



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, 19 April 2023 at 10:00** to consider the undernoted business.

Meeting Arrangements - Hybrid Meetings

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

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of the Meeting of the Licencing Committee held on 8 March 2023 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

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

Submit report by the Head of Democratic Services to advise the Committee of hearings to be determined - copy enclosed

4 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

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

Chair:

Apologies:

Attending:

IRVINE, 8 March 2023 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

D. Robertson, Enforcement Officer (Legal Services), W. O'Brien, Solicitor, A. Toal, Administration Assistant (Licensing) and H. Clancy, Committee Services Officer (Democratic Services) (Chief Executive's Service).

Chair

Councillor Collier in the Chair.

Apologies

John Bell

1. Declarations of Interest

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

2. Minutes

The Minutes of the Meeting held on 8 February 2023 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Items 5 and 6 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) on the grounds that they involved the likely disclosure of Exempt Information as defined in Section 50J of, and Schedule 7A to, the Local Government (Scotland) Act 1973.

The 'Exempt Information' concerned is information of the type described in one or more of Paragraphs 3, 6, 14 and 15 of Part 1 of Schedule 7A to the Act:

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."
6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
15. "The identity of a Protected Informant" - where "Protected Informant" is defined in Part III as a person who informs the Local Authority about a past,

present or future crime, breach of statutory duty, breach of planning control, or nuisance."

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

Submitted report by the Head of Democratic Services on hearings to be determined 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 Private Hire Car Licence: PHCL/380 (New): Brian Taylor

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); (b) to allow the proposed vehicle to carry the livery shown in photographs (c) the vehicle should have Private Hire Car licence plates visible from outside the vehicle and door decals showing that the vehicle was only available for pre-booked hires; and (d) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.2 Private Hire Car Licence: PHCL/381 (New): Cita Tapas

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); (b) to allow the proposed vehicle to carry the livery shown in photographs (c) the vehicle should have Private Hire Car licence plates visible from outside the vehicle and door decals showing that the vehicle was only available for pre-booked hires; and (d) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.3 Taxi Licence: TL/440 (New): Jamie Dorrans

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.4 Taxi Licence: TL/442 (New): Calvin Smith

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.5 Taxi Licence: TL/442 (New): Behzad Lorestani

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

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

Decision

The Committee unanimously agreed (a) the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles"); and (b) to continue consideration of the application to allow the Clerk to consider whether or not Delegated Powers can be used to determine the application.

4.6 Street Traders Operator's Licence: STL/O/530 (Temporary): Jane Gibb

The Solicitor (Licensing) advised the Committee that the application had been granted under delegated powers.

4.7 Taxi Driver's Licence: TDL/01837: Mohamed Asli

At a previous meeting on 8 February 2023, the Committee considered a complaint against the licence-holder and agreed to continue consideration until a Hearing to be held under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11(7).

The licence holder, having been duly cited to attend, was present. The complainant was also in attendance.

The complainant then addressed the Committee and responded to questions. Thereafter, the licence holder addressed the Committee on the issues raised and responded to questions.

The licence holder and the complainant then withdrew to allow the Committee to deliberate. Thereafter the licence holder and complainant re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

Decision

The Committee unanimously agreed (i) that the complaint was upheld; and (ii) to suspend the Taxi Driver's Licence for a period of 14 days starting from 28 days after the date of the meeting.

4.8 Taxi Driver's Licence: TDL/02177: Francis Clarke

At a previous meeting on 8 February 2023, the Committee considered a complaint against the licence holder and agreed to continue consideration until a Hearing to be held under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11(7).

The licence holder, having been duly cited to attend, was not present but was represented by a Solicitor. The complainant was also in attendance.

The complainant addressed the Committee and responded to questions.

Decision

The Committee unanimously agreed to continue consideration to a future meeting to allow the licence holder to be in attendance.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 12.15 p.m. for a short comfort break, reconvening at 12.25 p.m. with the same Members and officers present and in attendance.

4.9 Taxi Driver's Licence: TDL/00121: Edward Walsh

At a previous meeting on 8 February 2023, the Committee considered a complaint against the licence holder and agreed to continue consideration until a Hearing to be held under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 11(7).

The licence holder and licence holder's solicitor, having been duly cited to attend, were present. The complainant was also in attendance.

