



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A Meeting of the **Licensing Committee** of North Ayrshire Council will be held in the **Council Chambers, Ground Floor, Cunninghame House, Irvine, KA12 8EE** on **Wednesday, 09 January 2019** at **10:00** to consider the undernoted business.

Please note that, whilst the items on this Agenda are public documents, consideration of some reports at the meeting may necessitate the passing of a resolution to exclude from the meeting the press and public in terms of Section 50A(4) of the Local Government (Scotland) Act 1973.

1 Declarations of Interest

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

2 Minutes

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

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

Submit report by the Head of Democratic Services on the proposed timetable for the Review and Fixing of Taxi Scales (copy enclosed).

4 Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

Submit report by the Head of Democratic Services on hearings to be determined, applications for the grant or renewal of licences and permits and issues arising in respect of existing licences, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

5 Landlord registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8

Submit report by the Head of Democratic Services on Landlord Registration matters (copy enclosed).

6 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

Ronnie McNicol (Chair)
Todd Ferguson (Vice Chair)
Robert Barr
John Easdale
Scott Gallacher
Jean McClung
Davina McTiernan
Donald L. Reid
Angela Stephen
Vacancy

Chair:

Apologies:

Attending:

IRVINE, 28 November 2018 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan and Donald L. Reid.

In Attendance

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

Also in Attendance

Sergeant Dougan and D. Hastings (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson, Robert Barr and Angela Stephen.

1. Order of Business

In terms of Standing Order 9.4, the Chair agreed that the Committee vary the order of business to allow consideration of Case 2 (Mascot Scotland Ltd) as the first item of business.

2. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor McTiernan declared an indirect, non-pecuniary interest in Agenda Item 6, Landlord Registration, the circumstances being that the landlord was personally known to her, and left the meeting for that item of business.

3. Minutes

The Minutes of the meeting of the Committee held on 24 October 2018 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

Submitted report by the Chief Executive on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings, and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

4.1 Late Hours Catering Licence: LHCL/116 (variation) - Mascot Scotland Ltd

The Committee, at its meeting on 24 October 2018, agreed at the licence holder's request to continue the matter to allow the licence holder to attend.

The licence holder, having been duly cited to attend, was present and represented. The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The licence holder and his representative addressed the Committee on issues raised and responded to questions.

The Committee recalled that the licence had been granted on 10 January 201 for the period 11.00 a.m. to 5.00 a.m., but subject to a condition that no hot food would be sold, or facilities for heating food would be used (whether by staff or by customers), after 1.00 a.m.

The licence holder now asked the Committee to allow (i) hot fillings for sandwiches to be sold after 1.00 a.m.; and (ii) pizzas to be sold after 1.00 a.m.

The licence holder and his representative withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Gallacher, seconded by Councillor McClung moved to grant the variation of the 3-year Late Hours Catering Licence and remove the condition that no hot food would be sold, or facilities for heating food would be used (whether by staff or by customers), after 1.00 a.m. There being no amendment, the motion was declared carried.

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) and Agenda Item 5 (Landlord Registration under the Antisocial Behaviour, etc (Scotland) Act 2004, Part 8), 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."

- Agenda Item 2
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."

At 10.45 a.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 10.55 a.m. with the same Members and officers present and in attendance.

4.2 Skin Piercing and Tattoo Licence: SPTL/033 (Renewal) Robert Alexander

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the licence holder.

Decision

Councillor Reid, seconded by Councillor McClung, moved that the Licence-Holder's application for renewal of the Licence should be continued. There being no amendment, the motion was declared carried.

4.3 Taxi Driver's Licence: TDL/01848 (New) - Charles Stewart

The Committee, at its meeting on 24 October 2018, agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

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

Decision

Councillor McClung, seconded by Councillor McTiernan, moved that the application be granted in terms of Paragraph 5(1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

4.4 Taxi Driver's Licence: TDL/02041 (Renewal) - Pamela Gaw

The Committee, at its meeting on 24 October 2018, agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder, having been duly cited to attend, was present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The licence holder addressed the Committee on issues raised and responded to questions. She confirmed her driving licence had been updated with her current address and that she would provide this to the Licensing Section.

Decision

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

4.5 Taxi Driver's Licence: TDL/02124 (New) - Andrea Fairfield

The Committee, at its meeting on 24 October 2018, agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

Decision

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

4.6 Taxi Driver's Licence: TDL/02140 (New) - Alan McTurk

The Committee, at its meeting on 24 October 2018, agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

Decision

Councillor Easdale, seconded by Councillor Gallacher, 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.

