



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, 08 May 2024** at **10:00** to consider the undernoted business.

Meeting Arrangements - Hybrid Meetings

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. Where possible, the meeting will be live-streamed and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>.

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 10 April 2024 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 Entertainment License Resolution**
Submit report by the Head of Democratic Services advising the Committee on the procedure for the review of its Public Entertainment Licence and to determine the terms of its Resolution on such for public consultation (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, 10 April 2024 - At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Eleanor Collier, John Bell, Cameron Inglis, Christina Larsen, Matthew McLean, Donald L. Reid, Ronnie Stalker and *Angela Stephen.

*Attended later in meeting.

In Attendance

R. Lynch, Senior Manager, D. Grier, Solicitor (Legal Services); C. Pollock, Licensing Administration Officer, D. Robertson, Enforcement Officer, A. Toal, Administration Assistant, S. Dalgoutte and A. Kellas, Senior Clerical Assistants (Licensing); S. McKenzie, Senior Manager (Protective Services) 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

Nairn McDonald and Jean McClung.

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.

Councillor Collier made a transparency statement advising that she was a Board Member of Cunninghame Housing Association (Case 1 & 2 in respect of Agenda Item 6: Civic Government Scotland Act 1982 and Other Licensing Statutes: Licensing Matters refer). Having applied the objective test, Councillor Collier assessed that it was not an interest in terms of the Councillors' Code of Conduct.

2. Minutes

The accuracy of the Minutes of the Meeting of the Licensing Committee held on 13 March 2024 were confirmed and the Minutes signed in accordance with Paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Variation in Order of Business

Having heard Councillor Collier, Chair, the Committee agreed to vary the order of business as hereinafter recorded.

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

4.1 Street Trader's Licence (Operator): STL/O/546 (New): NB Catering (Case 3 in Agenda)

The applicant, having been duly cited to attend, was present. The objector was not present but his written objection was considered in his absence.

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

The Committee determined that it had sufficient information available to enable it to make a decision in respect of this matter.

Decision

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

Accordingly, the Committee agreed to grant the application for Street Trader's Licence (Operator).

5. 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 certain cases (i.e. 4, 5 & 6) in respect of Agenda Item 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."

Note: Councillor Stephen joined the meeting at this point in the proceedings.

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

6.1 Taxi Driver's Licence: TDL/02414 (New): Adrian Frew (Case 4 in Agenda)

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.

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

The applicant and representative from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant 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 Inglis, seconded by Councillor McLean, moved that the application be granted. As an amendment, Councillor Larsen, seconded by Councillor Reid, moved that the application be refused on the basis that the Applicant was not a fit and proper person to hold the Licence applied for, in terms of Paragraph 5(3)(a)(ii) of Schedule 1 to the Civic Government (Scotland) Act 1982.

On a division and a roll call vote, there voted for the amendment Councillors Bell, Larsen, Reid and Stalker (4) and for the motion, Councillors Collier, Inglis, McLean and Stephen (4), and on the casting vote of the Chair, 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.

6.2 Taxi Driver's Licence: TDL/02450 (New): Elaine Davidson (Case 5 in Agenda)

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.

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

The applicant and representative from Police Scotland then withdrew to allow the Committee to deliberate. Thereafter the applicant 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 Stalker, seconded by Councillor McLean, moved that the application 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.

6.3 Taxi Licence: TDL/401 (Exemption): Graham Cooper (Case 6 in Agenda)

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

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

Decision

Councillor Inglis, seconded by Councillor McLean, moved that the exemption be granted. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed that the proposed vehicle should be treated in the circumstances of the case as justifying an exception to Paragraph 12 of the Council's Taxi and Private Hire Car Vehicle Approval Specification under Civic Government (Scotland) Act 1982, Sections 10(2) and 10(5) ("Wheelchair Accessible Vehicles").