The complainant addressed the Committee and responded to questions. The licence holder and licence holder's solicitor then addressed the Committee on the issues raised and responded to questions.

The licence holder, licence holder's solicitor and the complainant then withdrew to allow the Committee to deliberate. Thereafter the licence holder, licence holder's solicitor and complainant re-joined the meeting, with the same Members and officers present and in attendance, to hear the Committee's decision.

Decision

The Committee unanimously agreed (i) that the complaint was upheld; and (ii) to suspend the Taxi Driver's Licence for a period of 28 days starting from 28 days after the date of the meeting.

5. Urgent Items

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

5.1 King's Coronation: Saturday 6 May

The Solicitor (Licensing) gave a verbal update on the Draft Licensing Committee Coronation Statement for publication.

The Committee unanimously agreed to approve the Draft Licensing Committee Coronation Statement for publication as set out in Appendix LIC 1 to the Minute.

The meeting ended at 1.45 p.m.

Appendix LIC 1

Draft Licensing Committee Coronation Statement

"To mark the Coronation of King Charles on Saturday 6 May 2023, the Licensing Committee has agreed to a temporary change to the licensing arrangements in North Ayrshire. These will apply during the Coronation Period from Friday 5 May to Monday 8 May 2023.

Free Community Events

Celebration events linked to the Coronation which are wholly in that period – such as fairs in public parks - will **not** need Public Entertainment Licences, so long as the public can enter the event place and use the facilities (such as play on stalls or go on rides) **for free**.

Commercial operators will still need licences – for example:

- the same rules as usual will apply to vans selling fast food or ice cream. Both the vans and people working on them will still need Street Trader's Licences. The Council will **not** enforce any restriction on where Street Traders may operate if they are at a Coronation celebration event.
- Stalls or rides making a charge need to be covered by a Public Entertainment Licence, so the occupier of the land where that stall or ride needs to apply for one (even if the rest of the event is free-of-charge)

Public Charitable Collections

Also the Council's conditions on the days when Public Charitable Collections are permitted will not apply to collections held during the Coronation Period – the organisers will still have to apply to the Council for permission as usual.

Street Parties

Street parties can only happen if the street is closed under a Temporary Traffic Regulation Order issued by the Council's Roads Department. The Licensing Committee do not deal with TTROs.

Anyone wanting a TTRO should apply to the Council's Roads Department at least 28 days before the requested closure to:

roadspermits@north-ayrshire.gov.uk

using the application form on:

<https://www.north-ayrshire.gov.uk/roads-and-travel/road-maintenance-permits-and-services.aspx>

There will be no fee for applying for a TTRO for the Coronation.

The Council's Roads Department still require the standard TTRO form to be completed with as much information as possible. The closure of the public road for any reason is still a potentially hazardous undertaking, whether it is for a short cul-de-sac or a through road which requires a diversion route. Road signs must be installed by suitably qualified individuals.

Alcohol

The Licensing Board deal with the sale of alcohol and will separately be considering a policy for "Extended Hours" and "Occasional Licences" for the Coronation when they meet on Monday 27 March 2023. Anyone wanting to sell alcohol will still need a Premises Licence or an Occasional Licence.

NORTH AYRSHIRE COUNCIL

19 April 2023

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

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:

Appendix A - Licences and Permits where Hearings have been convened

Exempt Information

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

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

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

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

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

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

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

2.5. For example:

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

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

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

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

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

4. Implications/Socio-economic Duty

Financial

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

Human Resources

4.2 None

Legal

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

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

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

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

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

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

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

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

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

Climate Change and Carbon

4.5 None.

Key Priorities

4.6 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 Outcomes of the North Ayrshire Council Plan 2019-2024:
"North Ayrshire's residents and communities are safe."

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

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

Aileen Craig
Head of Democratic Services

For further information please contact **William O'Brien, Solicitor (Licensing)**, on
Licensing@north-ayrshire.gov.uk.

Background Papers

None

Appendix A

Case 1	Taxi Driver's Licence	TDL/00298 (Renewal)
Applicant	John Phillips	
Case 2	Taxi Licence	TL/437 (Substitute)
Licence Holder	Alexander Davidson	
Case 3	Taxi Licence	TL/444 (New)
Applicant	Stacey Beattie	
Case 4	Taxi Driver's Licence	TDL/02177
Licence holder	Francis Clarke	

