



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, 11 January 2023** at **10:00** to consider the undernoted business.

Meeting Arrangements

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.

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

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of the Meeting of the Licensing Committee held on 7 December 2022 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 the Head of Democratic Services on hearings to be determined and applications for grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982 (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, 7 December 2022 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Nairn McDonald, John Bell, Cameron Inglis, Christina Larsen, Jean McClung, Matthew McLean, Donald L. Reid and Ronnie Stalker.

In Attendance

R. Lynch, Senior Manager, D. Grier, Solicitor, D. Robertson, Enforcement Officer (Legal Services), W. O'Brien, Solicitor (Agenda Item 5.4), C. Pollock, Licensing Administration Officer (Licensing) and H. Clancy, Committee Services Officers (Democratic Services) (Chief Executive's Service).

Also in Attendance

Inspector D. Cameron (Agenda items 1 – 5.3)

Chair

Councillor McDonald in the Chair.

Apologies

Eleanor Collier and Angela Stephen.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 10.5, to vary the order of business to allow consideration of Item 4.4 Booking Office Licence: BOL/022: TOA Taxis (North Ayrshire) Ltd and 4.5 Taxi Driver Licence: TDL/01599: Donald Newall to be heard together last on the agenda.

2. 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.

3. Minutes

The Minutes of the Meeting held on 16 November 2022 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 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."

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/02353 (New): Scott Walker

At a previous meeting on 24 October 2022, the Committee agreed to continue consideration of this application.

The applicant, having been duly cited to attend, joined the meeting. A representative from Police Scotland was also in attendance.

The Senior Manager (Legal Services) set out the background to the Hearing as previously intimated in writing to the applicant. A representative from Police Scotland then addressed the Committee on the terms of a letter setting out their representation in respect of the application.

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

Decision

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.

5.2 Taxi Driver's Licence: TDL/02353 (New): Hasher Murad

At a previous meeting on 16 November 2022, the Committee agreed to continue consideration of this application.

The applicant, having been duly cited to attend, joined the meeting.

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

Decision

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.

5.3 Street Traders Operator's Licence: STL/O/535 (New): Chris and Emma Ferguson

At a previous meeting on 16 November 2022, the Committee agreed to continue consideration of this application.

The applicants, having been duly cited to attend, joined the meeting.

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

Decision

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, with the exemption of Standard Condition C.1 "The Licence-Holder must not engage in street trading within 50 metres of any establishment or premises (this includes any land, shops, kiosks, vehicles and moveable structures) where any goods or articles are sold or offered for sale, or services are offered, which are of the same or similar type as those sold or offered by the Licence-Holder."

Appendix B: Applications for Licences/Renewal of Licences

5.4 SHDL/187 (Renewal): ZEX Yorkshire Ltd

The Committee 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 terms of Standing Order 6.8, the Chair adjourned the meeting at 10.55 a.m. The meeting reconvened at 1.00 p.m. with the Councillors McDonald, Larsen, McLean and Stalker present and the same officers in attendance.

5.5 Booking Office Licence: BOL/022: TOA Taxis (North Ayrshire) Ltd and Taxi Driver Licence: TDL/01599: Donald Newall

At a previous meeting on 24 October 2022, the Committee heard evidence and agreed to continue consideration of this item.

Representatives of TOA Taxis (North Ayrshire) Ltd, Solicitor for TOA Taxis and the licence holder, having been duly cited to attend, joined the meeting. The complainants were also in attendance.

The Solicitor and representatives for TOA Taxis (North Ayrshire) Ltd representatives and the licence-holder addressed the Committee on the issues raised and responded to questions.

The Committee then withdrew to deliberate.

Decision

Councillor McDonald, seconded by Cllr Larsen, moved that the Committee (a) accept the complainants had the "Protected Characteristic" of "disability" stated in Equality Act 2010 Sections 4 and 6, having an impairment which had a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities; and (b) agreed the following decisions in relation to the four complaints:

- (i) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 30 November 2021 was not upheld;
- (ii) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 7 December 2021 was not upheld;
- (iii) the complaint against Donald Newell on Tuesday 7 December 2021 was upheld and the Committee agreed the Licence-Holder breached Condition 14 of the North Ayrshire Council conditions relating to Taxi Driver's Licences. The Committee agreed to take no action but advised the incident will be taken into account if there are further complaints and on the renewal of the licence. The Committee recommended that the Licence-Holder study the condition and any information on the North Ayrshire Council website about Drivers' duties towards passengers with "Protected Characteristics";
- (iv) the complaint against TOA Taxis (North Ayrshire) Ltd on Tuesday 7 December 2021 was upheld and the Committee agreed to take no action but advised the incident will be taken into account if there are further complaints and on the renewal of the licence. The Committee recommended that the Licence-Holder study the condition and any information on the North Ayrshire Council website about Drivers' duties towards passengers with "Protected Characteristics".

There being no amendment, the motion was declared carried.

The meeting ended at 3.15 p.m.

NORTH AYRSHIRE COUNCIL

11 January 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	Second Hand Dealer's Licence	SHDL/187 (Renewal)
Applicant	ZEX Yorkshire Ltd	
