



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

Cunninghame House,  
Irvine.

6 August 2015

### **Licensing Committee**

You are requested to attend a Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 12 AUGUST 2015** at **10.00 a.m.** to consider the undernoted business.

Yours faithfully

Elma Murray

Chief Executive

**1. Declarations of Interest**

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

**2. Minutes**

The accuracy of the Minutes of (i) the special meeting of the Committee held on 22 June and (ii) the ordinary meeting held on 10 June, 2015 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: Taxi Fare Scales Review**

Submit report by the Chief Executive on the Taxi Fare Scales Review (copy enclosed)

- 4. Civic Government (Scotland) Act 1982: Licensing Matters**  
Submit report by the Chief Executive on (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).
- 5. Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 - Successive Applications**  
Submit report by the Chief Executive on a prospective application (copy enclosed).
- 6. Civic Government (Scotland) Act 1982 - Taxi Stance at Hamilton Street, Saltcoats**  
Submit report by the Chief Executive on the taxi stance at Hamilton Street, Saltcoats (copy enclosed).
- 7. Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8**  
Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).
- 8. Urgent items**  
Any other items which the Chair considers to be urgent.

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## Licensing Committee

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Sederunt: Ian Clarkson (Chair)  
Tom Marshall (Vice Chair)  
Robert Barr  
John Bruce  
John Easdale  
Grace McLean  
Catherine McMillan  
Ronnie McNicol  
Donald Reid  
Vacancy

Chair:

Attending:

Apologies:

Meeting Ended:



Licensing Committee  
22 June 2015

**IRVINE, 22 June 2015** - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 11.00 a.m.

**Present**

Ian Clarkson, Tom Marshall, Robert Barr, John Bruce, John Easdale, Grace McLean, Catherine McMillan and Donald Reid.

**In Attendance**

S. McKenzie, Senior Manager Protective Services; W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant and D. McCaw, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

PC McLean and PC Jenkins (Police Scotland).

**Chair**

Councillor Clarkson in the Chair.

**Apologies for Absence**

Ronnie McNicol.

**1. Declarations of Interest**

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

**2. Civic Government (Scotland) Act 1982: Licensing Matters**

Submitted report by the Chief Executive on Hearings to be determined, all in terms of the Civic Government (Scotland) Act 1982.

**Part A: Hearings**

**5.1 Public Charitable Collection: Whitlees Community Centre**

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

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

The Committee noted that the application for collection on Sunday 28 June 2015 was outwith Council policy that street collections should not be permitted on a Sunday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

## **Decision**

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on Sunday 28 June 2015, subject to the Council's usual conditions.

### **5.2 Market Operator's Licence: Alan John Rooney: MOL/063**

The applicant, having been duly cited to attend, was not present but was represented by M. Lynam.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter the applicant addressed the Committee providing details of the proposed event and responded to questions.

The Committee adjourned consideration of this item and requested that the Senior Manager Protective Services attend to provide updated information to Members.

The Committee reconvened and the Senior Manager Protective Services presented information on outstanding issues in connection with the application.

## **Decision**

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

### **5.3 Public Entertainment Licence: Michael Lynam: PEL/250**

The Committee considered an application for a temporary Public Entertainment Licence for an event at Nobel Business Park from 9.00am until 2.00am on Friday 26 June and Saturday 27 June 2015 and 9.00am until midnight on Sunday 28 June 2015.

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

The Solicitor (Licensing) set out the background to the Hearing. Thereafter the applicant addressed the Committee providing details of the proposed event and responded to questions.

The Committee adjourned consideration of this item and requested that the Senior Manager Protective Services attend to provide updated information to Members.

The Committee reconvened and the Senior Manager Protective Services presented information on outstanding issues in connection with the application.

## **Decision**

The Committee (a) unanimously agreed to grant the application subject to the Council's standard conditions (including a specific condition prohibiting camp fires and fireworks) in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) noted the applicant's undertaking to provide a Risk Assessment to Protective Services.

The meeting ended at 12.30 p.m.





Licensing Committee  
10 June 2015

**IRVINE, 10 June 2015** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, John Easdale, Catherine McMillan and Donald Reid.

**In Attendance**

S. McKenzie, Senior Manager Protective Services and D. Robertson, Enforcement Officer (Economy and Communities); C. Bateman, Development Officer (Housing) (Place); C. Andrew, Senior Manager Legal Services (item 5.5 only), W. O'Brien, Solicitor (Licensing) (except item 5.5), A. Toal, Administrative Assistant (except item 5.5) and D. McCaw, Committee Services Officer (Chief Executive's Service).

**Also In Attendance**

Inspector Conway, PC McLean and D. Hastings, Admin Licensing Assistant (Police Scotland).

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

Grace McLean.

**1. Chair's Remarks**

The Chair, in terms of Standing Order 9.3, agreed to vary the order of business to allow consideration of the Hearings within Agenda Item 5 (Civic Government (Scotland) Act 1982: Licensing Matters) (Part A: Hearings) in a specific order.

**2. Declarations of Interest**

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Reid, as an employee of G4S Security Services, declared an indirect financial interest in Agenda Item 5.6 (Public Entertainment Licence PEL/251 (Temp): Kelburn Productions Ltd) and withdrew from the meeting for that item of business.

**3. Minutes**

The accuracy of the Minutes of the Ordinary Meeting of the Committee held on 20 May 2015 was confirmed and the Minutes 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 in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public on the grounds indicated in terms of Paragraph 14 and 15 of Part 1 of Schedule 7A of the Act.

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

Submitted report by the Chief Executive on (a) Hearings to be determined; (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

##### **Part A: Hearings**

##### **5.1 Public Charitable Collection: Animal Support and Rescue**

The Committee noted that the application had been withdrawn.

##### **5.2 Public Charitable Collection: Prince and Princess of Wales Hospice**

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant was neither present nor represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

The Committee noted that the application for collection on Monday 20 July and Tuesday 21 July 2015 was outwith Council policy that street collections should not be permitted during the week. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

##### **Decision**

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on Monday 20 July and Tuesday 21 July 2015, subject to the Council's usual conditions.

##### **5.3 Public Charitable Collection: South Ayrshire Autistic Society**

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was not present but was represented.

The Committee noted that the application for collection on Sunday 26 July 2015 was outwith Council policy that street collections should not be permitted on a Sunday. The Committee considered whether or not the particular case could be treated as an exception to the Policy.

### **Decision**

The Committee unanimously agreed, having regard to the information presented, (a) that there were sufficient grounds to treat the case as an exception to the Council's policy on street collections; and (b) to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 on Sunday 26 July 2015, subject to the Council's usual conditions.

### **5.4 Public Entertainment Licence PEL/241 (New): Irvine Bay Events**

The Committee considered an application for a permanent Public Entertainment Licence.

The applicant was neither present nor represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Three objectors to the application were present and addressed the Committee on the terms of their objections. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out an objection in relation to the application. Thereafter, the Team Manager (Protective Services) addressed the Committee on the requirements of Protective Services in relation to events on the site.