At 11.30 a.m. the representatives from Police Scotland left the meeting. The Chair then adjourned the meeting for a short comfort break. The meeting reconvened at 11.45 a.m. with the same Members and officers present and in attendance.

Appendix B: Applications for Licences/Renewal of Licences

4.7 Window Cleaner Licence: WCL/005 (New) Partnership of James McCallum, Jamie McCallum and Ewan McCallum

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

4.8 Taxi Driver Licence: TDL/00978 (Renewal) - Gordon Hewitt

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 Taxi Driver Licence: TDL/01139 (New) - Robert Kerrigan

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.

4.10 Taxi Driver Licence: TDL/02138 (New) - Nicola Drummond

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

4.11 Taxi Driver Licence: TDL/02141 (New) - Brian McNamee

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

4.12 Taxi Driver Licence: TDL/02145 (New) - Steven Arrol

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

Preliminary consideration of Revocation or Suspension complaints (Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11)

4.13 M.W.

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

Councillor McTiernan left the meeting for this item of business.

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

5.1 A.M.

The Registered Landlord, having been cited to attend, was present and represented by a Solicitor.

The Landlord had previously been registered but his registration was removed in November 2017 due to failures in the legal duties applying to Landlords, and at the time the Committee had issued Notices under Section 94 (commonly known as 'Rent Penalty Notices') on several of the Landlord's houses.

On 22 August 2018, the Committee considered an application from A.M. for a grant of Landlord Registration. This application related to 7 houses. The Landlord also sought the revocation of the Rent Penalty Notices over those houses.

The Committee then agreed (a) to grant the Application for Landlord Registration; (b) to revoke the Rent Penalty Notices for six of the seven houses; and (c) to continue consideration of the Application to revoke the seventh Rent Penalty Notice to allow the Anti-Social Behaviour Team to further investigate the allegations relating to the tenant of this property and report their findings to a future meeting of the Committee. There being no amendment, the motion was declared carried.

The Committee resumed consideration of the Application to revoke the remaining Rent Penalty Notice.

The Landlord's representative provided the Committee with information in relation to:-

- advice and guidance provided to the Landlord in relation to his property portfolio and in particular the tenanted property with the Rent Penalty Notice;
- anti-social behaviour allegations around that property;
- the process for ending the Assured Tenancy of the above property that would require a Notice to Quit, a Notice of Proceedings (AT6), and scrutiny by the First Tier Tribunal for Scotland (Housing and Property Chamber); and
- the associated timescales for the above proceedings.

The applicant and his representative then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision. Agenda Item 2

Decision

Councillor McNicol, seconded by Councillor Easdale, moved that (a) the application to revoke the Rent Penalty Notice be continued to the next meeting to allow for the proceedings to end the Assured Tenancy to commence; and (b) that meantime that Rent Penalty Notice should remain in place.

There being no amendment, the motion was declared carried.

6. Urgent Item

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

6.1 SPTL (R) R. A.

The Committee considered a report from the Senior Manager (Protective Services) in relation to licensed Premises.

Councillor Reid, seconded by Councillor McClung, moved that (a) the licence should be suspended for a 6-week period, with immediate effect, under Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982, on the basis that the carrying on of the activity to which the Licence relates is likely to cause a serious threat to public safety; (b) the Committee should delegate authority to the Chair, in terms of Paragraph 12(6), to recall the above order, if satisfied that the carrying on of the activity to which the Licence relates is not likely to cause a serious threat to public safety; (c) the Committee should commence Suspension proceedings under Paragraph 11, and that a Hearing should be held on 9th January 2019. There being no amendment, the motion was declared carried.

The meeting ended at 12.40 p.m.

IRVINE, 10 December 2018 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 11.10 a.m.

Present

Ronnie McNicol, Robert Barr, John Easdale, Jean McClung, Davina McTiernan and Donald L. Reid.

In Attendance

W. O'Brien, Solicitor, (Licensing), and C. Pollock, Licensing Administration Officer (Legal Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson and Scott Gallacher.

1. Declarations of Interest

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

2. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for 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."

3. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

3.1 Taxi Licence TL/211 – John Russell, Stephen Adams, Jane Adams and Connie Dunn

John Russell and Connie Dunn were present. The Committee was satisfied that the persons present represented all the applicants.

The Solicitor (Licensing) set out the background to the Hearing.

