



**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, 10 April 2019** at **14:00** 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 meeting held on 6 March 2019 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1983 (copy enclosed).

**3      Taxi Fare Review**

Submit report by the Head of Democratic Services on the Taxi Fare Review process (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 and applications for the grant or renewal of licences and permits, 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.

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## **Licensing Committee Sederunt**

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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**, 6 March 2019 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Robert Barr, Scott Gallacher, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen (Items 1 – 5.8).

**In Attendance**

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

**Also in Attendance**

Inspector David Cameron and Sergeant David Dougan (Police Scotland) (Items 1 – 5.9), Hector McLeod and Alex Clayton (Pennyburn Tenants and Residents Association) (Item 5.8 only) and caravan site residents (Item 6 only).

**Chair**

Councillor McNicol in the Chair.

**Apologies**

Todd Ferguson and John Easdale.

**1. Chair Remarks**

In terms of Standing Order 9.4, the Chair agreed to vary the order of business to allow earlier consideration of the Caravan Site Licensing report.

The Chair further agreed, in terms of Standing Order 9.5, to consider applications for Public Entertainment Licences from Cardona (Kilwinning Sports Club) and Taylors Funfair Ltd (Irvine Moor), at Item 5.8 and 5.9 respectively, as a matter of urgency to allow the matters to be actioned without delay.

**2. Declarations of Interest**

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

**3. Minutes**

The Minutes of the meeting held on 6 February 2019 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

#### **4. 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."

#### **5. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters**

Submitted report by the Head of Democratic Services 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**

#### **5.1 Taxi Driver's Licence TDL/01615 (Renewal) - Kevin Kyle**

The Committee at its meeting on 6 February 2019 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, was present and accompanied by his employer. 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 licence holder. The representatives from Police Scotland then addressed the Committee on a letter setting out a representation in respect of the application.

The licence holder and his employer then addressed the Committee on the issues raised and responded to questions.

The licence holder, his employer 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 Reid, moved that the Committee grant the application, subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

### **5.2 Taxi Driver's Licence TDL/01935 (New) - Andrew Watt**

The Committee at its meeting on 6 February 2019 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, 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 a letter setting out an objection in respect of the application.

The applicant then addressed the Committee on the 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 Reid, seconded by Councillor McTiernan, moved that the Committee grant the application, subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

### **5.3 Window Cleaner's Licence WCL/042 (New) - James Affleck**

The applicant, having been duly cited, 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 a letter setting out a representation in respect of the application.

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

## **Decision**

Councillor Gallacher, seconded by Councillor Reid, moved that the Committee grant the application, subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years. There being no amendment, the motion was declared carried.

### **5.4 Window Cleaner's Licence WCL/043 (New) - David Frew**

The applicant, having been duly cited, 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 a letter setting out a representation in respect of the application.

The applicant then addressed the Committee on the 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 Gallacher, seconded by Councillor McClung, moved that the Committee grant the application, subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years. There being no amendment, the motion was declared carried.

### **5.5 Window Cleaner's Licence WCL/062 (New) - Andrew S McKenna**

The applicant, having been duly cited, 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 a letter setting out an objection in respect of the application.

The applicant then addressed the Committee on the 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 Reid, seconded by Councillor Gallacher, moved that the Committee grant the application, subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of three years. There being no amendment, the motion was declared carried.

### **5.6 Public Entertainment Licence PEL/581 (Temp) - William Newsome**

The applicant, having been duly cited to attend, was present and accompanied by a friend.

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 a letter setting out a representation in respect of the application.

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

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

## **Decision**

Councillor Reid, seconded by Councillor McTiernan, moved that the Committee delegate authority to the Solicitor (Licensing) to grant the application for:-

Wednesday 13 March 2019	6.00 p.m. - 9.00 p.m.
Thursday 14 March 2019	6.00 p.m. - 9.00 p.m.
Friday 15 March 2019	6.00 p.m. - 9.00 p.m.
Saturday 16 March 2019	1.00 p.m. - 9.00 p.m.
Sunday 17 March 2019	1.00 p.m. - 6.00 p.m.

subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982, on receipt of a satisfactory report from Environmental Health. There being no amendment, the motion was declared carried.

### **5.7 Public Entertainment Licences PEL/579 & PEL/580 - ANI Leisure Funfairs**

The applicant, having been duly cited to attend, was present and accompanied by a relative.

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 a letter setting out a representation in respect of the application.



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

## **Decision**

The Committee unanimously agreed to grant the application for 30 March until 22 April 2019 (Monday - Sunday, noon until 9.00 p.m.), subject to (i) the Council's standard conditions in terms of Paragraph 5 (1)(a) of Schedule 1 of the Civic Government (Scotland) Act 198,; (ii) payment by the applicant within 7 days of an additional £90 inspection fee to Protective Services, and (iii) the provision of stewarding.

At 11.50 a.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 12 noon with the same Members and Officers present and in attendance.

### **5.8 Public Entertainment Licence PEL/583 - Cameron Codona**

The applicant, having been duly cited to attend, was present and accompanied by his wife.

