



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, 24 October 2018** at **10:00** to consider the undernoted business.

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

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of the meeting held on 12 September 2018 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

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

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

Submit report by the Chief Executive on Landlord Registration matters (copy enclosed).

5 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

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

Chair:

Apologies:

Attending:

IRVINE, 12 September 2018 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, Jean McClung, Donald L. Reid and Angela Stephen.

In Attendance

S. Bodys, Trading Standards Officer (Economy and Communities); W. O'Brien, Solicitor, (Licensing), S. Montgomery, Solicitor, C. Pollock, Licensing Administration Officer, A. Toal, Administrative Assistant (Legal Services), D. Robertson, Enforcement Officer and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Sergeant Dougan and PC McArthur (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Scott Gallacher and Davina McTiernan.

1. Order of Business

In terms of Standing Order 9.5, the Chair agreed that the Committee consider an application in respect of a Public Entertainment Licence as a matter of urgency in order to allow the matter to be progressed without delay.

The Chair further agreed, in terms of Standing Order 9.4, to vary the order of business to allow consideration of:-

Agenda Item 3 (Case 1, William Neil and John Imrie) as the second item of business; (Case 13, Wesley Smith) as the fifth item of business; and Urgent Item (PEL/563 Kelburn Arts Ltd) as the sixth item of business.

2. Declarations of Interest

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

3. Minutes

The Minutes of the meeting of the Committee held on 22 August 2018 were 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, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Item 3 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters) and Agenda Item 5 (Landlord Registration under the Antisocial Behaviour, etc (Scotland) Act 2004, Part 8), on the grounds that they involved the likely disclosure of Exempt Information as defined in Section 50J of, and Schedule 7A to, the Local Government (Scotland) Act 1973.

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

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."
6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
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 Chief Executive on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings, and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

5.1 Taxi Driver's Licence: TDL/02105 (New) - Brian Speirs

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant and referred to a letter submitted by Police Scotland setting out an objection in respect of the application.

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

Thereafter, the applicant and representatives of Police Scotland withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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 for a period of one year.

5.2 Second Hand Dealer's Licence: SHDL/199 (New) - William Neil & John Imrie

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicants, having been duly cited to attend, were present.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicants. Thereafter the applicants addressed the Committee on issues raised and responded to questions.

The Committee was advised that a request had been received to continue consideration of this application to the next meeting

Decision

The Committee unanimously agreed to continue consideration of the application to the next meeting.

5.3 Taxi Driver's Licence: TDL/02110 (New) - Derek Murdoch

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was present. Representatives from Police Scotland were also in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant and referred to a letter submitted by Police Scotland setting out an objection in respect of the application.

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

Thereafter, the applicant and representatives of Police Scotland withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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 for a period of one year.

5.4 Taxi Licence: TL/125 (Renewal) - Claire Docherty & Anton Docherty

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holders, having been duly cited to attend, were 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 licence holders and referred to a letter submitted by Police Scotland setting out an objection in respect of the application.

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

Thereafter, the applicant and representatives of Police Scotland withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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 for a period of three years.

Councillor Easdale left the meeting at this point.

5.5 Public Entertainment Licence: PEL/566 - Wesley Smith

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, referred to a letter submitted by Police Scotland setting out an objection in respect of the application and an email from the applicant's Solicitor.

The applicant addressed the Committee on issues raised and responded to questions. The Applicant confirmed his agreement to the conditions proposed by Police Scotland.

Thereafter, the applicant and representatives of Police Scotland withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

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 and with the further conditions proposed by Police Scotland.

5.6 Temporary Public Entertainment: PEL/563 - Kelburn Arts Ltd

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant and referred to a letter submitted by Police Scotland setting out an objection in respect of the application and to an exchange of email correspondence in which the Applicant commented on the proposals made by Police Scotland. The representatives of the Chief Constable confirmed acceptance of the applicant's alternative proposals.

Decision

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

Representatives from Police Scotland left the meeting at this point.

5.7 Late Hours Catering Licence: LHCL/129 (New) - Parminder Singh

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to continue consideration of the application to the next meeting to allow for further information to be provided by Environmental Health.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant.

Decision

Councillor Barr, seconded by Councillor McClung moved that the application be refused in terms of Paragraph 5 subsection 3(a) (ii) of Schedule 1 of the Licensing (Scotland) Act 1982. There being no amendment, the motion was declared carried.

5.8 Private Hire Car Licence: PHCL/366 (New) - Paul Forbes & James Tracey

The applicants, having been duly cited to attend, were not present or represented.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicants.

