



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, 06 December 2023** at **10:00** to consider the undernoted business.

Meeting Arrangements - Not live streamed

This meeting will be held on a predominantly physical basis but with provision, by prior notification, for remote attendance by Elected Members in accordance with the provisions of the Local Government (Scotland) Act 2003.

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

1 Declarations of Interest

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

2 Minutes

The accuracy of the Minutes of the Meeting of the Licensing Committee held on 8 November 2023 will be confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973 (copy enclosed).

3 Civic Government Scotland Act 1982 and other Licensing Statutes: Licensing Matters

Submit report by the Head of Democratic Services on hearings to be determined, all in terms of the Civic Government (Scotland) Act 1982 (copy enclosed).

4 Public Charitable Collections

Submit report by the Head of Democratic Services informing of the legislation and current Council policy in relation to Public Charitable Collections (copy enclosed).

5 Urgent Items

Any other items which the Chair considers to be urgent.

Licensing Committee Sederunt

Eleanor Collier (Chair)
Nairn McDonald (Vice-Chair)
John Bell
Cameron Inglis
Christina Larsen
Jean McClung
Matthew McLean
Donald L. Reid
Ronnie Stalker
Angela Stephen

Chair:

Apologies:

Attending:

IRVINE, 8 November 2023 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Eleanor Collier, Nairn McDonald, Christina Larsen, Jean McClung, Donald L. Reid and Ronnie Stalker.

In Attendance

R. Lynch, Senior Manager, W. O'Brien, Solicitor (Licensing), D. Robertson, Enforcement Officer, A. Toal, Administration Assistant (Licensing), S. Dalgoutte, Senior Clerical Assistant (Licensing) and M. Anderson, Senior Manager (Committee and Member Services) (Chief Executive's Service).

Also in Attendance

Inspector D, Cameron (Police Scotland).

Chair

Councillor Collier in the Chair.

Apologies

John Bell, Cameron Inglis, Matthew McLean and Angela Stephen.

1. Chair's Opening Remarks

The Chair welcomed those present and intimated her intention to consider a number of urgent matters in terms of Agenda Item 4 (Urgent Items).

In terms of Standing Order 10.5, the Chair further advised that one urgent item, in respect of a short-term let, would be considered immediately following Case 3, Agenda Item 3 (Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters).

2. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 11 and Section 5 of the Code of Conduct for Councillors.

3. Minutes

The accuracy of the Minutes of the Ordinary Meeting of the Licensing Committee held on 4 October 2023 and the Special Meeting held on 23 October 2023 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, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for Agenda Items 3 and 4 (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.

5.1 Taxi Driver's Licence: TDL/1642 (New): Thomas Bagan

The applicant, having been duly cited to attend, was present. A representative from Police Scotland was in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

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

Decision

Councillor Larsen, seconded by Councillor Stalker, moved that the licence be granted. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

5.2 Taxi Driver's Licence: TDL/2160 (Renewal): Brenda Barratt

The licence-holder, having been duly cited to attend, was present. A representative from Police Scotland was in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

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

The Licence holder and representative from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the Licence-holder and representative from Police Scotland re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision

Decision

Councillor McDonald, seconded by Councillor Stalker, moved that the Committee grant the application, but limit the duration to one year (rather than the default period of 3 years) for a period of one year under the Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(2)(b), on the basis that in the circumstances it was not appropriate to renew for the default duration of a Licence. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed, Councillor Larsen dissenting, to grant the application for a period of one year, subject to the Council's standard conditions in terms of Paragraph 5(1)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 11.10 a.m. for a short comfort break. The meeting reconvened at 11.15 a.m., with the same Members and officers present and in attendance.

5.3 Taxi Driver's Licence: TDL/2415 (New): Mark Monaghan

The applicant, having been duly cited to attend, was not present or represented. A representative from Police Scotland was in attendance.

Police Scotland addressed the Committee on the terms of a letter setting out their representation.

Decision

The Committee unanimously agreed to continue consideration of this matter to its meeting scheduled to take place on 10 January 2024.