Representatives from Police Scotland and Pennyburn Tenants and Residents Association were also in attendance.

The Committee had written representations from:-

- (a) Pennyburn Tenants and Residents Association (PTARA)
- (b) Kilwinning Community Council
- (c) Hector Macleod, PTARA
- (d) a constituent to Councillor Donald Reid
- (e) Pennyburn Regeneration Youth Development Enterprise (PRYDE)
- (f) Police Scotland

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 a letter setting out an objection in respect of the application. Representatives from Pennyburn Tenants and Residents Association also expressed their objections to the application.

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

The applicant, his wife, representatives from Police Scotland and Pennyburn Tenants and Residents Association then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

## **Decision**

Councillor Reid, seconded by Councillor Gallacher moved that the Committee (a) grant the application for:-

Thursday 21 March 2019	3.00 p.m. - 6.00 p.m.
Friday 22 March 2019	3.00 p.m. - 6.00 p.m.
Saturday 23 March 2019	12.00 noon - 6.00 p.m.
Sunday 24 March 2019	12.00 noon - 6.00 p.m.

subject to the Council's standard conditions in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that any future applications for Public Entertainment Licences for that location should be referred to the Committee. There being no amendment, the motion was declared carried.

Councillor Stephen left the meeting at this point.

### **5.9 PEL/584 – Taylor's Funfair**

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 a letter setting out a representation in respect of the application.

The applicant then addressed the Committee on the 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**

The Committee unanimously agreed to grant the application for:-

Thursday 21 March 2019	6.00 p.m. - 9.00 p.m.
Friday 22 March 2019	6.00 p.m. - 9.00 p.m.
Saturday 23 March 2019	1.00 p.m. - 9.00 p.m.
Sunday 24 March 2019	1.00 p.m. - 9.00 p.m.
Monday 25 March 2019	6.00 p.m. - 9.00 p.m.
Tuesday 26 March 2019	6.00 p.m. - 9.00 p.m.
Wednesday 27 March 2019	6.00 p.m. - 9.00 p.m.
Thursday 28 March 2019	6.00 p.m. - 9.00 p.m.
Friday 29 March 2019	6.00 p.m. - 9.00 p.m.
Saturday 30 March 2019	1.00 p.m. - 9.00 p.m.

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.

The representatives from Police Scotland left the meeting at this point.

## **6. Caravan Site Licensing**

Submitted report by the Head of Democratic Services on Caravan Site licensing matters.

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

Residents from the caravan site were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Mrs S, a resident of the caravan site and spokesperson for a number of residents expressed concerns relating to the application. Mr H, also a resident of the caravan site and spokesperson for a number of residents expressed support for the application.

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

The applicant's Solicitor gave the Committee undertakings:

- (a) that there would be gritting of the roads and footpaths on the Site;
- (b) that if 50% of the residents wanted a "Qualifying Residents' Association" under the Mobile Homes Act 1983, Schedule 1, Paragraph 31 (as that Schedule is amended by The Mobile Homes Act 1983 (Amendment of Schedule 1) (Scotland) Order 2013 No. 219) there would be one;
- (c) that the Owner's obligations under Paragraph 25 to consult Occupiers, to consult a "Qualifying Residents' Association", and to provide the Occupiers with information would apply; and
- (d) that the site would now apply the energy resale rules.

### **Decision**

Councillor Reid, seconded by Councillor Barr moved that the Committee grant the application for grant of a "Part 1A Site Licence" under the Caravan Sites and Control of Development Act 1960, as amended by the Housing (Scotland) Act 2014, subject to the conditions made by the Council on 2 January 2019 (which, in relation to this site, were to be qualified by a dispensation in respect of the requirement for a public telephone within the grounds of the site). There being no amendment, the motion was declared carried.

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

### **5.9 TDL/02073 (Renewal) - David Patton**

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

### **5.10 TDL/02156 (New) - James Cantillon**

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

### **5.11 TDL/02159 (New) - Andrew Vost**

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

### **5.12 WCL/038 (New) - Gareth McBride**

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

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

The Committee was advised that there were no Landlord Registration cases to be considered at this time.

The meeting ended at 1.45 p.m.

## NORTH AYRSHIRE COUNCIL

10 April 2019

Licensing Committee

<b>Title:</b>	Civic Government (Scotland) Act 1982: Taxi Fare Review
<b>Purpose:</b>	To continue the Taxi Fare Review
<b>Recommendation:</b>	<p>That the Committee:</p> <ul style="list-style-type: none"> <li>(a) review the current scale and approve in draft the scale set out as Appendix D to this report, as varied by the Committee;</li> <li>(b) instruct the Chief Executive to give public notice of that draft;</li> <li>(c) continue consideration of the Review until a further meeting of the Committee at least one month after that public notice has been given.</li> </ul>

### 1. Executive Summary

1.1 Under of the Civic Government (Scotland) Act 1982, the Council as Licensing Authority is required to review the maximum fare that taxis operating within North Ayrshire may charge. The 1982 Act requires that this should be done at maximum intervals of eighteen months.