6.4 Public Entertainment Licence:- PEL/749 (Temporary): Wesley Smith; and PEL/750 (Temporary): Wesley Smith (Cases 1 & 2 in Agenda)

The applicant, having been duly cited to attend, was present. The applicant was also accompanied by a member of Ardrossan Community Development Trust. A representative from Environmental Health was also present to answer questions in relation to the applications.

Objectors to the applications were in attendance and their principal spokesperson, amongst others, addressed the Committee and responded to questions. Written submissions were also considered by the Committee.

The representative from Environmental Health was heard in clarification of certain matters as well as in answer to questions by Members and the objectors present.

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

The applicant and objectors then withdrew to allow the Committee to deliberate. Thereafter the applicant and objectors re-joined the meeting, with the same Members and Officers present and in attendance, to hear the Committee's decision.

Decision

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

Accordingly, the Committee agreed to grant the applications subject to the Council's standard conditions in terms of Paragraph 7(1) of Schedule 1 of the Civic Government (Scotland) Act 1982.

6.5 Short Terms Lets: NA00162P (New): John/Janet Smith (Case 7 in Agenda)

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

Objectors to the application were in attendance and their principal spokesperson, amongst others, addressed the Committee and responded to questions.

Members expressed the view that, given the nature of the objections heard, they would like to hear from the applicant, or their representative, in relation to this application and that officers be requested to write to the applicant on this basis.

Decision

The Committee unanimously agreed to continue consideration of this matter to its June 2024 meeting.

In terms of Standing Order 6.8, the Chair agreed that the meeting be adjourned at 1.05 p.m. for a short comfort break. The meeting reconvened at 1.35 p.m., with the same Members and officers present and in attendance, with the exception of Councillor Stalker.

6.6 Short Terms Lets: NA00399P (New): Lynda Heinemeier (Case 8 in Agenda)

The applicant, having been duly cited to attend, was not present and neither was the objector.

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

Decision

Councillor Collier, seconded by Councillor McLean, moved that the application be granted. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application under The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32 ("the STL Order") subject to (a) the Mandatory Conditions set out in Schedule 3 to the STL Order; and (b) the additional local condition set out as "The First Exception"

in Paragraph 10(b) of the Committee's "Licensing Policy Statement on Short-Term Let Licensing".

6.7 Short Terms Lets: NA00335P (New): Mandy Coulter (Case 9 in Agenda)

The applicant, having been duly cited to attend, was present. The objector to the application was not in attendance.

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

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

Decision

Councillor Reid, seconded by Councillor McLean, moved that the application be granted. There being no amendment, the motion was declared carried.

Accordingly, the Committee agreed to grant the application under The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32 ("the STL Order") subject to (a) the Mandatory Conditions set out in Schedule 3 to the STL Order; and (b) the additional local condition set out as "The First Exception" in Paragraph 10(b) of the Committee's "Licensing Policy Statement on Short-Term Let Licensing".

7. Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)

Submitted report by the Head of Democratic Services advising Committee of the procedure in respect of the review and consultation process for the taxi fare review.

The Committee agreed to approve (a) the proposed timetable for the Review and Fixing Process, as set out in the Appendix to the report; and (b) the suggested process of Trade Consultation with Taxi Operators.

8. Taxi Drivers Dress Code

Submitted report by the Head of Democratic Services on the ongoing review of dress code requirements for taxi drivers.

The Committee agreed that (a) the proposals contained in paragraph 3.1 of the report be revised on the basis discussed at the meeting; (b) consultation should now take place with the taxi trade on such; and (c) a further report be brought to a future meeting of the Committee to determine the revised conditions to be adopted.

9. Public Entertainment License Resolution

It was noted that this item would be continued and that a report would be submitted to a future meeting of the Committee for Members' consideration.

Noted.

10. Urgent Items

There were no urgent items.

The meeting ended at 2.05 p.m.

NORTH AYRSHIRE COUNCIL

08 May 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 North Ayrshire Council has priorities for "Communities and Local Democracy" and "Wellbeing" in the Council Plan 2023-2028. An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Strategic Aim-Wellbeing.

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 **Raymond Lynch, Manager, Legal Services**, on **Licensing@north-ayrshire.gov.uk**.

