



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A meeting of the **Licensing Committee** of North Ayrshire Council will be held remotely on **Wednesday, 13 January 2021** at **10:00** to consider the undernoted business.

Arrangements in Terms of COVID-19 - Licensing (partially excluded)

In light of the current COVID-19 pandemic, this meeting will be held remotely in accordance with the provisions of the Local Government (Scotland) Act 2003. As the business under consideration at the meeting is likely to 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, the meeting will not be live streamed/recorded for access by the public.

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 9 December 2020 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 Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)

Submit report by the Head of Democratic Services on the proposed timetable for the Review and Fixing of Taxi Scales) copy enclosed).

**4 Civic Government Scotland Act 1982 and other Licensing Statutes:
Licensing Matters**

Submit report by the Head of Democratic Services on hearings to be determined and applications for grant or renewal of licences and permits, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

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:

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving participation by remote electronic means.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, John Easdale, Jean McClung, Davina McTiernan and Donald L. Reid.

In Attendance

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

Also in Attendance

Inspector Alison Wilson and Sergeant Scott Barrie (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Scott Gallagher and Angela Stephen.

1. Chair Remarks

The Chair agreed, in terms of Standing Order 9.4, to vary the order of business with regard to Agenda Item 3, to allow consideration of TL/406: Russell Drummond prior Taxi Driver's Licence: TDL/00144: Sarah Connolly, as there was a delay in Ms. Connolly joining the meeting.

2. Declarations of Interest

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

3. Minutes

The Minutes of (i) the Ordinary Meeting held on 18 November 2020 and (ii) the Special Meeting held on 25 November 2020 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

4. Exclusion of the Public

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

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

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

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

Submitted report by the Head of Democratic Services on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

5.1 Metal Dealer's Licence: MDL/066 (New): James Downey

The Committee at its meeting held on 18 November 2020 agreed to continue this application to the next meeting to allow additional information to be obtained from Durham County Council.

Councillor Easdale joined the meeting at this point.

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

The Solicitor (Licensing) set out for the Committee the additional information received from Durham County Council.

Councillor McClung, seconded by Councillor Ferguson, moved that the Committee grant the application for a period of 3 years, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982. There being no amendment, the motion was declared carried.

The applicant left the meeting at this point.

Appendix B: Applications for Licences/Renewal of Licences

5.2 TL/406: Russell Drummond

The Committee unanimously agreed to grant the application as an exemption to the Council's Vehicle Specification Policy.

Appendix A: Hearings

5.3 Taxi Driver's Licence: TDL/00144: Sarah Connolly

The Solicitor (Licensing) advised the Committee of a request from Police Scotland for the revocation/suspension of the licence in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

The licence-holder, having been duly cited to attend, joined the meeting at this point accompanied by her partner Mr. Colin McGregor.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence-holder. The representatives from Police Scotland then addressed the Committee in respect of the revocation/suspension.

Thereafter the licence-holder addressed the Committee on the issues raised and responded to questions.

The licence-holder, her partner and representatives from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the licence-holder and her partner re-joined the meeting, with the same Members and Officers present and in attendance, with the exception of Police Scotland, to hear the Committee's decision.

Decision

Councillors McNicol and Barr left the meeting briefly due to a connection issue and rejoined prior to the decision.

Councillor Ferguson, seconded by Councillor Reid, moved that the Committee revoke the licence in terms of Paragraph 11(2) of Schedule 1 of the Civic Government (Scotland) Act 1982, with immediate effect. There being no amendment the motion was declared carried.

The licence-holder and her partner left the meeting at this point.

6. Urgent Items: Appendix B

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

6.1 Taxi Driver's Licence: TDL/00563: John Laverty

Police Scotland rejoined the meeting at this point.

Councillor Ferguson, seconded by Councillor Reid, moved that the Committee should be satisfied that good cause had been shown for the Application for Renewal having been made after the expiry of the Licence, and that accordingly the Licensing Authority should deem the Application for Renewal to be an Application made before the expiry, in terms of Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(5A). There being no amendment, the motion was declared carried.