1.2 The Act lays down a sequence of stages for the review. Accordingly, when the Committee met on 9 January 2019 it adopted the following scheme:

Stage (a) - Meeting with taxi trade representatives/taxi operators to discuss proposals, consider revisions and finalise draft tariff

Stage (b) - Licensing Committee meeting to approve finalised draft tariff and seek authority to advertise proposed tariff in local press

Stage (c) - Public Consultation - Advertise proposals and invite representations - As soon as possible thereafter

Stage (d) - Licensing Committee meeting to consider representations and to fix new Scales

Stage (e) - Notification to Trade - within 7 days of (d)

Stage (f) - Advertise new Scales (if no appeal to the Traffic Commissioner) - Not less than 14 days after the Notification in Stage (e)

Stage (g) - Advertise new Scales (if there is an appeal) - as soon as practicable after the determination of the appeal.

- 1.3 The fares approved by the Committee are the maximum fares which may be charged. Operators can charge less if they wish. While the Council must review fare levels periodically, it does not have to alter the existing fares.
- 1.4 Once the fares have been reviewed and fixed, taxi operators have a right of appeal to the Traffic Commissioner for the Scottish Traffic Area, should they disagree with the Council's decision.

## **2. Background**

- 2.1 The Committee held the Stage (a) meeting with interested parties on 29 March 2019. A Minute of that meeting is attached as Appendix A to this Report.

2.2 The present Committee meeting is Stage (b). The Committee are to review the current scale and propose a new draft scale. A possible draft of proposed scales is attached as an Appendix for the purpose of discussion (Appendix D). The proposed scales are only a draft. Once approved by the Committee for publication, they will be advertised so that the public can make representations (Stage (c)). The consultation period is at least one month. After the consultation period, the Committee will meet again to consider the draft, and any public representations, and then fix the scale (Stage (d)).

- 2.3 In preparing a draft scale, the Committee should consider:

- (a) Government Guidance on how Licensing Authorities should approach Fare Reviews;
- (b) the current Scales;
- (c) general economic indicators;
- (d) the views of the Trade.

### (a) Government Guidance

2.4 The Government Guidance is in "Taxi and Private Hire Car Licensing: Best Practice for Licensing Authorities", Second Edition, April 2012, Paragraph 6.2. This adopts the guidance in Scottish Development Department Circular 25/1986. The relevant part of that is Paragraph 2.37:

*"The Secretary of State expects that in fixing fares authorities will want to pay primary regard to the costs incurred by the trade, having regard to the capital costs. (including interest payments) of the vehicles, the costs of maintaining and replacing them to the*

*standards required by the licensing authority, the costs of employing drivers, and the prevailing levels of wages and costs in related road transport industries. In the Secretary of State's view the public interest is better served by ensuring the maintenance of an adequate taxi service by giving the trade a fair return than by depressing fares for social reasons, however understandable. If fares are fixed at a level higher than the market can stand, the trade is free to reduce them."*

#### (b) the current Scales

2.5 Appendix B ("Illustration of possible Tariff increases") was issued to Members and also the attendees at the Trade Consultation.

This document is in two parts:

- (A) Current Scales (pages 1 - 2);
- (B) Percentage increases, showing how the fares would change for different percentage increases (pages 3 - 4).

#### (c) general economic indicators

2.6 Appendix C ("Inflation Figures ('Consumer Price Index')") shows figures supplied by the Government statistical office (the "Office of National Statistics"). These figures are updated monthly, so if the figures have changed in the few days between the Trade Meeting and the Committee meeting then the Committee will either have a document in the same, or an oral update. The figures here are counted from when the Licensing Committee fixed the current Scales (11 December 2017).

#### (d) the views of the Trade

2.7 These are set out in Appendix A, in so far as stated at the Consultation meeting, and where individuals have made written representations, these will be copied in Members' background papers.

### **3. Proposals**

3.1 A possible draft of the Taxi Fare Scales is in Appendix D. This was prepared by the Clerk following the Trade Meeting, after considering the Government Guidance quoted above and the statistical indicators which appear to be relevant to the Taxi Fare Review. It is open to anyone participating in the review process to suggest that the Licensing Committee should consider other factors. In order to keep to the statutory timetable, anyone making any representations about the draft should make them during the subsequent public consultation.

3.2 Notes 1..4 are in the current Fare Card. Notes 5..6 are proposed for the 2019 Fare Card.

- 3.3 The Committee should review the Scales, adopt a draft proposal, and instruct the Chief Executive to give public notice of that draft.



#### 4. Implications/Socio-economic Duty

<b>Financial:</b>	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.
<b>Human Resources:</b>	None.

<b>Legal:</b>	Possible appeal to the Traffic Commissioner.
<b>Equality/Socio-economic Duty:</b>	<p>Equality Act 2010 imposes duties on the Council:</p> <p>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council</p> <p><i>"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."</i></p> <p>Section 149(1) ("Public sector equality duty") the Council</p> <p><i>"must, in the exercise of its functions, have due regard to the need to—</i></p> <p><i>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</i></p> <p><i>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</i></p> <p><i>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</i></p> <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>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.</p>
<b>Children and Young People:</b>	See "Equality/Socio-economic Duty"
<b>Environmental &amp; Sustainability:</b>	None.