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

Decision

The Committee unanimously agreed (a) to accept the proposed vehicle as suitable under Civic Government (Scotland) Act 1982, Section 10(2), and to treat it as an exception to the Vehicle Specification Policy; (b) to treat the application as an exception to its Taxi Numbers Limitation Policy under Civic Government (Scotland) Act 1982, Section 10(3); (c) to continue consideration of the application for a Temporary Licence under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 7.

3.2 Skin Piercing and Tattoo Licence: SPTL/033 (Renewal) Robert Alexander

The licence holder, having been duly cited to attend, was present and accompanied by Gordon Lannigan, Tattoo Artist.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated to the licence holder.

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

Decision

The Committee unanimously agreed to (a) recall the suspension under Paragraph 12 (6) of Schedule 1 of the Civic Government (Scotland) Act 1982; (b) consent to a material change of circumstances under Paragraph 9(2) of Schedule 1 of the Civic Government (Scotland) Act 1982, in that Mr Lannigan will now be a joint holder of the licence; (c) grant the renewal of the licence under Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (d) discharge the hearing under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 previously intimated.

The meeting ended at 11.25 a.m.

NORTH AYRSHIRE COUNCIL

9th January 2019

Licensing Committee

Title: **Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)**

Purpose: To advise Committee of procedure

Recommendation: That the Committee agrees:

- (a) to approve the proposed timetable for the Review and Fixing Process, as set out in the Appendix to this Report; and
- (b) to set a date and time for the Trade Consultation meeting with Taxi Operators.

1. Executive Summary

- 1.1 The Licensing Committee exercises 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.
- 1.3. The Licensing Authority must fix those Scales within 18 months of the current Scales coming into effect. The current Scales came into force on 17th December 2017, so the Licensing Authority must fix the new Scales by 17th June 2019.
- 1.4. Before fixing Scales the Licensing Authority must review the Scales in accordance with Section 17(4A). The Appendix to this Report sets out a possible timetable for the review process.

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) First Committee Meeting - Trade Consultation (Section 17(4A)(a))

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 Council will:

- send letters to the principal trade associations inviting them to attend
- write to individual holders of Taxi Licences

A Notice would be placed on the Council website and on the Council's Facebook page. In past Consultations the meeting has been set for 10.00 a.m., and some operators have stated that this was too early for them.

As in past years, the Committee will have information about:

- the current Scales in North Ayrshire
- the rate of inflation
- the Scales set by other Licensing Authorities. The Committee should treat this information with caution as each Authority has its own charging basis, so comparison may not always be possible.

(b) Second Committee Meeting - Proposal (Section 17(4A)(b))

Following the Trade Consultation the Licensing Authority must review the existing Scales, and propose new Scales, whether at altered rates or the same rates;

(c) Public Consultation - First Advertisement (Section 17(4A)(c))

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) Third Committee Meeting - Fixing the Scale (Section 17(2))

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 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 scale has been fixed and will shortly come into effect.

2.2 The process of reviewing and fixing Taxi Fare Scales does not have a direct cost to the Trade, but it may have an indirect effect. In the event of an appeal to the Traffic Commissioner, the Licensing Authority must pay the Traffic Commissioner's account, regardless of the outcome of the Appeal: Section 18(10). The Council paid the Traffic Commissioner £4,277 after the 2015-16 Appeal. Such expenditure could be reflected in future Taxi Licence fees, as the reviewing and setting of Taxi Fare Scales is one of the 'functions' mentioned in 1982 Act, Schedule 1, Paragraph 15:

"A Licensing Authority shall charge such fees in respect of Taxi and Private Hire Car Licences and Applications for such Licences as may be Resolved by them from time to time and shall seek to ensure that the total amount of such fees is sufficient to meet the expenses incurred by them in carrying out their functions under sections 10 to 23 (other than section 19) of this Act in relation to such Licences."

3. Proposals

3.1 It is proposed that the Committee agrees 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

Financial:	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:	None

Legal:	Possible appeal to the Traffic Commissioner.
Equality:	Any equalities issues, whether raised through the review process or otherwise will be addressed as part of the consideration of proposed scales.
Children and Young People:	Similarly any impacts on children and young persons will be addressed as part of the consideration of proposed scales.
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 Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active")
Community Benefits:	There are no community benefits payable.

5. Consultation

- 5.1 Full consultation with the Trade and general public will be carried out in terms of the proposals detailed in this report.