5.4 Application for Grant of Short Term Let Licence

The Solicitor (Licensing) advised the Committee of a matter pertaining to an application for grant of a short-term let licence.

The Committee unanimously agreed to continue consideration of this matter to a future meeting.

5.5 Taxi Licence: TL/454 (New): Mohamed Asli

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

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

Decision

Councillor McDonald, seconded by Councillor McClung, moved that the application be treated as an exception to the Council's Vehicle Specification Policy which required the use of a Wheelchair Accessible Vehicle. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to (a) treat the application as an exception to the Council's Vehicle Specification Policy for the purposes of Section 10(2) of the Civic Government (Scotland) Act 1982; (b) treat the case as an exception to the part of the Policy requiring the use of a Wheelchair Accessible Vehicle; and (c) delegate authority to the Solicitor (Licensing) to grant the application.

5.6 Taxi Licence: TL/456 (New): Ravinderjit Singh

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

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

Decision

The Committee unanimously agreed to (a) treat the application as an exception to the Council's Vehicle Specification Policy for the purposes of Section 10(2) of the Civic Government (Scotland) Act 1982; (b) treat the case as an exception to the part of the Policy requiring the use of a Wheelchair Accessible Vehicle; and (c) delegate authority to the Solicitor (Licensing) to grant the application.

5.7 Taxi Licence: TL/457 (New): Partnership of Calvin Smith, Gordon Smith, Jamie Dorrans

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

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

Decision

Councillor Larsen, seconded by Councillor McDonald, moved that the application be treated as an exception to the Council's Vehicle Specification Policy which required the use of a Wheelchair Accessible Vehicle. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to (a) treat the application as an exception to the Council's Vehicle Specification Policy for the purposes of Section 10(2) of the Civic Government (Scotland) Act 1982; (b) treat the case as an exception to the part of the Policy requiring the use of a Wheelchair Accessible Vehicle; and (c) delegate authority to the Solicitor (Licensing) to grant the application.

6. Urgent Items

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

6.1 Report on North Ayrshire Council's Taxi Dress Code

The Solicitor (Licensing) advised the Committee of a request made by a licenced taxi driver on behalf of a number of taxi drivers, for a review of the North Ayrshire Council's Taxi Licensing Dress Code.

The Committee unanimously agreed (a) that the Enforcement Officer submit a report on a proposed revised Taxi Licensing Dress Code for consideration by the Committee; (b) thereafter, that the draft be sent to the local Taxi Owners Associations for written comments; and (c) to review the draft and any such comments.

6.2 TDL/630 / TL13: Thomas Anderson

The Enforcement Officer provided information on the circumstances surrounding a failure on the part of the licence-holder to adhere to the North Ayrshire Council's Taxi Licensing Dress Code.

Decision

Councillor Larsen, seconded by Councillor Donald L. Reid, moved to proceed to a hearing in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland Act) 1982. As an amendment, Councillor McDonald, seconded by Councillor McClung, moved that the Committee direct the Clerk to write to the licence-holder.

On a division, there voted for the amendment 3, and for the motion 3 and, on the casting vote of the Chair, the amendment was declared carried.

Accordingly, the Committee agreed to direct the Clerk to write to the licence-holder.

6.3 TDL/1962 / TL85: Stephen Reid

The Enforcement Officer provided information on the circumstances surrounding a failure on the part of the licence-holder to adhere to North Ayrshire Council's (a) the Taxi Licensing Dress Code and (b) Taxi Licensing Smoking Policy.

Decision

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

6.4 TDL/533: Martin Morrison

The Enforcement Officer provided information on the circumstances surrounding (a) discrimination on the part of the licence-holder by refusing to undertake a taxi hire involving a guide dog and (b) failure to adhere to North Ayrshire Council's Taxi Licensing Smoking Policy.

Decision

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

6.5 TDL/256 / TL24: Daniel Tudhope

The Enforcement Officer provided information on the circumstances surrounding a failure on the part of the licence-holder to adhere to North Ayrshire Council's Taxi Licensing Smoking Policy.