<b>Key Priorities:</b>	An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress towards one of the "Priority Areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire". Setting fares at a level which balances the needs of taxi operators and passengers and is likely to maintain the level of service provision is consistent with Priority Area "A Working North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

## 5. Consultation

5.1 No consultations are required apart from those described in this Report.

Andrew Fraser  
Head of Democratic Services

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

## Background Papers

Appendix A - Minute of Trade Consultation meeting

Appendix B - Illustration of possible Tariff increases

Appendix C - Inflation Figures (Consumer Price Index)

Appendix D - draft proposed Fare Card

## **Civic Government (Scotland) Act 1982: Taxi Fare Review**

**Minute of Trade Consultation meeting under Section 17(4A)(a) held on Friday 29 March 2019 at 10.00 a.m. in the "Garnock Valley" and "Three Towns" Rooms at Cunninghame House, Irvine**

### **Councillors Present:**

Ronnie McNicol (Convenor), Robert Barr, Donald L. Reid, Scott Gallacher, Davina McTiernan, Jean McClung.

### **Council officers in Attendance:**

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant.

### **Operators of Taxis in Attendance:**

Kirsten Stahly  
Piotr Stachowski  
Jim McKerrell  
Mohamed Asli  
Craig Spence  
Kevin Blades  
David Barbour

### **Others:**

W.H. Taylor

The Convenor opened the meeting by referring to the documents which had been handed to those present:

Document 1 - "Illustration of possible Tariff increases"

Document 2 - "Inflation Figures ('Consumer Price Index')"

He said that the Solicitor (Licensing) would explain these documents and outline procedure.

W. O'Brien told the meeting that the Licensing Committee would meet on 10 April 2019 to make a proposal for draft Taxi Fare Scales. This was only a draft, not a decided tariff, and would be published in newspapers. The public, including the operators present today, would have 28 days to make any comments they wanted. There would then be a further meeting of the Committee, which would make a decision on the Scales. That decision would include an effective date, which would be a Monday, and operators would have to have their meters recalibrated and collect new fare cards.

He explained the documents:

Document 1 ("Illustration of possible Tariff increases") was in two parts:

(A) Current Scales (pages 1 - 2)

(B) Percentage increases, showing how the fares would change for different percentage increases (pages 3 - 4)

He told the meeting that Document 2 - "Inflation Figures ('Consumer Price Index')" showed figures supplied by the Government statistical office (the "Office of National Statistics"). He explained that these figures are updated monthly, so when the Committee meets on 10 April the Committee will have a document in that form, either the one today or one with updated figures.

The Convenor invited those present to make comments.

**JIM McKERRELL (Three Towns TOA)**

He referred to the written representation which he had submitted, signed by his members, with an amended Tariff Card showing his proposals, including 10p added to the flagfall, and reduced waiting time from 25 to 20 seconds.

**KEVIN BLADES**

He agreed with Mr. McKerrell.

**CRAIG SPENCE**

He also agreed with Mr. McKerrell.

**KEVIN BLADES**

He commented that 10p is not a lot of money, and customers would not complain.

**CLLR. REID**

He referred to the figures from the Office of National Statistics, and commented that Diesel had increased 4.7% since the current Scales came into effect.

**KIRSTEN STAHLY**

She said that the taxi fares had to go up, to keep up with the Trade's outgoings. Licence fees went up every year. The taxi business was quieter.

**CONVENOR**

He told the meeting the Council wanted to keep jobs.

**CLLR. McCCLUNG**

She asked would the proposed extra 10p cover the cost of diesel?

**CRAIG SPENCE**

He said that this would not cover the cost, but that the fares could not be put up more. There was not enough work in Irvine.

(there was general agreement from other Trade attendees to these comments)

**KEVIN BLADES**

He referred to roadworks in Irvine High Street, and people staying at home. The Internet was taking over from shops, the High Street was quiet.

**CRAIG SPENCE**

He commented that even Friday nights were quiet

**W. O'BRIEN**

He explained procedure, e.g. advertisement of proposals, recalibration, new cards.

**JIM McKERRELL**

He wanted the Committee on 10 April 2019 to be told that the Trade view was unanimous. He pointed out that he's sent a list of signatures, which was actually more than were in the room today.

**CLLR. BARR**

He noted that there was no dissent.

**CLLR. GALLACHER**

He said that after the last Fare Review, on social media the Council got abuse from Taxi Drivers who had not come to the consultation.

**JIM McKERRELL**

He observed that there were no operators from the "North Coast" Zone present today.

**A. TOAL**

She advised that there had been one comment by telephone from an operator on Arran.

The Convenor thanked everyone for attending. The meeting ended at 10.16.

