

Cunninghame House,  
Irvine.

10 March 2016

## Licensing Committee

You are requested to attend a special Meeting of the above mentioned Committee of North Ayrshire Council to be held in the Council Chambers, Cunninghame House, Irvine on **WEDNESDAY 16 MARCH 2016** 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 the Committee held on 25 February 2016 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

**3. 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).

- 4. Civic Government (Scotland) Act 1982, Section 13 and Schedule 1**  
Submit report by the Chief Executive on updating existing dress code (copy enclosed).
- 5. 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  
25 February 2016

**IRVINE, 25 February 2016** - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

**Present**

Ian Clarkson, Robert Barr, John Easdale, Grace McLean, Catherine McMillan, Ronnie McNicol and Donald Reid.

**In Attendance**

W. O'Brien, Solicitor (Licensing), K. Sharkey, Solicitor (Contracts and Licensing), D. Robertson, Enforcement Officer, A. Toal, Administrative Assistant, and M. Anderson, Committee Services Team Leader (Chief Executive's Service).

**Also In Attendance**

Inspector J. Conway and Sergeant G. Griffiths (Police Scotland).

**Chair**

Councillor Clarkson in the Chair

**Apologies for Absence**

John Bruce.

**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. Minutes**

The accuracy of the Minutes of the meeting of the Committee held on 3 February 2016 was confirmed, and the Minutes were signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

### **3. Exclusion of Public**

The Committee resolved in terms of Section 50(A)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: Licensing Matters (Part A: Hearings) on the grounds indicated in terms of Paragraph 14 of Part 1 of Schedule 7A of the Act.

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

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

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

##### **4.1 Public Charitable Collection: Ivy Fundraising**

The applicant, having been duly cited to attend, was not present or represented. The Committee was advised of a letter from the applicant intimating that she was unable to attend the hearing.

The Committee noted that the application for collection from 25 April to 1 May 2016 was outwith Council policy that street collections should only be permitted on a Saturday. The Committee considered whether the particular case could be treated as an exception to the policy and also whether the amount likely to be applied for charitable purposes in consequence of the collection was inadequate having regard to the likely amount of the proceeds of the collection.

#### **Decision**

The Committee unanimously agreed, having regard to the information presented to refuse the application under Section 119(6)(a) and (c) of the Civic Government (Scotland) Act 1982.

##### **4.2 Taxi Driver's Licence: Paul McPherson: TDL/01168**

At its meeting on 3 February 2016, the Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on 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.

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

### **Decision**

The Committee unanimously agreed (a) to grant the application in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982; and (b) that the Council's Enforcement Officer make contact with the applicant's former employer with a view to ensuring that the company undertakes all necessary checks to verify the validity of its drivers' photo card driving licences.

### **4.3 Taxi Driver's Licence: Charles Stewart: TDL/01848**

At its meeting on 3 February 2016, the Committee agreed, on the basis of the information presented, to proceed to a Hearing in terms of Paragraph 4(2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant, having been duly cited to attend, was not present or represented. Representatives from Police Scotland were in attendance in respect of a letter of observation in relation to the application.

### **Decision**

The Committee unanimously agreed to refuse the application in terms of Paragraph 5(1)(a) 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.

### **4.4 Taxi Driver's Licence: John D. Simpson: TDL/01070**

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

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

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

### **Decision**

The Committee unanimously agreed to refuse the application in terms of Paragraph 5(1)(a) 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.

## **4.5 Urgent Item**

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

### **4.5.1 Street Trader Operator's Licence: Kenneth Holmes: STL/O/428**

The Solicitor (Licensing) advised of an application for a temporary Street Trader's Operator's Licence which could not be dealt with by officers under delegated powers on the grounds that it was likely to be outwith the Council's policy in terms of proximity to a school and to other premises selling similar goods.

The applicant, having been duly cited to attend, was present, addressing the Committee on the issues raised and responding to questions.

The applicant then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

### **Decision**

The Committee unanimously agreed to authorise officers to exercise delegated powers to grant the application, subject to (i) the Council's usual conditions, (ii) the vehicle being situated within the Auchenharvie Leisure Centre grounds at a location approved by KA Leisure and (iii) the applicant demonstrating compliance with Environmental Health requirements.

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

### **4.6 Taxi Driver's Licence: Gary George Williamson: TDL/00139 (New)**

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.