### **Decision**

The Committee unanimously agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982, on the grounds set out in Paragraph 5(3)(c)(i)(ii)(iv) and (v) of the said Schedule, that the premises are not suitable for the conduct of the activity.

W. O'Brien, Solicitor (Licensing) and A. Toal (Administrative Assistant) left the meeting and took no part in the hearing or decision in connection with Agenda Item 5.5. C. Andrew (Senior Manager Legal Services) acted as legal adviser to the Committee in connection with that item only.

### **5.5 Public Entertainment Licence PEL/246 (Temp): Ardrossan Whitlees Community Centre**

The Committee considered an application for a temporary Public Entertainment Licence for Sunday 28 June 2015 from 11.00am - 5.00pm.

The Committee was advised of a change to the applicant in terms of the Licence. The original applicant was present.

The Senior Manager Legal Services set out the background to the Hearing. Thereafter the original applicant addressed the Committee providing details of the proposed event 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.

W. O'Brien, Solicitor (Licensing) and A. Toal (Administrative Assistant) rejoined the meeting for the remaining items on the Agenda.

### **5.6 Public Entertainment Licence PEL/251 (Temp): Kelburn Productions Ltd**

The Committee considered an application for a temporary Public Entertainment Licence for an event at Kelburn Country Park from 2-7 July 2015.

The applicant, having been duly cited to attend, was present and accompanied by Z. Shaw, Operations Manager and M. McQuade, G4S Security Services.

The Solicitor (Licensing) set out the background to the Hearing. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out an observation in relation to the application. Thereafter the applicant and representatives in attendance addressed the Committee providing details of the proposed event and responded to questions. The applicant agreed to discuss with Police Scotland arrangements for policing and security prior to the event.

### **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.

### **5.7 Second Hand Dealer's Licence SHDL/176 (Renewal): Duskview Sales Ltd**

The applicant was neither present nor represented. The Committee was satisfied that the applicant had been duly cited and proceeded to determine the case in his absence.

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 setting out an observation in relation to the application.

## **Decision**

Councillor McNicol, seconded by Councillor McMillan, moved that the Committee refuse the application on the basis that the applicant is not a fit and proper person to be the holder of a Second Hand Dealer's Licence.

As an amendment, Councillor Barr moved that the application be granted. There being no seconder the amendment fell. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to refuse the application in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the basis that the applicant is not a fit and proper person to be the holder of a Second Hand Dealer's Licence.

### **5.8 Taxi Driver's Licence TDL/01295 (New): Paul Cumming**

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives of Police Scotland then addressed the Committee on the terms of a letter setting out an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

## **Decision**

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

### **5.9 Taxi Driver's Licence TDL/01963 (New): Ryan Kerr**

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

The Chair intimated that a letter had been received from the applicant's Solicitor asking that the application be continued.

## **Decision**

The Committee agreed to continue consideration of the application to the next meeting on 12 August 2015.

### **5.10 Taxi Driver's Licence TDL/01968 (New): Alasdair Drummond**

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

The Chair intimated that a letter had been received from the applicant's Solicitor asking that the application be continued.

## **Decision**

The Committee agreed to continue consideration of the application to the next meeting on 12 August 2015.

### **5.11 Taxi Driver's Licence TDL/01969 (New): Colette McCreadie**

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 of Police Scotland then addressed the Committee on the terms of a letter setting out an observation in relation to the application. Thereafter, the applicant addressed the Committee on the issues raised and responded to questions.

## **Decision**

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

### **5.12 Taxi Driver's Licence TDL/01965 (New): Rashid Kamran**

The applicant, having been duly cited to attend, was not present.

## **Decision**

The Committee agreed to continue consideration of the application to the next meeting on 12 August 2015.

## **Part B: Applications for Licences and Renewal of Licences**

### **5.13 TDL/01702 Barry Seymour**

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

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

### **6.1 Application for Landlord Registration: Alistair Mills**

The Committee considered (a) an application for Registration; and (b) an application under Section 95 for revocation of the two Notices issued earlier under Section 94 (commonly described as a 'Rent Penalty Notice').

The applicant was present. A written update was provided by the Development Officer (Housing). The applicant addressed the Committee on the issues raised and responded to questions.

The Committee unanimously agreed (a) to grant the application; and (b) under Section 95(2), to revoke the two Notices previously made under Section 94 (the Rent Penalty Notice).

## **7. Urgent Items**

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

### **7.1 Public Charitable Collection: Royal British Legion Scotland**

The Committee considered an application for a Public Charitable Collection under Section 119 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was not present but was represented by J. Moffat and W. McMartin.

The Committee noted that the application for a collection on Saturday 27 June 2015 was outwith Council policy that more than one street collection should not be permitted on the same date of Saturday 27 June 2015, for which permission had already been granted for a street collection. The Committee considered whether or not the particular case could be treated as an exception to the Policy. The applicant intimated that a collection on Friday 26 June would be acceptable as an alternative collection date.

#### **Decision**

The Committee unanimously agreed, having regard to the information presented, to grant the application under Section 119(5) of the Civic Government (Scotland) Act 1982 for the collection to take place on Friday 26 June 2015, subject to the Council's usual conditions.

### **7.2 Kerr Chapman**

At its meeting on 20 May 2015, the Committee agreed to refuse the application by Kerr Chapman for a Taxi Driver's Licence in terms of Paragraph 5(1)(c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5(3)(a)(ii) of the Schedule, that the applicant is not a fit and proper person to be the holder of a Taxi Driver's Licence.

The Committee considered information from the Chief Executive and agreed that a material change of circumstances existed for the purposes of Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 ("Restriction on Successive Applications"), and accordingly stated that the applicant would be entitled to re-apply within the 12 month period commencing on the earlier refusal.

The meeting ended at 12.40 p.m.





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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 3**

**12 August 2015**

#### **Licensing Committee**

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

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**Purpose:** To continue the statutory process for Review

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**Recommendation:** That the Committee:

- (a) consider representations on the proposed Scales,
- (b) fix new Scales, and
- (c) set a date on which the new Scales will become effective.

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#### **1. Introduction**

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council as Licensing Authority and to set Scales. The 1982 Act requires that this should be done at maximum intervals of 18 months.
- 1.2 It should be noted that the fares approved by the Council are maximum fares which may be charged and it is open to Operators to discount these rates if they wish. While it is obligatory to review fare levels periodically, there is no obligation to alter the existing fares.
- 1.3 The Review procedure proceeds in Stages, set by the 1982 Act. The Council must:
  - (a) consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area (Section 17(4A)(a));
  - (b) following such consultation, review the existing Scales, and propose new Scales (whether at altered rates or the same rates) (Section 17(4A)(b));
  - (c) publish those proposed Scales in a newspaper circulating in its area, setting out the proposed Scales (there is a period of at least one month after publication in which any person may make representations in writing) (Section 17(4A)(c));
  - (d) consider any such representations and fix the new Scales (Section 17(4A)(d));

- (e) within 7 days give notice of the new Scales to taxi operators and trade organisations, and advise them of their right to Appeal. Within 14 days of that notice, an Appeal to the Traffic Commissioner may be made by any taxi operator or trade organisation (an Appeal postpones the operation of the new Scales); the Traffic Commissioner may decline to proceed with an appeal if he considers that the appellant's case is not representative of the view of a substantial proportion of the Operators of Taxis operating in the Council's area;
- (f) give newspaper notice to the public of the new Scales (if there is no appeal, after the 14 day appeal period; if there is an appeal, when it is abandoned or determined).