North Ayrshire Council  
Taxi Fare Scales Review (2019)

Illustration of possible Tariff increases:

- (A) Current Scales (from 11 Dec 2017)  
(B) Percentage increases

Rounding means that some of the figures are not exact:  
Figures are rounded-up to the next higher 10p

**(A) Current Scales**

<b>Tariff 1 (Day (7.00 am to midnight), unless T2 or T3)</b>	
Flagfall (first 3/4 mile)	2.80
Mileage	1.80
Examples:	
1 mile journey	3.30
2 mile journey	5.10
3 mile journey	6.90
4 mile journey	8.70
5 mile journey	10.50

<b>Tariff 2 (night, Sundays, Public Holidays, DAY across Zones, Xmas Eve, Hogmanay)</b>	
Flagfall (first 3/4 mile)	3.20
Mileage	1.90
Examples:	
1 mile journey	3.70
2 mile journey	5.60
3 mile journey	7.50
4 mile journey	9.40
5 mile journey	11.30

**(A) Current Scales**

<b>Tariff 3 (NIGHT across Zones)</b>	
T1 plus 50%	
Flagfall (first 3/4 mile)	4.20
Mileage	2.70
Examples:	
1 mile journey	4.90
2 mile journey	7.60
3 mile journey	10.30
4 mile journey	13.00
5 mile journey	15.70

<b>Tariff 4 (Xmas Day, New Year's Day)</b>	
Double T1	
Flagfall (first 3/4 mile)	5.60
Mileage	3.60
Examples:	
1 mile journey	6.60
2 mile journey	10.20
3 mile journey	13.80
4 mile journey	17.40
5 mile journey	21.00

**(B) Percentages**

Part (B) shows how the fares would change for different percentage increases.

FOR EXAMPLE:

The current Tariff 1 flagfall is £2.80 and the mileage is £1.80.  
If the Tariff had a 1.5% increase, the flagfall would be £2.90 and the mileage would be £1.90.

The charges for journeys would change:  
a 1 mile journey would increase from £3.30 to £3.40.  
a 2 mile journey would increase from £5.10 to £5.30.  
a 3 mile journey would increase from £6.90 to £7.20.

Increase (%)	0.5%	1.0%	1.5%	2.0%	2.5%	3.0%
<b>Tariff 1 (Day)</b>						
Flagfall	2.90	2.90	2.90	2.90	2.90	2.90
Mileage	1.90	1.90	1.90	1.90	1.90	1.90
Examples:						
1 mile journey	3.40	3.40	3.40	3.40	3.40	3.40
2 mile journey	5.30	5.30	5.30	5.30	5.30	5.30
3 mile journey	7.20	7.20	7.20	7.20	7.20	7.20
4 mile journey	9.10	9.10	9.10	9.10	9.10	9.10
5 mile journey	11.00	11.00	11.00	11.00	11.00	11.00

<b>Tariff 2 (night etc)</b>						
Flagfall	3.30	3.30	3.30	3.30	3.30	3.30
Mileage	2.00	2.00	2.00	2.00	2.00	2.00
Examples:						
1 mile journey	3.80	3.80	3.80	3.80	3.80	3.80
2 mile journey	5.80	5.80	5.80	5.80	5.80	5.80
3 mile journey	7.80	7.80	7.80	7.80	7.80	7.80
4 mile journey	9.80	9.80	9.80	9.80	9.80	9.80
5 mile journey	11.80	11.80	11.80	11.80	11.80	11.80

**(B) Percentages**

Increase (%)	0.5%	1.0%	1.5%	2.0%	2.5%	3.0%
<b>Tariff 3 (NIGHT across Zones)</b>						
T1 plus 50%						
Flagfall	4.30	4.30	4.30	4.30	4.30	4.40
Mileage	2.80	2.80	2.80	2.80	2.80	2.80
Examples:						
1 mile journey	5.00	5.00	5.00	5.00	5.00	5.10
2 mile journey	7.80	7.80	7.80	7.80	7.80	7.90
3 mile journey	10.60	10.60	10.60	10.60	10.60	10.70
4 mile journey	13.40	13.40	13.40	13.40	13.40	13.50
5 mile journey	16.20	16.20	16.20	16.20	16.20	16.30

<b>Tariff 4 (Xmas, New Year)</b>						
Double T1						
Flagfall	5.70	5.70	5.70	5.80	5.80	5.80
Mileage	3.70	3.70	3.70	3.70	3.70	3.80
Examples:						
1 mile journey	6.60	6.60	6.60	6.70	6.70	6.70
2 mile journey	10.30	10.30	10.30	10.40	10.40	10.50
3 mile journey	14.00	14.00	14.00	14.10	14.10	14.30
4 mile journey	17.70	17.70	17.70	17.80	17.80	18.10
5 mile journey	21.40	21.40	21.40	21.50	21.50	21.90

**Multipliers (for percentages)**

1.005	1.010	1.015	1.020	1.025	1.030
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0.10 Mileage Unit Charge (in Pounds) (MUC)  
(ALL TARIFFS)

**Tariff 1**

The MILEAGE charge is charged in 10p units.

0.1

How far (in yards) does 10p take the car?

A mile has these UNITS:

18.0

Each unit takes the car (yards):

97.8

A quarter mile is 440 yards, or

4.5 of these UNITS, which is rounded-up

5.0 units of 10p each (UNIT\_T1)

**Tariff 2**

The MILEAGE charge is charged in 10p units.