### **4.7 Taxi Driver's Licence: Alan Thom: TDL/00140 (New)**

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.

### **4.8 Taxi Driver's Licence: Robert Currie Haggarty: TDL/00142 (New)**

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.

#### **4.9 Taxi Driver's Licence: Robert Crozier Boyd: TDL/01956 (Renewal)**

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 for a period of one year.

#### **5. Civic Government (Scotland) Act 1982, Section 13 and Schedule 1: Dress Code**

Submitted report by the Chief Executive on a proposal to update the dress code for licensed drivers.

The report set out the current Dress Code condition for taxi drivers and private hire car drivers and proposed a series of amendments.

Members discussed the following:-

- circumstances in which clothing with printing or lettering may be deemed appropriate; and
- issues surrounding head wear of a religious nature.

The Committee unanimously agreed to continue consideration of this matter to allow the Chief Executive to submit amended dress code proposals to the next meeting.

The meeting ended at 11.35 a.m.



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**NORTH AYRSHIRE COUNCIL**

**Agenda Item 3**

**16 March 2016**

**Licensing Committee**

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**Title:** **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. Executive Summary**

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. Background

### Appendix A:

Licences where Hearings have been convened;

### 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

<b>Financial:</b>	There are possible financial implications in relation to the refusal of any application.
<b>Human Resources:</b>	None
<b>Legal:</b>	There are possible legal implications in relation to the refusal of any application.
<b>Equality:</b>	An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is not a consideration in making a Licensing decision.
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

**5. Consultation**

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

A handwritten signature in black ink that reads "Elma Murray". The signature is written in a cursive style with a large initial 'E' and a long, sweeping tail on the 'y'.

ELMA MURRAY  
Chief Executive

Reference : PAT

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

**Background Papers**

None



<b>Hearings</b>		
<b>Hearing 1</b>	<b>Taxi Drivers Licence</b>	<b>TDL/00139 (New)</b>
<b>Applicant and Address</b>	Gary <b>Williamson</b> 23 Merryvale Road Irvine KA12 8ET	
<b>Hearing 2</b>	<b>Taxi Driver's Licence</b>	<b>TDL/00140 (New)</b>
<b>Applicant and Address</b>	Alan <b>Thom</b> 8c Redburn Gate Irvine KA12 8TH	
<b>Suspension Hearing 3</b>	<b>Taxi Operator's Licence</b>	<b>TL/041</b>
<b>Licenceholder and Address</b>	Kevin <b>Blades</b> 15 Dale Crescent Irvine KA12 0RU	
<b>Duration of Licence</b>	Renewal Application Pending	
<b>Hearing 4</b>	<b>Temporary Public Entertainment Licence</b>	<b>PEL/286</b>
<b>Applicant and Address</b>	Ruari Ian <b>Gordon</b> 2 Sentinel Corriegills Brodict Isle of Arran KA27 8BL	
<b>Premises</b>	North Sannox Picnic Site By Sannox Isle of Arran	



<b>Applications for Licences/Renewal of Licences</b>		
<b>Type of Licence/Reference Number</b>	<b>Details of Applicant</b>	<b>Comments</b>
<b>TDL/01926 (New)</b>	Peter <b>Smith</b> 45 St Margarets Road Ardrossan KA22 7EW	Previous convictions declared



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## NORTH AYRSHIRE COUNCIL

### Agenda Item 4

16 March 2016

#### Licensing Committee

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**Title:** Civic Government (Scotland) Act 1982, Section 13 and Schedule 1

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**Purpose:** Updating existing Dress Code

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**Recommendation:** That Licensing Committee review the proposal

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#### 1. Executive Summary

- 1.1 In terms of the Civic Government (Scotland) Act 1982, the Council as the Licensing Authority may attach Conditions to the grant of a licence for the driving and operation of both taxis and private hire cars.
- 1.2 The Council operate a "Dress Code" policy for licensed drivers which is given effect to in Licence conditions.

#### 2. Background

- 2.1 The Dress Code Condition for Taxi Drivers and Private Hire Car Drivers is currently

"Condition 4 When the vehicle is operating as a taxi the licenceholder must conduct himself/herself in a proper and civil manner and be clean and tidy in appearance. The Licensing Authority operates a **dress code** in respect of licenceholders and when working as a taxi driver male licenceholders are required to wear trousers or slacks and, for female licenceholders, a skirt, trousers or slacks, and all drivers a shirt, polo shirt, a blouse or similar top. You are not permitted to wear track suits, shorts or similar articles of casual clothing or articles more commonly associated with sporting activities. If you wish to wear a tie then the Licensing Authority requires, for reasons of your safety, that it be a clip on tie".