## **2. Current Position**

2.1 The fare review process is now at Stage (d).

2.2 Earlier Stages were completed:

Stage (a) (trade consultation) took place on 21 April 2015, when the Chair (McNicol), and Councillors Clarkson, Barr, McLean and Easdale met several taxi operators.

Stage (b) (proposal of new scales) On 20 May 2015 the Committee met to review the existing Scales, and proposed new Scales.

Stage (c) (newspaper publication of the proposed new Scales) happened soon after.

## **3. Proposals**

3.1 The Committee is now to fix a new set of Scales, and to set a date when the new Scales are to come into effect.

3.2 In fixing the new Scales, the Committee should reconsider the proposed Scales in the light of:

- (a) any representations received,
- (b) Government Guidance, and
- (c) economic statistical information.

3.3 On (a), Members will have copies of the written representations. The Committee is entitled, but not obliged, to allow oral representations. At the date of preparing this Report (17 July 2015), 53 written representations had been received, being one from an MP and 52 from Operators of one or more Taxis (there are 221 Taxi Licences in force). There were no representations from the general public.

- 3.4 On (b), 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."*

- 3.5 On (c), the Committee might consider changes in the economy since the last Taxi Fare review, conducted in March 2014. Each month the Office for National Statistics publishes extensive statistics monthly, showing both:

- (a) the "Consumer Price Index" encompassing all items (all types of goods and services), and
- (b) CPI measures for specific goods and services.

The figures given below are taken from the ONS "Consumer Price Inflation reference tables, May 2015", Table 64, which was the most recent data available at the date of preparing this Report (17 July 2015). For comparison, the base index is calculated by setting March 2014 = 100.

(a) CPI - ALL ITEMS [code D7BT]

March 2014 = 127.652

May 2015 = 128.169

Index at May 2015 = 100.405

(b) Purchase of Vehicles [D7C0]

March 2014 = 102.543

May 2015 = 102.357

Index at May 2015 = 99.819

(c) Fuels and Lubricants [D7EC]

March 2014 = 149.484

May 2015 = 133.365

Index at May 2015 = 89.217

(d) Maintenance and Repairs [D7ED]

March 2014 = 138.664

May 2015 = 142.374

Index at May 2015 = 102.676

- 3.6 The Committee should also determine when the new Scales will be effective. It is suggested that the effective date should be no earlier than 28 days after the date the Committee fixes the Scales. Within 7 days of the Committee decision, Operators are to be notified (Stage (e)). Operators may appeal within 14 days. If there is no appeal, the Council is to carry out newspaper advertisement of the new Scales (Stage (f)). Since publication would be several local newspapers, with different publication dates, a single effective date should be chosen to ensure that sufficient notice is given to the public in all parts of North Ayrshire.
- 3.7 In summary, the Committee is invited to (a) consider representations on the proposed Scales, (b) fix new Scales, and (c) set a date on which the new Scales will become effective.

#### **4. Implications**

Financial Implications

- 4.1 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, as regardless of the outcome of any appeal the Licensing Authority are obliged to meet the expenses of the Traffic Commissioner.

Human Resource Implications

- 4.2 None

Legal Implications

- 4.3 Possible appeal to the Traffic Commissioner.

Equality Implications

- 4.4 Simplifying the tariff should benefit the trade and its customers since it could make the tariff easier to understand and reduce misunderstandings between drivers and passengers. The existing tariff card displayed in hire cars requires to use a small type-face to accommodate the quantity of text, and may not be easy for passengers to read. Since the overall amount of text can be reduced, the type-face can be larger and easier to read, so the proposed simplification benefits visually-impaired passengers.

## Environmental and Sustainability Implications

### 4.5 None

## Implications for Key Priorities

- 4.6 Setting fares at a level which helps maintain the level of taxi provision by balancing the needs of taxi operators and passengers is consistent with the NA CPP Single Outcome Agreement Objective 1a ("Transport links and services to and from North Ayrshire have improved").

## 5. Consultations

- 5.1 The consultation required by statute has in part already taken place and will continue after the Committee makes a proposal. No consultations with neighbouring authorities are required, although information about their fare tariffs has been considered.

## 6. Conclusion

- 6.1 The Committee is requested to proceed as recommended.



ELMA MURRAY  
Chief Executive

Reference : WO'B/GEN17

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

## Background Papers

Consultation responses



## North Ayrshire Council

### Review of Taxi Fare Scales

Minute of Consultation Meeting held under Civic Government (Scotland) Act 1982, Section 17(4)(a) at Council HQ in Irvine on Tuesday 21 April 2015

Present:

#### Councillors:

Ronnie McNicol (Convenor), Ian Clarkson, Robert Barr, Grace McLean and John Easdale.

#### Trade:

Christine Boyd: Licences 133, 300, 301, 302, 409, 411 and 414 (CB, North Coast)

Norrie Campbell: Licences 07 and 182 (also representing Irvine TOA) (NC, Irvine)

Ian Dorbie: Licence 184 (ID, Irvine),

Jim McKerrell: Licence 222 (JMCK, 3 Towns)

Davy Hanson: Licence 124 (DH, 3 Towns),

Michael Cassidy: Licence 239 (MC, 3 Towns)

#### Officers:

William O'Brien, Solicitor (Licensing), Kenzie Sharkey, Solicitor (Contracts and Licensing), Anne Toal, Administrative Assistant.

#### Observers:

William Taylor, R.H. Harman

The Meeting started at 10.03.

Copies of a bundle of papers ("List of papers for meeting with the trade") were handed to all attending. The bundle consisted of the current and 2012 scales for NAC, and also the current scales for the Councils of East Ayrshire, South Ayrshire, Renfrewshire, and Inverclyde.

Councillors also had copies of written representations from:

CB (North Coast)

NC (Irvine)

MC (3 Towns)

The Convenor read out the timetable approved by the Licensing Committee at their meeting on 4 March 2015, concluding with a proposed implementation date of Monday 2 November 2015.

JMcK (3 Towns) proposed to keep the status quo re the flagfall and mileage charges, but to re-introduce T3. He said he was "inundated" with complaints from passengers about over-charging, because drivers were mis-applying the MPV 'add 50%' rule.