Andrew Fraser
Head of Democratic Services

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

Background Papers

Possible timetable – Taxi Fare Review 2019

Possible timetable - Taxi Fare Review 2019

(Stages as described in Report)

Stage	Action	Date
(a)	Meeting with taxi trade representatives/taxi operators to discuss proposals, consider revisions and finalise draft tariff	To be arranged
(b)	Licensing Committee meeting to approve finalised draft tariff and to authorise advertisement of the proposed tariff in local press	Wednesday 6 th March 2019
(c)	Newspaper advertisement for Public Consultation	as soon as possible after meeting on 6 th March 2019
(d)	<p>Licensing Committee meeting to consider representations, to fix new Scales, and set Effective Date (subject to appeal).</p> <p>This meeting is to be:</p> <ul style="list-style-type: none"> - at least one month after the first publication by the authority of the proposed scales, and - within 18 months of the current Scales coming into effect. <p>The current Scales came into force on 17th December 2017, so the Stage (d) meeting must be by 17th June 2019.</p>	Wednesday 8 th May 2019
(e)	Notification to Trade that new Scales have been fixed - within 7 days of the Stage (d) Meeting	Wednesday 15 th May 2019
(f)	Advertise new Scales (if no appeal to the Traffic Commissioner)	Not less than 14 days after the Notification in Stage (e)
(g)	Advertise new Scales (if there is an appeal)	as soon as practicable after the determination of the appeal.

NORTH AYRSHIRE COUNCIL

9th January 2019

Licensing Committee

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

Purpose: To advise the Committee of

- (a) Hearings to be determined
- (b) Applications for the grant or renewal of licences and permits; under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit.

Recommendation:

- 1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which any of the matters in this Report are to be considered.
- 2. That the Committee consider and determine the matters before them.

1. Executive Summary

1.1 The Licensing Committee's remit is to exercise the Council's licensing functions. These functions arise under many statutes, mainly the Civic Government (Scotland) Act 1982. Depending on the legislation and the circumstances of each individual case, the Committee is entitled to grant, refuse, renew, vary, suspend and revoke Licences.

2. Background

2.1 The Committee's business under the 1982 Act is as follows:

- 1. Licences and Permits where Hearings have been convened – Appendix A
- 2. Applications for the grant or renewal of Licences and Permits – Appendix B

Exempt Information

2.2. The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. The information is covered by one or more of the following categories of "Exempt Information" under Schedule 7A:

Paragraph 3: "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."

Paragraph 6: "Information relating to the financial or business affairs of any particular person (other than the authority)."

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

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

2.3. The details of the cases in the Appendices, with any relevant documents (such as letters from the Police or objectors) are in the background papers given to Committee Members and will be sent to the respective Applicants or Licence-Holders before the Meeting. The Schedules are excluded from the published Agenda under Local Government (Scotland) Act 1973, Section 50B(2) and (5). This has been done as the Clerk considers that the meeting is likely not to be open to the public while those Schedules are being considered, as they contain "Exempt Information".

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

2.5. For example:

Paragraph 3 could apply in relation to information or advice requested by a member of the public.

Paragraph 6 could apply to a business activity (such as where an Applicant wants a Licence for business or employment).

Paragraphs 14 or 15 could apply where it was alleged that there was criminal conduct or anti-social behaviour committed by or against a Licence-Holder or Applicant for a Licence, or where the Committee was told that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

- 3.1 It is proposed that the Committee consider and determine each of the listed cases in accordance with the required procedure.

4. Implications

Financial:	There are possible financial implications in relation to any Licensing decision.
Human Resources:	None
Legal:	There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.
Equality:	The Clerk has considered the "Public Sector Equality Duty" in preparing the Appendices and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.
Children and Young People:	Licensing does not automatically affect under 18s but in particular cases the Committee will be given relevant information.
Environmental & Sustainability:	None
Key Priorities:	An effective licensing system, e.g. monitoring the 'fit and proper' status of licence holders; and the safety of hire cars, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active").
Community Benefits:	Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

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



Andrew Fraser
Head of Democratic Services

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

Background Papers

None

Hearings (Appendix A)

Case 1	Taxi Driver's Licence	TDL/00893 (Renewal)
Applicant	William Gillies	
Case 2	Taxi Driver's Licence	TDL/01754 (New)
Applicant	Derek Boyd	
Case 3	Taxi Driver's Licence	TDL/02141 (New)
Applicant	Brian McNamee	
Case 4	Taxi Driver's Licence	TDL/02145 (New)
Applicant	Steven Arrol	
Case 5	Taxi Driver's Licence	TDL/02138 (New)
Applicant	Nicola Drummond	
Case 6	Window Cleaner's Licence	WCL/005 (New)
Applicant	Partnership of James McCallum Jamie McCallum Ewan McCallum	
Case 7	Taxi Driver's Licence	TDL/01665
Licenceholder	Margaret Wardrop	