How far (in yards) does 10p take the car?

A mile has these UNITS:

19.0

Each unit takes the car (yards):

92.6

A quarter mile is 440 yards, or

4.8 of these UNITS, which is rounded-up

5.0 units of 10p each (UNIT\_T2)

**Tariff 3**

The MILEAGE charge is charged in 10p units.

How far (in yards) does 10p take the car?

A mile has these UNITS:

27.0

Each unit takes the car (yards):

65.2

A quarter mile is 440 yards, or

6.8 of these UNITS, which is rounded-up

7.0 units of 10p each (UNIT\_T3)

**Tariff 4**

The MILEAGE charge is charged in 10p units.

How far (in yards) does 10p take the car?

A mile has these UNITS:

36.0

Each unit takes the car (yards):

48.9

A quarter mile is 440 yards, or

9.0 of these UNITS, which is rounded-up

9.0 units of 10p each (UNIT\_T4)



**North Ayrshire Council**  
**Taxi Fare Scales Review (2019)**

**Inflation figures ("Consumer Price Index")**

	Index Name	START	END	Change
1	'ALL ITEMS'	104.9	106.8	1.8%
	CPI INDEX 00 (2015=100)			
	Series: D7BT			
	Release date: 20 March 2019			
2	'PURCHASE OF VEHICLES'	101.0	105.3	4.3%
	CPIH INDEX 07.1 (2015=100)			
	Series: L543			
	Release date: 20 March 2019			
3	'MAINTENANCE & REPAIRS'	105.2	108.8	3.4%
	CPI INDEX 07.2.3 : 2015=100			
	Series: D7ED			
	Release date: 20 March 2019			
4	'PETROL'	108.1	107.3	-0.7%
	CPI INDEX 07.2.2.2, 2015=100			
	Series ID: L7FP			
	Release date: 20 March 2019			
5	'DIESEL'	107.5	112.5	4.7%
	CPI INDEX 07.2.2.1, 2015=100			
	Series ID: L7FO			
	Release date: 20 March 2019			

**Notes:**

- 1 Source: 'Office for National Statistics' website (<https://www.ons.gov.uk>).
- 2 To help comparison, statistics for values changing over time are often given as an INDEX number, with the value when the figures were first recorded being set at 100. Later values can then be shown relative to 100, so that the change between TWO later times can be shown as a percentage.
- 3 The current Fare Scales took effect on 11 December 2017.
- 4 Indicators are published monthly, and the figures shown are:  
START - December 2017  
END - February 2019

## **Fare Card with effect from Monday 8th July 2019**

### **Tariff 1 (Day): (Tariff 5 if more than 4 passengers are carried)**

All journeys starting or ending in the period 7.00am – 12.00pm (midnight) (except where Tariffs 2 or 3 apply):

For a distance not exceeding  $\frac{3}{4}$  of a mile (or waiting time not exceeding 10mins). £2.90

Each additional  $\frac{1}{19}$  of a mile or additional waiting time of up to 20 seconds 10p

### **Tariff 2 (Nights, Sundays and during day across zones): (Tariff 6 if more than 4 passengers are carried)**

All journeys (except where Tariff 3 applies)

- Starting or ending in the period 12.00pm (midnight) to 7.00am, or
- Starting or ending at any time on Sundays, or
- Starting or ending at any time on the following Public Holidays:  
2 January, Good Friday, early May Bank Holiday, Spring Bank Holiday, Summer Bank Holiday,  
30 November (St Andrew's Day) 26 December (Boxing Day). If a Bank Holiday is on a weekend, the following Monday is treated for this Tariff as a Bank Holiday
- From the zone for which the vehicle is licensed to another zone in North Ayrshire – if the journey starts or ends in the period 7.00am to 12.00pm (midnight)
- On Christmas Eve and Hogmanay from 7.00pm until 12.00pm (midnight)

For a distance not exceeding  $\frac{3}{4}$  of a mile (or waiting time not exceeding 10mins). £3.30

Each additional  $\frac{1}{20}$  of a mile or additional waiting time of up to 20 seconds. 10p

### **Tariff 3 (during night across zones): (Tariff 7 if more than 4 passengers are carried)**

From the zone for which the vehicle is licensed to another zone in North Ayrshire – if the journey starts or ends in the period 12.00pm (midnight) to 7.00am

**Tariff 1 charges (Initial or Additional) plus 50%**

### **Tariff 4 (Festive Periods) (Tariff 8 if more than 4 passengers carried)**

All journeys starting or ending at any time on 25th December or 1st January

**Double Tariff 1 charges (Initial and Additional)**

### **Extra Charges**

If the vehicle starts by carrying more than 4 passengers, the fare is charged as Tariff 1 to 4 (as appropriate) but with 50% added (Tariffs 4 to 8). The higher tariff applies until the hire ends, whether or not any of the passengers leave the vehicle earlier.