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

6.6 TDL/2247: Desmond Quigley

The Enforcement Officer provided information on the circumstances surrounding a failure on the part of the licence-holder to adhere to the North Ayrshire Council's Taxi Licensing Dress Code.

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

The meeting ended at 12.15 p.m.

NORTH AYRSHIRE COUNCIL

6 December 2023

Licensing Committee

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

Purpose: To advise the Committee of:
a) Hearings to be determined

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

1. Executive Summary

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

2. Background

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

Appendix A - Licences and Permits where Hearings have been convened

Exempt Information

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

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

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

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

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

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

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

2.5. For example:

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

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

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

2.6. Accordingly, if a Resolution is made:

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

3. Proposals

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

4. Implications/Socio-economic Duty

Financial

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

Human Resources

4.2 None

Legal

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

Equality/Socio-economic

4.4 Equality Act 2010 imposes duties on the Council:

Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council

"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."

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

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

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

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

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

Climate Change and Carbon

4.5 None.

Key Priorities

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

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

Community Wealth Building

4.7 There are no Community Wealth Building issues.

5. Consultation

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

Aileen Craig
Head of Democratic Services

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

Background Papers

None

Appendix A

Case 1	Taxi Driver's Licence	TDL/02399 (New))
Applicant	Alan MacDonald	

Case 2	Private Hire Car Licence	PHCL/382 (Substitute)
Licence Holder	Steven Mason	

Case 3	Taxi Driver's Licence	TDL/00630
Licence Holder	Thomas Anderson	

Case 4	Taxi Driver's Licence	TDL/01962
Licence Holder	Stephen Reid	

Case 5	Taxi Driver's Licence	TDL/00533
Licence Holder	Martin Morrison	

Case 6	Taxi Driver's Licence	TDL/00256
Licence Holder	Daniel Tudhope	

Case 7	Taxi Driver's Licence	TDL/02247
Licence Holder	Desmond Quigley	

NORTH AYRSHIRE COUNCIL

6th December 2023

Licensing Committee

Title:	Public Charitable Collections
Purpose:	To inform the Committee of the legislation and current North Ayrshire Council Policy
Recommendation:	That the Committee should review the Policy

1. Executive Summary

- 1.1 This Report sets out the legal and policy framework under which the Council grants Permissions for Public Charitable Collections.

2. Background

- 2.1 Under Section 119 of the Civic Government (Scotland) Act 1982 a person who wishes to organise a “Public Charitable Collection” requires to apply for a “Permission” from the Council at least one month in advance, unless a statutory exception applies.
- 2.2 This “Permission” is granted under different rules from the “Licences” granted to Taxi Drivers, Street Traders or the many other activities covered by the 1982 Act, unless an exception applies.
- 2.3 The legislation only refers to the collection of money, for example using collection tins. There is no need for a Council “Permission” to invite donors to sign Direct Debit mandates.

A Council Permission is not needed if:

- [a] the collection takes place in the course of a public meeting,
 - [b] the collection takes place by an unattended receptacle kept in a fixed position in a public place, or
 - [c] the Organiser is an “Exempt Promoter” (see below).
- 2.4 The Office of the Scottish Charity Regulator keeps a list of major national charities:

<https://www.oscr.org.uk/managing-a-charity/fundraising/exempt-promoters-list>

These are "Exempt Promoters". They do not need to get Permissions from Councils, but they have to tell whichever Council they plan to collect in at least 3 months in advance. The effect of them doing this is to entitle (but not oblige) the Council to refuse local collectors.