CB (North Coast) said that she thought that the '50% rule' was clear and should be retained. It gave customers the choice between taking one larger car and paying 50% extra, and taking two cars. If the rule was abused, that would be a complaint to NAC.

Cllr. Clarkson asked how an overcharging allegation could arise.

JMcK (3 Towns) said that if two passengers get in a taxi, the journey is charged at T1, but if four get in it is T3, so drivers are accused of over-charging.

Cllr. Clarkson asked officers if there had been any complaints to the Council. The Solicitor (Licensing) said there had been none to NAC.

NC (Irvine) suggested that there should be a flat addition of 50p per extra passenger after four, so that if the car carried six then the fare would be the normal tariff plus £1.00. Should it be T3 for the whole duration of the journey? What if a taxi stopped, dropped off some passengers, and continued with the rest - should the meter be changed to T1 once the number remaining reached 4? The tariff was confusing.

CB (North Coast) said there should be a separate scale for "400" MPV licences.

ID (3 Towns): agreed the 50% rule was confusing, and that a flat addition of 50p would be better.

JMcK (3 Towns) said that it was not just "400" Licences which had the MPV addition.

NC (Irvine) said that passengers would want to know, at the start of the journey, what it would cost, e.g. if a passenger wanted to go to Glasgow, he might be quoted £55 for a 'normal' car and £65 for a 6-seater. He said that the public wouldn't want fares to rise, and that a minibus was only £80.

The Convenor referred to T1.

JMcK (3 Towns) said that there had been a "massive" reduction in the cost of fuel. Taxis at Saltcoats Station were "shoehorned" into the rank. He had 5



cars and their takings today (Tuesday) would be as nothing compared to the takings at the weekend.

NC (Irvine) said that the flagfall should not change. He was looking at fuel costs. The Trade had to make a living, and the fares should rise every 3 years, but not every 18 months. It was the Public Holiday extra charge that should be re-introduced.

JMcK (3 Towns) said he was here for himself, but the feedback from Saltcoats drivers also supported the re-introduction of the extra charges for Xmas Eve and Hogmanay. Everyone else was on holiday, but drivers and barmen had to work.

CB (North Coast) said there were 20 operators in Largs. She made the point that most of the town of Largs falls within the 3/4 mile basic flagfall of £2.60. A 'people carrier' actually costs the operator 50% more than a 'normal' car. Passengers book one 'people carrier' rather than two 'ordinary' cars. Fuel in Largs was not so easily accessible as it was for the rest of NA, and costs 2 or 3 p. more per litre. The garage at Fairlie shuts at 9 pm.

NC (Irvine) referred to the form of the tariff sheet. He didn't feel that another tariff should be added, but the public holidays should be reinstated. The Convenor pointed out that the current scale had been consulted on and advertised in the usual way, and NC agreed that the Trade should have read it earlier. NC said public holidays should be double time.

MC (3 Towns) entered the room.

DH (3 Towns) said the Trade had wanted all day on Xmas Eve to have an extra charge, and it had been NAC that had cut it to 7.00 am. He said the extra charge should be all Xmas Eve and all Hogmanay.

Cllr. Clarkson suggested to him that the public might see this as the Trade taking advantage of them.

JMcK (3 Towns) said that this was an issue of freedom of choice, and asked if NAC themselves were open on Xmas Eve?

Cllr. Clarkson said buses and trains might be running till 10 or 11 p.m..

CB (North Coast) said that if 10p. was not added to the flagfall, could an extra 10p. be added to T1 and T2? The Trade had to "incentivise drivers". It was difficult to get drivers to work holidays. They could earn as much working 9-5, why would they take the risk of night working? Drivers were assaulted at night.

Xmas Eve was when people were asking for taxis. They expected to pay more after midnight or on Sundays or on 24 or 31 December.

She referred to the practice of other Councils. Some treat 3 days as 'festive'. The Trade in NA had lost Easter, May Day and 24/31 December. The fare had only increased to £1.60 from £1.00 in 20 years, under 10p per year.

The Convenor noted that:

- East Ayrshire Council's scale included a double fare for 25 & 26 December and 1 & 2 January, but nothing extra for Xmas Eve or Hogmanay.

- South Ayrshire Council's scale allowed 50% at Xmas and New Year but said nothing about Eater.

CB (North Coast) said Inverclyde Council allowed £5.10 on those 4 days, and also extra on other public holidays like Easter and May Day. Largs was unique.

Cllr. McLean asked: if all drivers were on the Minimum Wage?

NC (Irvine) said no, most are on commission or a percentage.

Cllr. McLean asked: if the fare tariff increases, do the commissions increase?

NC said yes. He described the absence of extra fares over public holidays as "a joke". He said that if the Trade asked for a rise in the tariff overall they would get "slaughtered" in the newspapers.

CB (North Coast) suggested there should be time-and-a-half for 24/31 December. 25 Dec/1 Jan should have double rate. Largs drivers mostly did not work on commission, and had a wage which doubled at Xmas. People can negotiate a price, and the driver can charge a lower rate than the tariff. If drivers in the 3 Towns didn't want to charge extra they didn't have to.

MC (3 Towns) said there should be a rise in the flagfall. The same things were said every year. He said the Trade were always being told that this was "not a land of milk and honey" (NC's phrase). Years ago, a 'Megarider' bus fare was £5.95. Now it was £10.95. Taxi fares had not kept up.

He referred to his written representation, signed by him but also naming 6 operators. The Convenor, after discussing with the Solicitor (Licensing), said that that could only be regarded as a representation from MC himself. MC said that the system falls down. He had canvassed the others and, referring to the NAC review process, he said "this is not a democratic process".

JMcK (3 Towns) said that NAC had written to everyone and they could all have made written responses.

MC (3 Towns) said he accepted that.

JMcK (3 Towns) said that he himself could not say "I represent 40 Saltcoats cars", and that anyone else would need to write.

NC (Irvine) was speaking for the Irvine TOA, representing 30 operators and 100 drivers. They had had an AGM about the Review. He said that the loss of extra fares for the Public Holidays was the biggest gripe. It would not bother him if Largs had its own tariff, but to put up fares overall would be "nonsense".

The Convenor said that although Easter would once have been treated as a special day, now it was just an ordinary day.

CB (North Coast) said that the public asked her if there was an extra fare for Easter, and the person would be told that the Sunday tariff applied. She produced a photo of an assaulted taxi driver. Referring to the meeting time, she said that at 10.00 a.m. most operators are working, so they send representatives.

The Convenor said that he'd chosen 10.00 a.m. to allow for school runs to have ended.

CB said that this still did not leave time for Largs operators to get to Irvine.

Cllr. Clarkson asked NC (Irvine) which Public Holidays he was looking for. NC said 24 and 31 December. He was not bothered about Easter.

CB (North Coast) agreed. She raised an issue about the NAC policy on smaller Wheelchair Accessible Vehicles (WAV), which were half the price of a full-sized WAV, but the Convenor said that that was not relevant to the present discussion and that she should write in.