Soiling Charge £50

## Notes

1. The fare scale applies to journeys which end **within** North Ayrshire. Fares for journeys beyond the Council area are not set by the Council. They should be agreed between the passenger and the driver **before** the start of the journey.
2. Luggage shall be carried **free** if it is of a size which can reasonably be accommodated in the car.
3. The metered charge is the **maximum** which can be charged. The driver can always charge less.
4. The Tariff 2 and 3 charge applies as soon as the journey starts, and it **does not change** if part of the journey is inside the Night Period, Sunday, Public Holiday, or zone and part outside.
5. The meter can **only** be started immediately before the vehicle moves off, and must be stopped when the vehicle arrives at its destination. The meter cannot be used while the vehicle is being loaded before moving off or being unloaded after the vehicle stops at its destination.
6. There is no extra charge for loading or unloading passengers with wheelchairs, assistance dogs or anything the passenger wants to have carried.

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## NORTH AYRSHIRE COUNCIL

10 April 2019

### Licensing Committee

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

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**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.

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### 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/Socio-economic Duty

<b>Financial:</b>	There are possible financial implications in relation to any Licensing decision.
<b>Human Resources:</b>	None

<b>Legal:</b>	There are possible legal implications in relation to any licensing decision. Depending on the legislation, there may be a right of appeal.
<b>Equality/Socio-economic Duty:</b>	<p>Equality Act 2010 imposes duties on the Council:</p> <p>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council</p> <p>"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."</p> <p>Section 149(1) ("Public sector equality duty") the Council</p> <p>"must, in the exercise of its functions, have due regard to the need to—</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</li> <li>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</li> <li>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</li> </ul> <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>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</p>
<b>Children and Young People:</b>	See "Equality/Socio-economic Duty"
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress towards one of the "priority areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

## **5. Consultation**

- 5.1 Consultations have been undertaken 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



<b>Hearings (Appendix A)</b>		
<b>Case 1</b>	<b>Caravan Site Licence</b>	<b>CAR/036 (New)</b>
<b>Applicant</b>	Mary <b>Watson</b>	
<b>Site</b>	South Whittleburn Farm Brisbane Glen Largs KA30 8SN	
<b>Case 2</b>	<b>Window Cleaner's Licence</b>	<b>WCL/067 (New)</b>
<b>Applicant</b>	Lee <b>Allan</b>	
<b>Case 3</b>	<b>Window Cleaner's Licence</b>	<b>WCL/071 (New)</b>
<b>Applicant</b>	The Partnership of Dean <b>Gallacher</b> & Stephen <b>Spooner</b>	
<b>Case 4</b>	<b>Window Cleaner's Licence</b>	<b>WCL/076 (New)</b>
<b>Applicant</b>	Conor <b>Watson</b>	

### **Applications for Licences/Renewal of Licences (Appendix B)**

<b>Type of Licence/Reference Number</b>	<b>Details of Applicant</b>
<b>TDL/01613 (Renewal)</b>	Peter <b>Strachan</b>
<b>TDL/02160 (New)</b>	Brenda <b>Barratt</b>
<b>TL/424 (New)</b>	Russell <b>Drummond</b>
<b>TL/425 (New)</b>	Russell <b>Drummond</b>
<b>WCL/056 (New)</b>	Andrew <b>Thomson</b>

#### **Note**

TDL – Taxi Driver’s Licence

TL – Taxi Licence

WCL – Window Cleaner’s Licence

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## NORTH AYRSHIRE COUNCIL

10 April 2019

### Licensing Committee

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**Title:** APPENDIX C

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

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**Purpose:** To advise the Committee of complaints received and to outline the Committee's powers.

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**Recommendation:** That the Committee should give preliminary consideration to cases referred as complaints and decide what action, if any, should follow.

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#### 1. Executive Summary

- 1.1 The Council is the Licensing Authority under the Civic Government (Scotland) Act 1982 and licenses various activities regulated by that Act, such as the operation of Taxis and Private Hire Cars, Street Traders and Public Entertainment.

#### 2. Background

- 2.1 The provisions for what is sometimes described as "Ordinary Revocation or Suspension" are in 1982 Act, Schedule 1, Paragraph 11. Paragraphs 11(1) and (2) are:

*"11(1) A Licensing Authority may, whether upon a complaint made to them or not, Suspend or Revoke a Licence in accordance with the provisions of this Paragraph.*

*(2) A Licensing Authority may order the Suspension or Revocation of a Licence if in their opinion—*

*(a) the holder of the Licence or, where the holder is not a natural person, any director of it or partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the Licence;*

*(b) the activity to which the Licence relates is being managed by or carried on for the benefit of a person, other than the Licence holder, who would have been refused the Grant or Renewal of the Licence under Paragraph 5(3) above;*

*(c) the carrying on of the activity to which the Licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety;*

*(d) a condition of the Licence has been contravened."*

- 2.2. The Clerk has received a complaint from a member of the public against a licence-holder.

This complaint contains "Exempt Information" to which Local Government (Scotland) Act 1973, Section 50A to 50K and Schedule 7A apply. The "Exempt Information" 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.

- 2.3. 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 that a Licence-Holder had either defaulted in an obligation applied by the Licence, or committed a criminal offence (whether or not there had been concluded Court proceedings).

