinion, the Licence-Holder's clothing is not consistent with the "Dress Code", the Licence-Holder shall cease operating under the licence and shall not resume unless he/she has changed to clothing which meets the Licence Condition.

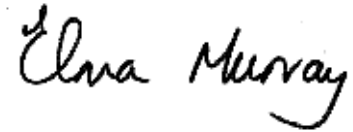
- 3.3 The purpose of the Licensing Authority having a "Dress Code" is to make clear to drivers, the public and Council staff what is permitted, and what is not. By stating what is not permitted, the Licensing Authority are indicating to each Licence-Holder that wearing unsuitable clothing while driving a hire car may lead to the Licensing Authority considering that he/she is not "a fit and proper person" to be the holder of a licence, and that there are grounds to suspend the licence or to refuse renewal of it.

4. Implications

Financial:	None
Human Resources:	The new "Dress Code" can be publicised on the Council's web site and Twitter account, and may also be the subject of a Press Release.
Legal:	Any Condition has the potential to be the basis of a decision to suspend the licence or to refuse to renew it.
Equality:	<p>Any condition which seeks to improve a dress code runs the risk of challenge.</p> <p>Under the European Convention on Human Rights, Article 10 ("Freedom of expression"). The Article 10 issue comes up often in employment law where an employer seeks to impose restrictions on employee appearance. The view is that when a person chooses what to wear he/she is exercising their "freedom of expression", just as much as their voiced opinions. Drivers are not Council employees.</p> <p>However the updated Conditions may be thought reasonable to reflect an expectation of members of the public that Taxi/Private Hire Car Drivers will adhere to an acceptable standard of dress, and that their journey and engagement with the driver will be a positive experience. Encouraging re-use.</p>
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, monitoring the 'fit and proper' status of hire-car drivers 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".
Community Benefits:	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 adopt or review a Policy.

A handwritten signature in black ink, reading 'Elma Murray' in a cursive script.

ELMA MURRAY
Chief Executive

Reference : DR/PAT

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

Background Papers

None