As MC (3 Towns) had not been present when the Convenor had mentioned the review schedule, he advised MC of the likely implementation date.

The meeting ended at 10.47 a.m..





## FARE CARD

WITH EFFECT FROM 10 MARCH 2014

If more than 4 passengers are carried, the fares listed are increased 50% and the Tariffs are 4 to 6 instead of 1 to 3

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

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

For a distance not exceeding  $\frac{3}{4}$  of a mile (or waiting time not exceeding 10mins). **£2.60**  
Each additional  $\frac{1}{17}$  of a mile or additional waiting time of up to 25 seconds **10p**

### Tariff 2 (Nights, Sundays and across zones): (Tariff 5 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
- From the zone for which the vehicle is licensed to another zone in North Ayrshire

For a distance not exceeding  $\frac{3}{4}$  of a mile (or waiting time not exceeding 10mins). **£3.00**  
Each additional  $\frac{1}{18}$  of a mile or additional waiting time of up to 25 seconds. **10p**

### Tariff 3 (Festive Periods): (Tariff 6 if more than 4 passengers are carried)

All journeys starting and ending in the periods

Any time on 25 December until 7.00am on 26 December

Any time on 1 January until 7.00am on 2 January

**Double Tariff 1 or 4  
charges (Initial or Additional)**

**Soiling Charge £35**

#### Notes

1. The fare scale applies to journeys which end **within** North Ayrshire. Fares for journeys beyond the Council area 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.

Any complaint should be submitted in writing without delay to the Licensing Section, North Ayrshire Council, Cunninghame House, Irvine, KA12 8EE, Telephone 01294 324305.

SAMPLE

)

## **Scales proposed by Licensing Committee on 20<sup>th</sup> May 2015**

### **Maximum Taxi Fares effective from Monday 2 November 2015**

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

All journeys starting or ending in the period 6.00 am to 12.00 pm (midnight) (except where Tariff 3 applies):

For a distance not exceeding  $\frac{3}{4}$  of a mile (or waiting time not exceeding 10 minutes) - £2.60.

Each additional  $\frac{1}{17}$  of a mile or additional waiting time of up to 25 seconds - 10p.

#### **Tariff 2 (Night and Sundays): Tariff 5 if more than 4 passengers carried)**

All journeys (except where Tariff 3 applies):

Starting or ending in the period 12.00pm (midnight) to 6.00am, or

Starting or ending at any time on Sundays - Tariff 1 plus 10%

#### **Tariff 3 (Festive Periods): (Tariff 6 if more than 4 passengers carried)**

All journeys starting or ending in the periods

9.00pm on 24<sup>th</sup> December until 6.00am on 26<sup>th</sup> December

9.00pm on 31<sup>st</sup> December until 6.00am on 2 January

Double Tariff 1 or 4  
Charges (Initial and Additional).

#### **Extra Charges**

**Soiling Charge                      £35**

##### **Notes**

1. The fare scale applies to journeys which end **within** North Ayrshire. Fares for journeys beyond the Council area 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.

Any complaint should be submitted in writing without delay to the Licensing Section, North Ayrshire Council, Cunninghame House, Irvine, KA12 8EE, Telephone 01294 324305.





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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 4**

**12 August 2015**

#### **Licensing Committee**

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

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**Purpose:** To advise the Committee of (a) Hearings to be determined; and (b) applications for the grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982.

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

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#### **1. Introduction**

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council, as Licensing Authority, requires to determine issues in respect of the grant, renewal or suspension of licences.
- 1.2. A meeting of a local authority is open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under:
  - (a) the rule about 'confidential information' (as defined) or
  - (b) by Resolution.

(Local Government (Scotland) Act 1973, Section 50A, and especially Subsection 50A(4)).
- 1.3. Under the Resolution procedure, the Committee is entitled to resolve to exclude from the Meeting the press and the public for any one or more items of business on the grounds that otherwise "Exempt Information" of any type described in Part 1 of Schedule 7A to the Act might be disclosed.
- 1.4. The types of "Exempt Information" which may arise during Committee business include those described in Paragraphs 14 and 15 of that Schedule:
  14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."

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

1.5. Such a Resolution, once made, continues until the end of the Meeting unless the Committee earlier Resolves to revoke it.

## **2. Current Position**

### **Appendix A:**

Licences where Hearings have been convened; and

### **Appendix B:**

Applications for the grant or renewal of licences and permits.

## **3. Proposals**

3.1 It is proposed that the Committee considers and determines each of the listed cases in accordance with the required procedures.

## **4. Implications**

Financial Implications

4.1 There are possible financial implications in relation to the refusal of any application.

Human Resource Implications

4.2 None

Legal Implications

4.3 There are possible legal implications in relation to the refusal of any application.

Equality Implications

4.4 None

Environmental and Sustainability Implications

4.5 None

Implications for Key Priorities

4.6 None

**5. Consultations**

- 5.1 Consultations have been undertaken with Police Scotland, Scottish Fire and Rescue, and the appropriate Council Services.

**6. Conclusion**

- 6.1 The Committee is requested to consider and dispose of the matters before it.

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

ELMA MURRAY  
Chief Executive

Reference : PAT

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

**Background Papers**

None



<b>Hearings</b>		
<b>Hearing 1</b>	<b>Public Charitable Collection</b>	
<b>Applicant and Address</b>	<b>Asthma UK Scotland</b> Sheila Gillan 70 Millburn Gardens Largs KA30 9NG	
<b>Date of Street Collection</b>	28th August until 6th September 2015	
<b>Hearing 2</b>	<b>Public Charitable Collection</b>	
<b>Applicant and Address</b>	<b>Ayrshire Hospice</b> Tracey Corrigan 29 Miller Road Ayr KA2 2AY	
<b>Date of Street Collection</b>	Sunday 30th August 2015	
<b>Hearing 3</b>	<b>Public Charitable Collection</b>	
<b>Applicant and Address</b>	<b>Isle of Cumbrae Tourist Association</b> Ken Mapes 3 - 5 Guildford Street Millport KA28 0AE	
<b>Date of Street Collection</b>	26th September 2015 (evening collection)	
<b>Hearing 4</b>	<b>Public Charitable Collection</b>	
<b>Applicant and Address</b>	<b>Kilwinning Friends of Ayrshire Hospice</b> Ms P McNeill 9 Atholl Gardens Kilwinning KA13 7DQ	
<b>Date of House to House Collection</b>	7th - 11th September 2015	