- 2.5 The only consultation the Council carries out is to ask the Police if the Organiser has relevant criminal convictions. In theory the Police could make representations that the particular proposal would cause a nuisance but in fact never do.
- 2.6 There is no fee and the Council administers the applications for Permission, including consultation with the Police, for free. Occasionally Applications call before Licensing Committee meetings, for example in 2017 the Committee had to deal with 4 separate Organisers wishing to collect in the same town on the same day. Applications sometimes call at the Committee where the Application is outside Committee Policy (see below).
- 2.7 There are Regulations made in 1984 dealing with the rules about the arrangements for collections, the ages of collectors, and accounts to be given to the Council afterward. These Regulations distinguish between:
- (a) 'House-to-House Collections': 'a collection made by going from house to house and soliciting contributions from the occupants thereof' ("house" includes a place of business); the minimum age of the collectors is 16;
 - (b) 'Street Collections': 'a collection made by soliciting contributions from passers-by in a public place'; the minimum age of the collectors is 14.
- 2.8 The Council is entitled (not obliged) to refuse a Permission on a number of grounds:
- (a) that the date, time, frequency or area of the collection would cause undue public inconvenience;
 - (b) that another collection either conducted by an Exempt Promoter or another Organiser is already due to take place on the same or a proximate day;
 - (c) that the Council consider that the share of proceeds to be applied for Charitable Purposes is inadequate; or
 - (d) that the Organiser has been convicted of offences relating to charities or other dishonesty offences;
 - (e) that the commission of such offences could be facilitated by the Permission.

If granting, the Council can also attach conditions (the Regulations also impose national requirements).

- 2.9 North Ayrshire Council's Policy takes account of the potential grounds of refusal:
- (a) "House-to-House Collections" are only permitted Monday to Friday;
 - (b) "Street Collections" are only permitted on Saturday;
 - (c) only one of each is allowed on a particular day in a particular town or village;
 - (d) Neither is permitted on Sunday;

- (e) Neither is permitted after 18.00 (due to a Committee decision of 20 March 2012, following a public complaint of collectors calling at a person's home late at night).

2.10 Due to the policy, the Application form used by North Ayrshire Council asks the Organiser to identify:

- the proposed town or village, and
- the first preference date, second preference date, and third preference date.

2.11 The Permission is granted if there is, for that town or village and the first preference date, no Public Charitable Collection which is either:

- proposed by an "Exempt Promoter" or
- already covered by a Permission granted to another Organiser.

If necessary the second preference date or the third preference date are considered.

As with any other policy, exceptions to the policy can be made by Committee, e.g. to allow a "Street Collection" on a day other than Saturday.

2.12 The 1982 Act continues to regulate collections. Section 119 will be replaced by provisions of the Charities and Trustee Investment (Scotland) Act 2005 ('Public benevolent collections') and there will be a procedure for 'Local Authority Consents' (2005 Act, Section 86). However the new system is not in operation. The detailed regulations which a new system would need have not been drafted or made by the Scottish Government.

3. Proposals

3.1 The Policy might be amended so that any number of Organisers could apply for Permissions:

- (a) whether "House-to-House Collections" or "Street Collections" on any day of the week, including Sundays, and
- (b) regardless of whether or not an Exempt Promoter has notified an intention to collect;
- (c) regardless of whether or not another Organiser has requested or been granted a Permission for the same date and the same town or village.

4. Implications/Socio-economic Duty

Financial

4.1 The Organiser pays no fee.

Human Resources

4.2 Staff and Committee time is expended administering the system. If the Policy is changed as suggested then it will be easier and quicker to do so.

Legal

- 4.3 The Organiser has a right of appeal to the Sheriff if the Council refuses Permission, but there has never been an appeal in North Ayrshire.

Equality/Socio-economic

- 4.4 None

Climate Change and Carbon

- 4.5 None

Key Priorities

- 4.6 Making it easier to obtain a Public Charitable Collection Permission helps progress towards one of the four Priorities in the North Ayrshire Council Plan 2023-28, as one of the "Key Activities" in the "Communities and Local Democracy" Priority is "Providing support for community organisations in achieving their goals, including as Community Wealth Building anchor organisations."

Community Wealth Building

- 4.7 None

5. Consultation

- 5.1 No consultation is required. The only consultee with individual requests for Public Charitable Collection Permissions is Police Scotland.

Aileen Craig
Head of Democratic Services

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

Background Papers

None