Decision

The Committee unanimously agreed to refuse the application in terms of Paragraph 5 (3) (d) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds that there was a 'good reason' for refusing the application, given that the applicants had not proposed a vehicle for operation under the Licence and that accordingly the Committee could not be satisfied of the matters required by Section 10(2) of the Civic Government (Scotland) Act 1982.

Councillor Easdale rejoined the meeting at this point.

5.9 Taxi Driver's Licence: TDL/02125 (New) - John Murphy

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. Thereafter, the applicant addressed the Committee on 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 for a period of one year.

5.10 Taxi Driver's Licence: TDL/00397 - John Convery

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Council's Enforcement Officer outlined the incidents where the licence holder had failed to adhere to the licence conditions. Thereafter the licence holder and his representative addressed the Committee on issues raised and responded to questions. The licence holder's Solicitor told the Committee that the licence holder did dispute the Dress Code violations and that he would comply with the Dress Code in future.

Decision

Councillor D L Reid, seconded by Councillor McClung, moved that the licence holder be issued with a Dress Code Final Warning letter. There being no amendment, the motion was declared carried.

5.11 Taxi Driver's Licence: TDL/00695 - Andrew Johnston

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Council's Enforcement Officer outlined the incidents where the licence holder had failed to adhere to the licence conditions. Thereafter the licence holder addressed the Committee on issues raised and responded to questions. The licence holder admitted the Dress Code violations and the breach of the 'no-smoking' condition.

Decision

Councillor Barr, seconded by Councillor Easdale, moved that the licence holder be issued with a Dress Code Warning letter. There being no amendment, the motion was declared carried.

5.12 Taxi Driver's Licence: TDL/01773 - Colin Bennett

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Council's Enforcement Officer outlined the incidents where the licence holder had failed to adhere to the licence conditions. The licence holder and his representative addressed the Committee on issues raised and responded to questions. The Licence Holder's Solicitor told the Committee that the Licence Holder accepted the first two matters (breach of Dress Code) but not the third allegation.

Thereafter, the licence holder, his representative and the Enforcement Officer withdrew to allow the Committee to deliberate.

On their return, the Chair advised the licence holder and his representative that the Committee was minded to suspend the licence and sought their views on the terms and length of suspension.

The licence holder and his representative withdrew to confer and advised on their return that immediate suspension of the licence for one month would be accepted with no appeal.

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

Decision

Councillor Ferguson, seconded by Councillor Barr, moved the Committee:-

- (a) to find that the grounds of revocation or suspension stated in Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 11(2)(a) and 11(2)(d) were established and that the licence should be suspended;
- (b) to fix the period of suspension as 14 days, in terms of Paragraph 11(11); and
- (c) given the circumstances of the case, the suspension should take immediate effect, in terms of Paragraph 11(10).

There being no amendment, the motion was declared carried.

At 12.25 p.m., in terms of Standing Order 5.7, the Chair adjourned the meeting for a short comfort break. The meeting reconvened at 12.35 p.m. with the same Members and officers present and in attendance.

The Committee agreed to consider Cases 13 and 14 simultaneously.

5.13 Taxi Driver's Licence: TDL/01962 - Stephen Reid and 5.14 Taxi Licence, TL/085 Stephen Reid

The Committee at its meeting held on 22 August 2018 agreed on the basis of the information presented to proceed to a hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982 in respect of both licences.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. The Council's Enforcement Officer outlined the incidents where the licence holder had failed to adhere to the licence conditions. Thereafter the licence holder addressed the Committee on issues raised and responded to questions. The Licence Holder told the Committee that the advertising wrapping would be removed from the taxi vehicle within two days.

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the licence holder be issued with a Dress Code Warning letter, and that if a Council officer confirmed that the advertising wrapping had been removed from the taxi by 2.00 p.m. on Friday 14 September 2018, there would be no need to further consider the question of revocation or suspension.

There being no amendment, the motion was declared carried.

Appendix B: Applications for Licences/Renewal of Licences

5.15 LHCL/115 (variation) - A G Restaurants Ltd

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

5.16 LHCL/116 (variation) - Mascot Scotland Ltd

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

5.17 PCC - Kilwinning Community Events

The Committee unanimously agreed to grant the application in terms of Section 119(5) of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

5.18 PCC - Promoting Kilwinning

The Committee unanimously agreed to grant the application in terms of Section 119(5) of the Civic Government (Scotland) Act 1982, subject to the Council's standard conditions.

5.19 TDL/01557 (Renewal) - William Laughlan

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

5.20 TDL/01754 (New) - Derek Boyd

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

5.21 TDL/01885 (New) - Peter Brown

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

5.22 TDL/02043 (New) - Colin Jamieson

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.