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
SHDL/132 (renewal)	MLD Zambonini Ltd
Premises	Cash Generator Unit 2 30 Bridgegate Irvine KA12 8BQ
SHDL/202 (New)	Dean Nimmo
Premises	2B Alexandra Terrace Kilwinning
SHDL/203 (New)	Lyndsey McSkimming
Premises	Springside Tyre and Valet Centre 4A Overtoun Road Springside
TDL/01168 (New)	Paul McPherson
TDL/01470 (New)	Kerr Chapman
TDL/02142 (New)	John Hart
TL/116 (Renewal)	Kevin Blades
WCL/015 (New)	George Kearney
WCL/018 (New)	John Priestly

Note:

SHDL	Second Hand Dealer's Licence
TDL	Taxi Driver's Licence
TL	Taxi Operator's Licence
WCL	Window Cleaner's Licence

NORTH AYRSHIRE COUNCIL

9th January 2019

Licensing Committee

Title: **Landlord Registration under the Antisocial Behaviour etc (Scotland) Act 2004, Part 8**

Purpose: To inform the Committee of Landlord Registration matters.

Recommendation:

1. That the Committee should decide whether or not to make a Resolution excluding the public from the meeting at which this Report and its Schedules is to be considered;
2. For each Application or Review Proposal described in the Schedules: That the Committee should consider each case and
 - (a) decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;
 - (b) if appropriate, decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice') in respect of any house, or to delegate authority to the Clerk to issue such a Notice.

1. Executive Summary

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

2. Background

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

2.2 Exempt Information

The Committee will consider "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A. The information is covered by one or more of the following categories of "Exempt Information" under Schedule 7A:

Paragraph 3: "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."

Paragraph 6: "Information relating to the financial or business affairs of any particular person (other than the authority)."

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

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

2.3 The Schedules are in the background papers given to Committee Members and will be sent to the respective Landlords before the Meeting. The Schedules are excluded from the published Agenda under Local Government (Scotland) Act 1973, Section 50B(2) and (5). This has been done as the Clerk considers that the meeting is likely not to be open to the public while those Schedules are being considered, as they contain "Exempt Information".

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

2.5 For example:

Paragraph 3 could apply in relation to information or advice requested by a member of the public.

Paragraph 6 could apply to a business activity (such as where an Applicant wants a Licence for business or employment, or where a Landlord lets a house).

Paragraphs 14 or 15 could apply where it was alleged:

- a) that there was anti-social behaviour committed by the Tenant of a rented house, involving crime or nuisance, or
- b) that the state of repair of the rented house indicated that the Landlord had defaulted in his/her legal obligations, or

- c) that the Landlord had defaulted in another obligation applying to Landlords, or
- d) that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

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

4. Implications

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

<p>Legal:</p>	<p>There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.</p> <p>If the Council makes a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected (Section 94(3) & (8)).</p> <p>For example:</p> <p>(a) the Tenant will continue to have whatever security of tenure he/she already had (and cannot be evicted for non-payment of rent where that non-payment is due to the RPN);</p> <p>(b) the Landlord will only be entitled to evict the Tenant if the First-Tier Tribunal grants an Eviction Order;</p> <p>(c) the Landlord will continue to have repairing obligations.</p> <p>If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).</p>
<p>Equality:</p> <p>Children and Young People:</p>	<p>The Clerk has considered the "Public Sector Equality Duty" in preparing the Appendices and any specific equalities impacts will be evaluated where appropriate. Unless the Clerk advises the Committee otherwise in a particular case, there are no significant equalities impacts to be considered.</p> <p>None - where the Clerk has information about under-18s living in rented houses, this may be set out in the Schedules.</p>
<p>Environmental & Sustainability:</p>	<p>None</p>
<p>Key Priorities:</p>	<p>An effective licensing system, e.g. monitoring the 'fit and proper' status of Landlords and the suitability of rented houses, helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active")</p>
<p>Community Benefits:</p>	<p>Not applicable, as the Report does not relate to tendering or procurement exercises.</p>

5. Consultation

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

A handwritten signature in blue ink, appearing to read 'A. Fraser', with a stylized flourish at the end.

Andrew Fraser
Head of Democratic Services

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

Background Papers

None