



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, 10 January 2024** 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.

Licensing Exemption Para

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 6 December 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 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, 6 December 2023 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

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

In Attendance

R. Lynch, Senior Manager (Legal Services), D. Robertson, Enforcement Officer, C. Pollock, Licensing Administration Officer and C. Stewart, Committee Services Officer (Democratic Services) (Chief Executive's Service).

Also in Attendance

Sergeant S. Syme (Police Scotland).

Chair

Councillor Collier in the Chair.

Apologies

Angela Stephen.

1. Chair's Opening Remarks

The Chair welcomed those present and intimated her intention to vary the Order of Business to take the report in relation to Agenda Item 4 (Public Charitable Collections) before Agenda Item 3 (Civic Government Scotland Act 1982 and other Licensing Statutes: Licensing Matters).

1. 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.

2. Minutes

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

3. Public Charitable Collections

Submitted report by the Head of Democratic Services informing of the legislation and current Council policy in relation to Public Charitable Collections.

The Committee agreed to endorse the suggested changes set out in the report, subject to there being no "House-to-House Collections" permitted on a Sunday.

Councillor Bell joined the meeting during consideration of this item.

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 (*subsequently re-numbered as Agenda Item 5 for the purposes of the Minute*) (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/02399 (New): Alan MacDonald

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 McDonald, 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 Private Hire Car Licence: PHCL/382 (Substitute): Steven Mason

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

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

Decision

Councillor McDonald, seconded by Councillor Bell, 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 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.

5.3 Taxi Driver's Licence: TDL/00630: Thomas Anderson

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

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

Decision

Councillor McDonald, seconded by Councillor Inglis, moved that the Committee take no further action in relation to the matter. As an amendment, Councillor Larsen, seconded by Councillor Donald L. Reid, moved that the Committee direct the Clerk to issue a warning letter to the licence-holder.

On a division and a roll call vote, there voted for the amendment Councillors Collier, Bell, Larsen, McClung and Donald L. Reid (5) and for the motion, Councillors McDonald, Inglis and Stalker (3), and the amendment was declared carried.

Accordingly, the Committee agreed to direct the Clerk to issue a warning letter to the licence-holder.

5.4 Taxi Driver's Licence: TDL/01962: Stephen Reid

The licence-holder, having been duly cited to attend, was not present.

The Committee was advised that new information had come to light regarding this matter and, in the circumstances, agreed that a continuation would be the best way to proceed.

Decision

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

5.5 Taxi Driver's Licence: TDL/00533: Martin Morrison

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

The Enforcement Officer addressed the Committee 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.

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

Decision

Councillor McDonald, seconded by Councillor McClung, moved that the Committee take no further action in relation to this matter. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to take no further action in relation to this matter.

5.6 Taxi Driver's Licence: TDL/00256: Daniel Tudhope

The licence-holder, having been duly cited to attend, was not present.

The Enforcement Officer addressed the Committee on the circumstances surrounding failure to adhere to North Ayrshire Council's Taxi Licensing Smoking Policy.

The Committee agreed that they had sufficient information available to allow them to make a decision in respect of this matter.

Decision

Councillor McClung, seconded by Councillor McDonald, moved that the Committee direct the Clerk to issue a warning letter to the licence-holder. As an amendment, Councillor Larsen, seconded by Councillor Stalker, moved that the Committee agree to continue this matter to its meeting scheduled to take place on 10 January 2024 and proceed to a hearing in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982, in order that the licence-holder could be given a further opportunity to attend.

On a division and a roll call vote, there voted for the amendment Councillors Larsen and- Stalker (2) and for the motion, Councillors Collier, McDonald, Bell, Inglis, McClung and Donald L. Reid (6), and the motion was declared carried.

Accordingly, the Committee agreed to direct the Clerk to issue a warning letter to the licence-holder.

5.7 Taxi Driver's Licence: TDL/02247: Desmond Quigley

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

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

Decision

Councillor Larsen, seconded by Councillor McDonald, moved that the Committee direct the Clerk to issue a warning letter to the licence-holder. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to direct the Clerk to issue a warning letter to the licence-holder.

The meeting ended at 11.05 a.m.

NORTH AYRSHIRE COUNCIL

10 January 2024

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/02414 (New)
Applicant	Adrian Frew	

Case 2	Taxi Driver's Licence	TDL/02415 (New)
Applicant	Mark Monaghan	

Case 3	Taxi Driver's Licence	TDL/02420 (New)
Applicant	Daniel McNab	

Case 4	Taxi Driver's Licence	TDL/02423 (New)
Applicant	Dale Mitchell	

Case 5	Late Hours Catering Licence	LHCL/142 (amendment)
Licence Holder	A G Restaurants Ltd	

Case 6	Taxi Driver's Licence	TDL/01962
Licence Holder	Stephen Reid	