5.23 TDL/02128 (New) - Alexander Lammie

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.

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

5.24 J. C.

The Committee unanimously agreed, on the basis of the information presented to proceed to a hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

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

Noted.

The meeting ended at 1.15 p.m.

NORTH AYRSHIRE COUNCIL

24th October 2018

Licensing Committee

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

Purpose: To advise the Committee of
 (a) Hearings to be determined
 (b) Applications for the grant or renewal of licences and permits; under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit.
 (c) Issues arising in respect of existing licences,

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

1. Executive Summary

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

2. Background

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

1. Licences and Permits where Hearings have been convened – Appendix A
2. Applications for the grant or renewal of Licences and Permits – Appendix B
3. Issues in respect of existing Licences and Permits will be considered in terms of Appendix C.

Exempt Information

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

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

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

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

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

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

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

2.5. For example:

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

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

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

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

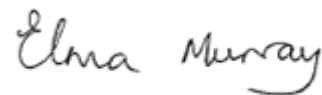
- 3.1 It is proposed that the Committee consider and determine each of the listed cases in accordance with the required procedure.

4. Implications

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

5. Consultation

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



Elma Murray OBE
Chief Executive

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

Background Papers

None

Hearings (Appendix A)

Case 1	Public Entertainment Licence	PEL/568 (Temp)
Applicant	Ardrossan Community Association Carrick Place Ardrossan KA22 7DT	
Premises	Carrick Avenue/Central Park, Ardrossan	
Case 2	Late Hours Catering Licence	LHCL/115 (variation)
Licenceholder	A G Restaurants Ltd McDonalds Riverway Retail Park Irvine	
Premises	McDonalds Riverway Retail Park Irvine	
Case 3	Second Hand Dealer's Licence	SHDL/199 (New)
Applicant	William Neil & John Imrie	
Premises	Springside Valet & Tyre Centre Overtoun Road Springside	
Case 4	Late Hours Catering Licence	LHCL/116 (variation)
Licenceholder	Mascot Scotland Ltd 1 Glencairn Street Stevenston	
Premises	1 Glencairn Street Stevenston	
Case 5	Taxi Driver's Licence	TDL/00397

Licenceholder John **Convery**

Case 6 **Taxi Driver's Licence** **TDL/01885 (New)**

Applicant Peter **Brown**

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
MDL/038 (Renewal)(Itinerant)	Robert Kerr
STL/E/286 (New)	Neil D McIntyre
TDL/01848 (New)	Charles Stewart
TDL/02041 (Renewal)	Pamela Gaw
TDL/02124 (New)	Andrea Fairfield
TDL/002140 (New)	Alan McTurk

Note

MDL - ~Metal Dealer's Licence

STL/E – Street Trader Employee Licence

TDL – Taxi Driver's Licence

NORTH AYRSHIRE COUNCIL

24th October 2018

Licensing Committee

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

Purpose: To inform the Committee of Landlord Registration matters.

Recommendation:

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

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

2. Background

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

2.2 Exempt Information

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

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

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

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

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

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

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

2.5 For example:

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

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

Paragraphs 14 or 15 could apply where it was alleged:

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

(d) that any person had committed a criminal offence (whether or not there had been concluded Court proceedings).

2.6. Accordingly, if a Resolution is made:

(a) the publicly-accessible Minutes will exclude so much of the proceedings during which the public were excluded (Section 50C);

(b) the Minutes will include a summary of the proceedings without disclosing the 'Exempt Information' (Sections 50C(2) & 50C(1)(b)).

3. Proposals

3.1 The Committee should consider each case and decide whether or not to grant the Application, or remove the Registration.

3.2. If the Committee decides to refuse an Application, or to remove a Registration, and if it is satisfied that the house is presently occupied by a Tenant, it should then decide whether or not to issue a Notice under Section 94 (commonly known as a 'Rent Penalty Notice' or 'RPN') in respect of any house referred to in the Application or Registration.

3.3. If it is are not so satisfied, it may delegate authority to the Clerk to issue a RPN if and when the Clerk is so satisfied. Given that there would be nothing to stop the Landlord receiving Housing Benefit even if he/she was unregistered, the Committee may wish to delegate authority to the Clerk to issue a RPN if the Clerk later receives information that any house which is currently covered by the Registration is occupied by a Tenant.

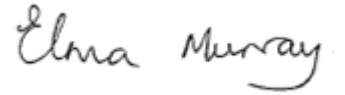
4. Implications

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

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

5. Consultation

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

A handwritten signature in cursive script that reads "Elma Murray". The signature is written in dark ink on a white background.

Elma Murray OBE
Chief Executive

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

Background Papers

None