<b>Hearing 5</b>	<b>Public Entertainment Licence</b>	<b>PEL/067 (variation)</b>
<b>Licenceholder and Address</b>	<b>North Ayrshire Council Educational Services Cunninghame House Irvine</b>	
<b>Premises</b>	<b>Volunteer Rooms Irvine</b>	
<b>Hearing 6</b>	<b>Booking Office Licence</b>	<b>BOL/015 (New)</b>
<b>Applicant and Address</b>	<b>Kevin Blades 15 Dale Crescent Irvine KA12 0RU</b>	
<b>Premises</b>	<b>15 Dale Crescent Irvine KA12 0RU</b>	
<b>Hearing 7</b>	<b>Taxi Operator Licences</b>	<b>TL/067, 041, 074, 116, 151, 050 and 043</b>
<b>Licenceholder and Address</b>	<b>Kevin Blades 15 Dale Crescent Irvine KA12 0RU</b>	
<b>Suspension Hearing 8</b>	<b>Street Trader Employee Licence</b>	<b>STL/E/260</b>
<b>Licenceholder and Address</b>	<b>David Hastings 113 Craufurdland Road Kilmarnock KA3 2HX</b>	
<b>Date of licence</b>	<b>01/10/2014 - 30/09/2017</b>	
<b>Hearing 9</b>	<b>Street Trader Operator's Licence</b>	<b>STL/O/414 (New)</b>
<b>Applicant and Address</b>	<b>Neil McIntyre 18 Dalgarven Wynd Kilwinning KA13 6DD</b>	
<b>Hearing 10</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01963 (New)</b>
<b>Applicant and Address</b>	<b>Ryan Kerr 58 Overtoun Road Springside KA11 3BJ</b>	

<b>Hearing 11</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01968 (New)</b>
<b>Applicant and Address</b>	Alasdair <b>Drummond</b> 9 Milgarholm Avenue Irvine KA12 0EP	
<b>Hearing 12</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01983 (New)</b>
<b>Applicant and Address</b>	Gurupreet <b>Singh</b> 2 Manual Terrace Dreghorn Irvine KA11 4BY	
<b>Hearing 13</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01984 (New)</b>
<b>Applicant and Address</b>	Roy <b>Stephens</b> 19H Bank Street Irvine KA12 0AJ	
<b>Hearing 14</b>	<b>Taxi Driver's Licence</b>	<b>TDL/01965 (New)</b>
<b>Applicant and Address</b>	Rashid <b>Kamran</b> 35A Witch Road Kilmarnock KA3 1EP	





Applications for Licences/Renewal of Licences		
Type of Licence/Reference Number	Details of Applicant	Comments
<b>SPTL/033 (New)</b>	Robert <b>Alexander</b> 86 Ardoch Crescent Stevenston KA20 3NR	Police Observation received
<b>Premises</b>	Midian Tattoo Studio 97 Main Street Kilwinning	
<b>TDL/01432 (New)</b>	John <b>Cooper</b> Flat 4B Hayocks Road Stevenston KA20 4DE	Police Observation received
<b>TDL/01981 (New)</b>	William <b>Gorman</b> 28 Sidney Street Saltcoats KA21 5DD	Police Observation received
<b>TDL/01983 (New)</b>	John <b>Cannon</b> 27 Kinnier Road Saltcoats KA21 5QF	Police Observation received and non disclosure
<b>TDL/01986 (New)</b>	George John <b>McFarlane</b> 14 Ladeside Court Kilbirnie KA25 6HE	Police Observation received
<b>TDL/01987 (New)</b>	Niall <b>O'Flaherty</b> 40 Kinloch Road Kilmarnock KA1 3NY	Police Observation received and non disclosure
<b>TDL/01988 (New)</b>	Gordon <b>Law</b> 8 Old Woodwynd Road Kilwinning KA13 7DL	Police Observation received
<b>TDL/01991 (New)</b>	John <b>Muir</b> 4 Blacklands Crescent Kilwinning KA13 6HS	Previous convictions declared

TL/250 (Renewal)	William Myers 8 Knockrivock Gardens Ardrossan KA22 7QB	Police Observation received
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## NORTH AYRSHIRE COUNCIL

### Agenda Item 5

12 August 2015

#### Licensing Committee

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**Subject:** Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 6 - Successive Applications

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**Purpose:** To advise the Committee of a prospective application.

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**Recommendation:** That the Committee determines whether or not there has been a material change of circumstances so that a further Application may be considered within 12 months of the refusal of a similar Application.

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#### 1. Introduction

- 1.1. The Committee are responsible for Licensing under the Civic Government (Scotland) Act 1982. Schedule 1, Paragraph 6 is:

*"Restriction on successive Applications*

*6. Where a Licensing Authority have refused an Application for the Grant or Renewal of a Licence they shall not, within one year of their refusal, entertain a subsequent Application from the same Applicant for the Grant of the same kind of Licence in respect of the same activity in the same area or, where the activity consists of or includes the use of premises or a vehicle or vessel, in respect of an activity consisting of or including the same use of the same premises, vehicle or vessel unless in their opinion there has been, since their refusal, a material change of circumstances."*

- 1.2. On 10 June 2015 the Committee refused an Application for a "Public Entertainment Licence" under Section 41 of the 1982 Act. The Committee heard from the Police, the Council's Senior Manager Protective Services, and three objectors.
- 1.3. The Committee considered that they were obliged to refuse the Application as the reason for refusal stated in Paragraph 5(3)(c) of Schedule 1 to the Act applied, and decided unanimously to refuse the Application. That provision is:

*"(c) where the Licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—*

*(i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;*

*(ii) the nature and extent of the proposed activity;*

*(iii) the kind of persons likely to be in the premises, vehicle or vessel;*

*(iv) the possibility of undue public nuisance; or*

*(v) public order or public safety;"*

1.4. According the 12-month bar applies. The Applicant would not be entitled to re-apply for a Licence until 10 June 2016, unless the Committee were satisfied that there had been "a material change of circumstances."

## **2. Current Position**

2.1. The Applicant has engaged with various officers of the Council and believes that he can address the issues which were raised previously. The invitation to the Committee on 12 August 2015 is to decide the preliminary question, of whether or not he should be allowed to re-apply. The Committee are not being asked to decide whether or not a Licence should be granted.

2.2. What happens next depends on the Committee's decision on the preliminary question:

"no": the Applicant will have to wait until 10 June 2016 before he can lodge a new Application.

"yes": the Applicant will be able to re-apply immediately. If he does so then, provided that the 28-day period for third party objections has expired, the Committee can make a decision on the Licence Application. Assuming that the Applicant re-applies within a week of the preliminary decision, it is likely that the Committee on 23 September 2015 will be in a position to determine the Application. As with any other case, if the Committee consider it appropriate consideration may be continued until a later meeting. The Committee next meet on 28 October 2015.

- 2.3. Whenever the Applicant re-applies, the Committee would meet again in the usual way to determine that Application, after the usual consultations (and also scope for third-party objections). The Committee's decision on the preliminary question would not be relevant to the decision on the Licence itself, e.g. if the Committee had allowed the Applicant to re-apply earlier than he would otherwise be able to, that would not mean that the Committee would be more likely to grant or refuse the Licence.

### **3. Proposals**

- 3.1 The Committee should determine the preliminary question.

### **4. Implications**

#### Financial Implications

- 4.1 None as far as the Council is concerned.