The meeting ended at 11.25 a.m.

NORTH AYRSHIRE COUNCIL

13 January 2021

Licensing Committee

Title:	Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)
Purpose:	To advise Committee of procedure
Recommendation:	That the Committee agree: (a) to approve the proposed timetable for the Review and Fixing Process, as set out in the Appendix to this Report; and (b) to approve the suggested process of Trade Consultation with Taxi Operators.

1. Executive Summary

- 1.1 The Licensing Committee exercise the functions of the Council as "Licensing Authority" under many statutes, including the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).
- 1.2 Taxi fares and other charges are limited to the Scales fixed by the Licensing Authority (1982 Act, Section 17). These are the maximum amounts which may be charged. It is open to Operators to discount these rates if they wish. The fares charged by Private Hire Cars are not regulated.
- 1.3 The Licensing Authority must periodically review the Scales and fix new Scales. Before the Coronavirus Emergency the decision to fix new Scales had to occur within 18 months of the current Scales coming into effect. The current Scales came into force on 22 July 2019 so the Licensing Authority would have had to fix the new Scales by 22 January 2021. The current Scales remain in effect whether or not they are reviewed by that date. Due to the Coronavirus Emergency the review process has been delayed, as it depends on meetings of the Committee and Trade Consultation, neither of which were possible until virtual meetings using remote participation were established. Since virtual meetings have now been established, this Report proposes a variant of the 'normal' review process.
- 1.4 The Appendix to this Report sets out a possible timetable for the review process. There is a statutory obligation to consult with Taxi Operators.

2. Background

2.1 The procedure for reviewing and fixing Scales is set by the 1982 Act, and consists of a number of stages:

(a) First Committee Meeting - Trade Consultation (Section 17(4A)(a))

Before fixing Scales, the Licensing Authority must consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area. The legislation specifies that consultation must happen, but does not prescribe the form that that consultation must take. Although later stages of the review process involve consultation with the general public, Stage (a) only involves the Trade. Before the Coronavirus Emergency, consultation proceeded by Taxi Operators meeting Committee Members in one of the meeting rooms at Cunninghame House. The Council would send letters to the principal trade associations and to individual holders of Taxi Licences inviting them to attend. Since this is no longer possible, the alternative is to invite the associations and operators to participate in an online virtual meeting. The proposal now is to email the associations and the operators for whom the Council have email addresses, inform them of the date and time of an online meeting with Committee Members, and invite them to respond if they wish to participate in that meeting. Anyone who confirms a wish to participate will later be sent joining instructions. This procedure is now regularly used to allow Licence-Applicants to participate in Committee Meetings and works well. In addition a Notice would be posted on the Council's Facebook page explaining the procedure and telling operators how they can participate. The Notice would ask operators wishing to participate to contact the Licensing office to register their interest. Whether or not operators wished to participate directly, they would be told that they could make representations by sending emails to the Licensing office.

(b) Second Committee Meeting - Proposal (Section 17(4A)(b))

Following the Trade Consultation, the Licensing Authority must review the existing Scales, and propose new Scales, whether at altered rates or the same rates; (at this stage all that the Council are doing is proposing new Scales; the decision to fix them does not happen until later, after public consultation;

(c) Public Consultation - First Advertisement (Section 17(4A)(c))

Following such Review the Licensing Authority must publish the proposed Scales in a newspaper circulating in its area, stating that any person may make representations in writing until a specified date falling at least one month after the first publication. Previous advertisements have appeared in local newspapers.

(d) Third Committee Meeting - Fixing the Scale (Section 17(2))

The Licensing Authority must consider such representations, and fix the Scales.

(e) Notification to Trade (Section 17(4D)..17(5))

The Licensing Authority informs both individual operators and trade organisations within 7 days of the Scales being 'fixed'. Any of them may appeal to the Traffic Commissioner within 14 days of receiving Notice, and Appeal suspends the decision to fix new Scales (Section 18(4)).