- 2.4. The Committee is entitled, but not obliged, to make a Resolution excluding the public from a meeting during consideration of "Exempt Information" (Section 50A(4)). As the Clerk considers that the meeting is likely not to be open to the public while the Schedule is being considered, Section 50B(2) and (5) apply. The particular circumstances of the case are not contained in the publicly-accessible Agenda, but instead are detailed in a confidential Schedule which is marked "Not for Publication".
- 2.5. The Schedule will be circulated to Members. The Minutes will be redacted, and the disclosure of Background Papers will be modified to take account of the "Exempt Information" rules (Sections 50C, 50D).

### **3. Proposals**

- 3.1 The Committee is invited to consider the information in the Schedule and determine what action, if any, is appropriate.

3.2. Options at the preliminary consideration stage are:

[a] continue the case to a later Meeting, to which both the licence-holder and the complainer will be invited. After hearing from all attending the Committee will decide what action, if any, is appropriate (for example, Revocation or Suspension of the Licence, or the issue of a Warning Letter to the licence-holder);

[b] take no action.

3.3. Since the Committee at this stage is only conducting a preliminary consideration of the complaint:

- neither the Licence-Holder nor the Complainer have been invited to attend, and
- neither has a right to address the Committee.

If the Committee now decides to continue the case to a hearing, both parties will be advised and invited to attend. The Licence-Holder will be told of the options available to the Committee if the Committee considers that grounds to Revoke or Suspend the Licence exist.

3.4. If a Hearing is later held, the Committee's powers depend on whether or not the Committee is satisfied that there are grounds to Revoke or Suspend the Licence.

If the Committee is not so satisfied, the proceedings will end without action.

If the Committee is satisfied, it will have to consider what action should be taken. Options will be:

[a] Immediate Revocation of the Licence

[b] Revocation of the Licence

[c] Immediate Suspension of the Licence

[d] Suspension of the Licence

[e] Issue of a warning to the Licence Holder

[f] No action

If the Committee orders Revocation or Suspension, the default position is that the order is postponed for 28 days, to allow any party to appeal to the Sheriff Court. If the Committee considers that the order should be effective immediately, it may so order.

Any suspension is either for a fixed period, set by the Committee, or for the unexpired duration of the Licence.

#### 4. Implications/Socio-economic Duty

<b>Financial:</b>	There are possible financial implications in relation to any Licensing decision.
<b>Human Resources:</b>	None

<b>Legal:</b>	There are possible legal implications in relation to the procedure, although these implications do not arise at the preliminary stage where the Licensing Authority is considering what action, if any, should be taken in relation to a complaint
<b>Equality/Socio-economic Duty:</b>	<p>Equality Act 2010 imposes duties on the Council:</p> <p>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council</p> <p>"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."</p> <p>Section 149(1) ("Public sector equality duty") the Council</p> <p>"must, in the exercise of its functions, have due regard to the need to—</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</li> <li>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</li> <li>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</li> </ul> <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>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.</p>
<b>Children and Young People:</b>	See "Equality/Socio-economic Duty"
<b>Environmental &amp; Sustainability:</b>	None

<b>Key Priorities:</b>	An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress towards one of the "priority areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

## 5. Consultation

5.1 There is no statutory obligation to consult here.

Andrew Fraser  
Head of Democratic Services

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

## Background Papers

None



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## NORTH AYRSHIRE COUNCIL

10 April 2019

### Licensing Committee

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**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;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.

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#### 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/Socio-economic Duty**

<b>Financial:</b>	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.
<b>Human Resources:</b>	None

<p><b>Legal:</b></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) &amp; (8)).</p> <p>For example:</p> <ul style="list-style-type: none"> <li>(a) the Tenant will continue to have whatever security of tenure he/she already had (and cannot be evicted for non-payment of rent where that non-payment is due to the RPN);</li> <li>(b) the Landlord will only be entitled to evict the Tenant if the First-Tier Tribunal grants an Eviction Order;</li> <li>(c) the Landlord will continue to have repairing obligations.</li> </ul> <p>If a RPN is revoked by the Sheriff or Tribunal on appeal by the Landlord, the Tenant only has to pay 'arrears' of rent if, and to the extent, ordered. If a RPN is revoked by the Council then 'arrears' are not due (Section 95(3)).</p>
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<b>Equality/Socio-economic Duty:</b>	<p>Equality Act 2010 imposes duties on the Council:</p> <p>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council</p> <p>"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."</p> <p>Section 149(1) ("Public sector equality duty") the Council</p> <p>"must, in the exercise of its functions, have due regard to the need to—</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</li> <li>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</li> <li>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</li> </ul> <p>The "Relevant Protected Characteristics" are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>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.</p>
<b>Children and Young People:</b>	See "Equality/Socio-economic Duty"
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress towards one of the "priority areas" of the "NAC Community Planning Partnership Local Outcomes Improvement Plan 2017 – 2022 (LOIP): "A Safer North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

## **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

Andrew Fraser  
Head of Democratic Services

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

### **Background Papers**

None