Background Papers

None

Appendix A

Case 1	Taxi Driver's Licence	TDL/02464 (New)
Applicant	Ian Bruce	

Case 2	Short Term Lets	NA00245P
Applicant	Charles Fforde	

Case 3	Short Term Lets	NA00257P
Applicant	Strabane Enterprises Ltd	

Case 4	Short Term Lets	NA00258P
Applicant	Strabane Enterprises Ltd	

Case 5	Short Term Lets	NA00259P
Applicant	Strabane Enterprises Ltd	

Case 6	Short Term Lets	NA00260P
Applicant	Strabane Enterprises Ltd	

Case 7	Short Term Lets	NA00261P
Applicant	Strabane Enterprises Ltd	

Case 8	Short Term Lets	NA00382P
Applicant	John Campbell	

NORTH AYRSHIRE COUNCIL

8th May 2024

Licensing Committee

Title: **Public Entertainment Resolution under the Civic Government (Scotland) Act 1982**

Purpose: To advise the Committee on the procedure for the review of its Public Entertainment Licence and to determine the terms of its Resolution on such for public consultation.

Recommendation: That the Committee agree to consider and determine the terms of its Public Entertainment Licence Resolution, and thereafter, consult on such in terms of the required Statutory process under the Civic Government (Scotland) Act 1982.

It is not recommended that car cruise events are licensed under the Public Entertainment Licence procedure, and that they are more suitably covered by existing Police powers, Road Traffic Legislation, and other similar Legislative powers.

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 The Civic Government (Scotland) Act 1982 provides powers to local authorities to licence a wide range of different activities. Some activities are required to be licensed under the said Act, and are mandatory, and others the Council has a discretion as to what to licence. However, to exercise the discretionary powers under the 1982 Act, the Act states that those powers "shall have effect in the area of a licensing authority, only if, and insofar as the authority have so resolved" in accordance with the Act. The wording of the Council's current public entertainment resolution is somewhat dated, and this report recommends various changes to be considered by the Committee. Accordingly, this report sets out the steps required to review the Council's current public entertainment licence and create the appropriate resolution under the said '1982 Act to revise and update the licensable public entertainment activity types appropriately in a modern context.

2. Background

- 2.1 A public entertainment licence is required for the use of premises as a place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation. The Council's current public entertainment resolution is contained at Appendix 1. This contains several specified activities which requires to be updated.
- 2.2 There have been meetings of the Member/Officer working group to consider the terms of the Council's current resolution, and the Clerk to the committee has further met recently with protective services colleagues to discuss the terms, scope and practical workability and monitoring of the terms of any updated resolution. It is now appropriate given the need to update the resolution to bring forward draft proposals for the Committee to consider, and for the Clerk to the committee to outline the relevant process and timescales. It is anticipated that during the consultation process, as outlined below, that internal council services will have a further opportunity to respond to the terms of any proposed draft and to allow for the required public consultation. In addition, guidance notes will be worked on with protective service colleagues as to guidance issued to applicants as to their relevant responsibilities and what is expected of them and the role of the local authority too in regulating such and any required risk-based inspection process thereon. There are likely to be an increase in resource considerations for any approved public entertainment licence resolution that is approved by the Committee. This would be in terms of increased resourcing allocated to the regulation and enforcement of such activities as required.
- 2.3 As outlined, in Appendix 2, the current proposed draft seeks to outline the activities that will require to be licensed in terms of the updated resolution. The Act requires that, if a Council resolves to licence public entertainment, it shall specify the places, or classes, of those activities which shall fall to be licensed and regulated.
- 2.4 When specifying places or classes, it is best to avoid descriptions of activities that are so specific that the list doesn't keep pace with changes in public entertainment and to avoid generic descriptions that can regulate some activities that are lower risk. Factors to consider in terms of whether to resolve to licence an activity under a public entertainment licence resolution are whether the risk of the activity is significantly affected by whether the person is a "fit and proper" person, whether the premises is suitable for the activity in question and the need for the Council to be consulted when an event is being planned. It is proposed also that there the public entertainment licence provisions should not apply for spectator-based entertainment where the number is less than 200 persons, the event has been risk assessed and it is certified by the organiser that no aspect of the event presents a high risk to the safety of the spectators. The organiser will require to take full cognisance of the HSG195-The Health and Safety Executive Event Safety Guide known as the "Purple Book" and any ancillary guidance that the local authority may provide from time to time too on such events.