- 2.2. The Private Hire Car Licence has a similar Condition.
- 2.3 The Taxi Licence (commonly called "Taxi Operator's Licence") also has a condition "The licenceholder must ensure that, when the vehicle is operating as a taxi, **the driver** is clean and tidy in appearance".
- 2.4 Proposed changes to the dress code were considered at the last meeting of the Licensing Committee on 25 February 2016, where it was agreed that the matter be continued for further consideration at the next meeting.

### 3. Proposals

3.1 The following amendments of the Conditions in the two Driver's Licences are suggested:

"When the vehicle is operating as a Taxi or Private Hire Car, the Licence-holder must conduct himself/herself in a proper and civil manner and be clean and tidy in appearance.

Licence-holders must, when operating the licensed vehicle, conform to the following 'Dress Code':

- (a) Any tie must be a "clip-on";
- (b) The driver may not wear a tracksuit, shorts or any similar article of casual clothing;
- (c) The driver may not wear any article of clothing more commonly associated with sporting activities (including head-gear and foot-wear). The following are not permitted - jeans of any colour or description, training shoes, baseball shoes, sandals, baseball caps, cargo pants, hooded sweatshirts or military-style clothing;
- (d) The driver may not wear clothing with printing or lettering (unless it is the name or contact details of the driver or the taxi firm);
- (e) The driver may not wear a hat, cap or other head-wear while driving;

These requirements apply:

- (1) whether the vehicle is driving or not, and
- (2) whether or not it is at the time under hire or plying for hire,

except that requirement (e) (prohibition of hat, cap or other head-wear) only applies where the vehicle is driving and either under hire or plying for hire.

Departure from any of these requirements is permitted only where a particular type of clothing is required by the traditional and customary practices of the driver's particular religious, ethnic or other cultural group.

Where the Licence-Holder is told by an officer of the Licensing Authority that, in the officer's opinion, the Licence-Holder's clothing is not consistent with this Condition (including the 'Dress Code'), the Licence-Holder shall cease operating under the Licence and shall not resume unless he/she has changed to clothing which meets the Licence Condition."

- 3.2 The purpose of the Licensing Authority having a "Dress Code" is to make clear to drivers, the public and Council staff what is permitted, and what is not. By stating what is not permitted, the Licensing Authority are indicating to each Licence-Holder that wearing unsuitable clothing while driving a hire car may lead to the Licensing Authority considering that he/she is not "a fit and proper person" to be the holder of a licence, and that there are grounds to suspend the licence or to refuse renewal of it.

#### 4. Implications

<b>Financial:</b>	None
<b>Human Resources:</b>	The new "Dress Code" can be publicised on the Council's web site and Twitter account, and may also be the subject of a Press Release.
<b>Legal:</b>	Any Condition has the potential to be the basis of a decision to suspend the licence or to refuse to renew it.
<b>Equality:</b>	Any condition which seeks to improve a dress code runs the risk of challenge. Under the European Convention on Human Rights, Article 10 ("Freedom of expression"). The Article 10 issue comes up often in employment law where an employer seeks to impose restrictions on employee appearance. The view is that when a person chooses what to wear he/she is exercising their "freedom of expression", just as much as their voiced opinions. Drivers are not Council employees. However the updated Conditions may be thought reasonable to reflect an expectation of members of the public that Taxi/Private Hire Car Drivers will adhere to an acceptable standard of dress, and that their journey and engagement with the driver will be a positive experience. Encouraging re-use.
<b>Environmental &amp; Sustainability:</b>	None
<b>Key Priorities:</b>	An effective licensing system, monitoring the 'fit and proper' status of hire-car drivers helps achieve one of the "High Level Outcomes" of the "NAC Community Planning Partnership Single Outcome Agreement 2013-17": "A Safe and Secure North Ayrshire".
<b>Community Benefits:</b>	Not applicable, as the Report does not relate to tendering or procurement exercises.

**5. Consultation**

- 5.1 There is no requirement for consultation where the Licensing Authority adopt or review a Policy.



ELMA MURRAY  
Chief Executive

Reference : WOB/DR/PAT

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

**Background Papers**

None