#### Human Resource Implications

- 4.2 None.

#### Legal Implications

- 4.3 None at present. If the Committee later decide to grant or refuse the Licence, that decision will be appealable to the Sheriff, but the preliminary decision is not appealable.

#### Equality Implications

- 4.4 None.

#### Environmental Implications

- 4.5 None. The later decision on the Licence application will take into account environmental implications given that the suitability of the site for the Applicant's proposals is likely to be in issue.

#### Implications for Key Priorities


- 4.6 None.

**5. Consultations**

- 5.1 No consultations are appropriate at this stage. If there is later a Licence Application, the usual consultation will be carried out.

**6. Conclusion**

- 6.1 The Committee are invited to take the action recommended.

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

ELMA MURRAY  
Chief Executive

Reference : GEN62

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

**Background Papers**

None

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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 6**

**12 August 2015**

#### **Licensing Committee**

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<b>Subject:</b>	<b>Civic Government (Scotland) Act 1982 - Taxi Stance at Hamilton Street, Saltcoats.</b>
<b>Purpose:</b>	To inform the Committee of the background and their legal powers.
<b>Recommendation:</b>	<p>(a) that the Committee should consider whether or not a proposal to revoke the appointment of the Taxi Stance should be considered;</p> <p>(b) if so,</p> <p>(i) that the Committee should give directions as to the intimation of that proposal;</p> <p>(ii) that the Committee should instruct the Clerk to intimate that proposal;</p> <p>(iii) that the Committee should continue consideration until after that intimation has taken place;</p> <p>(iii) that, on resuming consideration, the Committee should decide whether or not to revoke the appointment; and</p> <p>(c) if the Committee decides to revoke the appointment, that the Committee should request the Chief Executive to make appropriate alterations to signs or road markings.</p>

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#### **1. Introduction**

- 1.1. Taxi Stances are appointed by the Council (as Licensing Authority, not as Roads Authority) under Civic Government (Scotland) Act 1982, Section 19. The Council has powers, not duties. For example, where a Stance is temporarily unusable because of roadworks, the Council is not obliged to set up an alternative.

- 1.2. Only Taxis may use appointed Stances. Drivers of other vehicles (including 'Private Hire Cars') face prosecution under Section 21(7):

*"If any person, without reasonable excuse, causes or permits any vehicle other than a Taxi to wait on any Stance for Taxis during any period for which that Stance has been appointed by a Licensing Authority under section 19 of this Act, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 on the standard scale." (i.e. £500)*

- 1.3. There is a distinction between:

- (a) Stances which are appointed by the Council;
- (b) Private Stances (these are on private ground and Taxis stand there by arrangement between the land-owner and Taxi Operators. The Council has no involvement).

The Section 21 offence only applies to Council-appointed Stances.

## **2. Current Position**

- 2.1. The Stance at Hamilton Street, Saltcoats is little-used as Taxis tend instead to use the private Stance nearby at the supermarket.

- 2.2. The Act permits the Licensing Authority to do 4 things:

- (a) appoint a Stance (Section 19(1))
- (b) vary the number of Taxis permitted (Section 19(3))
- (c) alter the position of such Stances (Section 19(3))
- (d) revoke the appointment (Section 19(3))

- 2.3. All of these require consultation with Taxi operators or representative organisations. No other intimation of the proposal or publication is required, since the provision requiring public notice (Section 19(4)) relates only to actions (a) and (b), and not (c) or (d).

- 2.4. Section 19(4) is:

*"Before appointing any Stance for Taxis or varying the number of Taxis permitted to be at each Stance, the Licensing Authority shall give notice to the chief constable of the area in which the Stance is situated and shall also give public notice of the proposal by advertisement in at least one newspaper circulating in their area and shall take into consideration any objections or representations in respect of such proposal which may be made to them in writing within 28 days of the first publication of such notice."*



- 2.5. The Committee may think it is more appropriate to give wider notice of the proposal, and to invite public comment on the proposal. The Committee would not be obliged to take account of written representations from other parties, but would be entitled to do so.
- 2.6. The present Report will appear on the Council's public website as usual, and the Minutes will be published shortly after the Meeting. Assuming that this Report is first considered at the Meeting on 12 August 2015, and allowing for the 28 day intimation period, the earliest available meeting of the Committee at which this matter can be considered is 23 September 2015. Whenever this matter is to be again considered, due public notice of the Agenda will be given.

### **3. Proposals**

- 3.1. The Committee should consider the position and then decide whether or not the appropriate statutory procedure should be carried out with a view to revoking the appointment of the Stance.
- 3.2. If the Committee propose to proceed with Stance revocation, they should decide whether or not the proposal should be publicised more widely than is legally required.
- 3.3. The Clerk will:
  - (a) write to the holders of Taxi Licences in the Three Towns Zone, inviting them to make written representations concerning the proposal within 28 days; and
  - (b) if instructed by the Committee, place a suitable notice in a local newspaper.
- 3.4. When the Committee resume consideration, the Committee should then have regard to any representations made. The Committee would not be obliged to hold a public hearing or allow oral representations.
- 3.5. Under Section 19(2) a Licensing Authority may—
  - (a) erect and illuminate signs;
  - (b) cause lines or marks to be made on roads;indicating the limits of Taxi Stances. If the Committee decide to revoke the appointment, the Committee could also request the Chief Executive to make appropriate alterations to signs or road markings.

#### **4. Implications**

##### **4.1 Financial Implications**

The Revocation does not itself involve any expenditure by the Council. Alteration to signs or road markings might involve expenditure by NAC Roads.

##### **4.2 Human Resource Implications**

None.

##### **4.3 Legal Implications**

There are no legal implications for the Council, since Section 19 does not authorise anyone to appeal against the decision to revoke a Stance.

There are legal implications if the Stance is revoked, since people parking there will no longer be liable to prosecution under Section 21(7).

##### **4.4 Equality Implications**

The presence of a Stance prevents other drivers parking there, which may limit access to shops and services.

##### **4.5 Environmental Implications**

None.

##### **4.6 Implications for Key Priorities**

None.

#### **5. Consultations**

##### **5.1** No consultations are appropriate at this stage, but if the Committee instruct the Clerk to proceed then appropriate intimation will take place before the Committee resume consideration of the proposal.

**6. Conclusion**

6.1 The Committee are invited to take the action recommended.

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

ELMA MURRAY  
Chief Executive

Reference : GEN04

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

**Background Papers**

None



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## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item 7**

**12 August 2015**

#### **Licensing Committee**

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<b>Subject:</b>	<b>Landlord Registration under the Antisocial Behaviour etc. (Scotland) Act 2004, Part 8</b>
<b>Purpose:</b>	To inform the Committee of Landlord Registration matters.
<b>Recommendation:</b>	<p>(a) 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;</p> <p>(b) For each Application or Review Proposal described in the Schedules: that the Committee should consider each case and:</p> <p>(i) decide whether or not the Application should be granted, or the Relevant Person should be removed from the Register;</p> <p>(ii) 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.</p>

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#### **1. Introduction**

- 1.1. The Licensing Committee have 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.
- 1.2. The persons named in the attached Schedules are either:
- Applicants for Registration, or
  - already Registered under the 2004 Act, or
  - are not Registered.