Accordingly, at Appendix 2, the activities that are proposed to be in the scope of the revised resolution which will be outlined by the Clerk to the Committee more fully at the meeting of the Licensing Committee. The Committee may wish to determine as to whether to seek to licence car cruise events and consider the effectiveness of the any proposed licensing of such events under a public entertainment resolution. It is the recommendation of officers that there is limited effectiveness of seeking to resolve to

licence car cruise events under the public entertainment process as there are existing Police powers where there are any criminal acts, breaches of Road Traffic regulations or anti-social behaviour identified by parties attending and assembling for such purposes. The Committee should also take cognisance of the rights of public assembly in relation to which the Council's licensing powers are limited.

- 2.5 As outlined in Part B of the draft resolution there are proposed exemptions to the requirements where it is already covered by the Licensing (Scotland) Act 2005 requirements and in terms of the "Exemptions" as outlined below:

" Community and School Fundraising Exemption:

- (a) *the place is operated by a charitable, religious, youth, educational, recreational, community, political or similar organisation; and*
- (b) *charges or donations are wholly for the benefit of the operating organisation, or another organisation which is within (a);*

it does not need a PEL."

Section 41 (2) of the Civic Government (Scotland) Act 1982 further specifies when a public entertainment licence will not be required including usage by schools, charitable organisations and athletic or sports grounds etc. used for those purposes.

- 2.6 A licensing authority shall not make a resolution unless they have published in a newspaper or newspapers circulating in their area the terms of the proposed resolution together with a notice stating that they intend to make the resolution; and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice.
- 2.7 The licensing authority shall, as soon as they have made a resolution, publish in a newspaper or newspapers circulating in their area the terms of the resolution so made, together with a notice stating the effect of the resolution.
- 2.8 Any resolution cannot come into effect until at least nine months after the date that the resolution is made.

3. Proposals

- 3.1 It is recommended that the terms of the proposed resolution contained in Appendix 2, subject to any amendments by the Committee, be published in the relevant local newspapers and on the Council's website, and that a further report be provided to the Committee detailing any representations made in response and asking the Committee to thereafter after consideration of such make a resolution.

4. Implications/Socio-economic Duty

Financial

- 4.1 The legislation requires the Council to charge fees for licences that cover the costs of administering the licensing regime, therefore changes to the types of activity licensed by the Council are cost neutral. However, there will be an increase in officer time and enforcement/regulation of such activities.

Human Resources

- 4.2 There will be additional resource requirements where the Committee resolves to add additional licensing types in its revised resolution. These will require additional visits by protective services in terms of the public awareness of new licensing requirements and from enforcement officers from legal services where there are reports of unlicensed activities.

Legal

- 4.3 A modern Public Entertainment Licence Resolution is required to take account the change and nature of activities that should be licensed. This requires to be in terms of the Civic Government (Scotland) Act 1982.

Equality/Socio-economic

- 4.4 An "Equality Impact Assessment" screening has been carried out, and there are no equalities impacts associated with using these discretionary powers. There are no socio-economic implications of the proposals.

Climate Change and Carbon

- 4.5 None

Key Priorities

- 4.6 North Ayrshire Council has priorities for "Communities and Local Democracy" and "Wellbeing" in the Council Plan 2023-2028. An effective licensing system and updated public entertainment resolution, helps achieve the Strategic Aim-Wellbeing.

Community Wealth Building

- 4.7 There are no Community Wealth Building Issues.

5. Consultation

- 5.1 Consultation is required in terms of the statutory process, as outlined above, in terms of the Civic Government (Scotland) Act 1982.