(f) and (g) Second Advertisement (Section 18A)

The Licensing Authority is to publish the new Scales in local newspapers. The date of publication depends on whether or not there is an appeal:

- If there has been no appeal, publication occurs as soon as practicable after the expiry of the 14-day appeal period.
- If there is an appeal, publication occurs as soon as practicable after the determination of the appeal.

Publication is not a 'consultation', but is simply informing the public that the new Scales have been fixed and will shortly come into effect.

3. Proposals

3.1 It is proposed that the Committee agree to:

- (a) approve the proposed timetable for the review process as set out in the appendix to the report; and
- (b) set a date and time to meet with the Trade to carry out Trade Consultation (Stage (a)).

4. Implications/Socio-economic Duty

Financial

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, which may affect future Licence fees.

Human Resources

4.2 None.

Legal

4.3 Possible appeal to the Traffic Commissioner.

Equality/Socio-economic

4.4 None. An "Equality Impact Assessment" is not considered necessary. There are no socio-economic implications of the proposals. None. An "Equality Impact Assessment" is not considered necessary. There are no socio-economic implications of the proposals.

Environmental and Sustainability

4.5 None.

Key Priorities

4.6 North Ayrshire Council has priorities for Aspiring Communities in the Council Plan 2019-2024. An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Priority Outcome: "North Ayrshire's residents and communities are safe".

Community Benefits

4.7 Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

5.1 No consultations are necessary or appropriate at this stage of the statutory process, which will later involve consultation with the Trade and the general public.

Andrew Fraser
Head of Democratic Services

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

Background Papers

Possible timetable – Taxi Fare Review 2021 (GEN17)

Possible timetable - Taxi Fare Review 2021

(Stages as described in Report)

Stage	Action	Date
(a)	Meeting with taxi trade representatives/taxi operators to discuss proposals, consider revisions and finalise draft tariff	To be arranged
(b)	Licensing Committee meeting to approve finalised draft tariff and to authorise advertisement of the proposed tariff in local press	Wednesday 10 February 2021
(c)	Newspaper advertisement for Public Consultation	as soon as possible after (b)
(d)	Licensing Committee meeting to consider representations, to fix new Scales, and set Effective Date (subject to appeal). This meeting is to be at least one month after the first publication by the authority of the proposed Scales.	Wednesday 21 April 2021
(e)	Notification to Trade that new Scales have been fixed - within 7 days of the Stage (d) Meeting	Wednesday 28 April 2021
(f)	Advertise new Scales (if no appeal to the Traffic Commissioner)	Not less than 14 days after the Notification in Stage (e)
(g)	Advertise new Scales (if there is an appeal)	as soon as practicable after the determination of the appeal.

NORTH AYRSHIRE COUNCIL

13 January 2021

Licensing Committee

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

Purpose: To advise the Committee of:
a) 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;

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

1. Executive Summary

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

2. Background

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

Appendix B - Applications for the grant or renewal of Licences and Permits

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 "ProtecteInformant" is defined in Part III as a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance.

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

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

2.5. For example:

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

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

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

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

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

4. Implications/Socio-economic Duty

Financial

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

Human Resources

4.2 None.

Legal

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

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council
"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."

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

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

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

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

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

Environmental and Sustainability

4.5 None

Key Priorities

4.6 An effective licensing system, for example monitoring the 'fit and proper' status of licence-holders, the safety of vehicles, and the suitability of premises, helps progress

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

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

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

Andrew Fraser
Head of Democratic Services

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

Background Papers

None

Applications for Licences/Renewal of Licences (Appendix B)

Type of Licence/Reference Number	Details of Applicant
MDL/035 (Renewal)	William Ledgerwood
MDL/069 (New)	Michael Stevenston
TDL/01539 (Renewal)	Gordon McKenzie
TDL/02180 (Renewal)	Sharon Horn
TDL/02272 (New)	Kenneth A Salmon
TL/428 (New)	Russell Drummond

Note

MDL – Metal Dealer's Licence

TDL – Taxi Driver's Licence

TL – Taxi Licence