Each person has one Schedule. The rented houses concerned are listed in the Schedules.

Although the scheme under the Antisocial Behaviour etc. (Scotland) Act 2004 is described as "Landlord Registration", it is the fact that living accommodation is occupied that is important, not the question of whether or not a formal Lease has been entered into or rent paid or the occupier has the formal status of "tenant". The Act applies to both (i) a Lease and (ii) an Occupancy Arrangement, and most of the laws relating to rented housing also apply as much to occupiers as tenants.

For convenience, in this Report:

- (a) Applicants seeking Registration, and
  - (b) people who are already Registered ("Registered Persons"), and
  - (c) people who own houses occupied as residences,
- are called "Landlords" and the occupiers are called "Tenants".

#### Exempt Information

- 1.3. Landlord Registration cases are referred to the Committee using two documents:
  - (a) this Report, and
  - (b) one or more Schedules.
- 1.4. This is done because the Committee may consider that the cases involve "Exempt Information" under the Local Government (Scotland) Act 1973, Schedule 7A, so that information about the cases should not be disclosed to the public. The Committee are 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)).
- 1.5. Since the Committee have frequently made the necessary Resolution in the past, it is permissible for future Schedules to be withheld from publication. Although a Committee's Agenda and connected Reports are generally to be made public (Section 50B(1)), publication of the Schedules to this Report (but not the Report itself) has been withheld under Section 50B(2), as the proper officer has the opinion that they relate to items during consideration of which the Meeting is likely not to be open to the public, i.e. that the Committee are likely to make a Resolution to exclude the public during consideration of the Schedules.

- 1.6. Accordingly, individual cases do not appear on the public agenda. The Report operates as a 'front page', and only appears once, regardless of how many individual cases are being referred to the Committee. The Report is general and sets out the legal structure. The Schedules detail the alleged facts of the particular cases and how the legislation appears to apply.
- 1.7. Depending on the circumstances of the individual case, the Schedules contain:
- (a) information about the Landlord's criminal convictions or their prosecution; and/or
  - (b) information that suggests that he is not a 'fit and proper' person by reason of his conduct in relation to alleged Anti-Social Behaviour; and/or
  - (c) information that suggests that he is not a 'fit and proper' person by reason of his breach of the legal obligations on Landlords; and/or
  - (d) information about conduct involving nuisance or crime (whether or not there have been any criminal Court proceedings).
- 1.8. The information is covered by one or other or both of the following categories of "Exempt Information" under Schedule 7A:

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."*

- 1.9. "Protected informant" is defined in Part III of the Schedule and means:

*"a person giving the Local Authority information which tends to show that—*

- (a) a criminal offence,*
- (b) a breach of statutory duty,*
- (c) a breach of planning control, within the meaning of section 123(1) of the Town and Country Planning (Scotland) Act 1997, or*
- (d) a nuisance,*

*has been, is being or is about to be committed".*

- 1.10. For example, Paragraph 15 would 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 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).
- 1.11. Accordingly, if a Resolution is made the publicly-accessible Minutes:
- (a) must exclude so much of the proceedings during which the public were excluded (Section 50C); but
  - (b) shall include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).
- 1.12. Although the Schedules have not been published, in each case the individual Landlords have been given appropriate copies and notice of the Committee Meeting.

#### The Landlord Registration Scheme

- 1.13. The general rule is that a person wishing to let out a house must be Registered with the Council. Registration lasts 3 years. A person must re-apply within that time to remain Registered - Registration is not automatically renewed. The requirement to be Registered is subject to many exceptions, e.g. lets to family-members do not require Registration.
- 1.14. The Act specifies conditions which Landlords must meet. One of these conditions is that the Landlord is a 'fit and proper person' (Section 84(3)(c)). The considerations which are relevant to this question are set out by the Act.
- 1.15. Once a Landlord has been Registered, the Council is entitled to review the Registration. If not satisfied that the 'fit and proper' condition for Registration is met, the Council is obliged to remove Registration (Section 89).



- 1.16. If a Landlord rents a house without being Registered, or if Registration is removed, two things can happen:
- (a) the Council may issue a Notice under Section 94 (often called a 'Rent Penalty Notice' or 'RPN'), meaning:
    - (i) the Tenant ceases to be liable for rent (but otherwise the Lease continues, so the Tenant remains in occupation and cannot be evicted for non-payment, and the Landlord remains responsible for repairs); and
    - (ii) any Housing Benefit stops being paid.
  - (b) the Landlord can be prosecuted for a criminal offence under Section 93(1). The penalty is a fine up to £50,000.
- 1.17 In addition, if Registration is removed, the Landlord can be prosecuted if he tries to obtain a new Tenant, e.g. by advertising the house for letting, or discussing terms with a prospective Tenant: Section 93(2). The penalty is a fine up to £50,000.

## **2. Current Position**

- 2.1 The Clerk has received information set out in the Schedules. This information suggests that there may be a basis for the Committee concluding that the Landlord is not 'fit and proper', and that either the Application should be refused or the Registration already granted should be removed.

## **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 decide to refuse an Application, or to remove a Registration, and if they are satisfied that the house is presently occupied by a Tenant, they 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 they are not so satisfied, they 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 was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

#### **4. Implications**

##### Financial Implications

- 4.1 If a RPN is issued, the Housing Benefit Office will be informed, so that the Landlord will no longer receive Housing Benefit.

##### Human Resource Implications

- 4.2 None

##### Legal Implications

- 4.3 Where the Council makes any decision to refuse or revoke Registration, to make a RPN, or to refuse to recall a RPN, the Landlord may appeal by Summary to the Sheriff or the First Tier Tribunal.

If the Council issues a RPN, only the Tenant's liability to pay rent will cease. The other rights and obligations of the Lease will be unaffected: Section 94(3) & (8).

For example:

- (a) the Tenant will continue to have whatever security of tenure he already had (he cannot be evicted for non-payment of rent where that non-payment is due to the RPN);
- (b) the Landlord will only be entitled to evict the Tenant if the Sheriff grants a Decree;
- (c) the Landlord continues to have repairing obligations.

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)).

##### Equality Implications

- 4.4 None

##### Environmental and Sustainability Implications

- 4.5 None

##### Implications for Key Priorities

- 4.6 None

**5. Consultations**

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

**6. Conclusion**

- 6.1 The Committee is invited to take the actions recommended.



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Chief Executive

Reference : WO'B/PAT

For further information please contact William O'Brien, Solicitor (Licensing)  
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**Background Papers**

Schedules (not to be published - Local Government (Scotland) Act 1973,  
Section 50B(2))