Aileen Craig
Head of Democratic Services

For further information please contact **Raymond Lynch, Senior Manager, Legal Services**, on licensing@north-ayrshire.gov.uk.

Background Papers

Appendix 1-Current Public Entertainment Resolution

Appendix 2-Proposed draft Public Entertainment Resolution.

Appendix 1- Current Public Entertainment Resolution

A Public Entertainment Licence is required for the following activities or premises:

- boxing, wrestling or another spectacle
- motorcycle scrambling
- dancing, a discotheque or amplified sound
- an open air concert
- an exhibition
- a large fete with one or more public marquees
- a fireworks display
- an ice rink
- a musical, dramatic or other stage or floor or radio or television performance or activity
- a circus
- a fairground (includes a ride of whatever size, speed or cost)
- a swimming pool
- a billiards, snooker and/or pool hall
- an amusement arcade other than one licensed under the Gambling Act 2005

APPENDIX 2 - DRAFT PUBLIC ENTERTAINMENT RESOLUTION

DRAFT

North Ayrshire Council, being the Licensing Authority under the Civic Government (Scotland) Act 1982, resolves that from [**date**] a 'Public Entertainment Licence' under Section 41 of the 1982 Act ('PEL') is required for the places and activities listed at Part (A) below, subject to the exemptions in Part (B) below.

Parts:

- (A) List of places and activities needing a Licence
- (B) Exemptions

A "public entertainment licence" shall be required for the use of premises as a place of public entertainment. This means any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation of any of the following types:

A Public Entertainment Licence shall not be required for spectator-based entertainment events that satisfy all the following conditions:

The event is provided to an audience of less than **200 persons** at any one time and the organiser of the event takes appropriate steps to monitor and control capacity during the event, is fully risk assessed and certified by the organiser and that the organiser determines that no aspect of the event presents a high risk to the safety of spectators and the event organiser takes cognisance of HSG195 - the Health and Safety Executive Event Safety Guide (also known as the Purple Guide) or any further additional guidance specified, from time to time, by the Licensing Authority;

"Spectator based entertainment" is defined as:

- (1) Performances such as dance, live music events and public performance of any music, dance or plays etc.
- (2) Exhibitions of an object such as a painting, drawing, installation, or historic artifact etc.
- (3) Public shows and events such as festivals, fairs, firework displays, circuses and sporting events etc.

Part (A) - List of places and activities needing a Licence:

1. Premises used for public performances of live music, whether indoor or outdoor, including concerts, music festivals and live DJ events playing amplified music (live or recorded);
2. A place where there is a public performance of any music, dance or play (speech, singing or acting), and premises used for performances involving hypnotism;

3. Skating rinks (including facilities for indoor roller skating and skateboarding) and ice rinks;
4. Circuses;
5. Fairgrounds;
6. Exhibitions;
7. Snooker, Billiard or Pool Halls;
8. Swimming pools;
9. Fireworks display, except ones covered by dispensation by the Council, authorised by Law or within the curtilage of a dwelling-house by or with the permission of the occupier;
10. Sunbed/tanning facilities;
11. Animal riding where not covered by Riding Establishment Licence provisions;
12. Premises used for bungee jumping, abseiling, zip slides, indoor climbing walls and trampolining;
13. Premises used for paintball games;
14. A large fete with one or more marquees;
15. Any premises indoor or outdoor used for:
 - (i) Motor vehicle stunt shows or motor sports.
 - (ii) Quad bike events.
16. Premises used for any activity involving inflatable structures such as bouncy castles, or one or more mechanical rides;
17. Boxing, wrestling and martial arts events, or contact sports where a public audience may be present on payment of a fee.

Any person wishing to carry on any such activity will require a licence from the Council before doing so, (unless the Council already licenses the activity in which case a licence will continue to be required without any delay in implementation).
 "With effect from X it will be an offence under Section 7(1) of the Act to use a premises for Public Entertainment for the classes mentioned above without a licence.

(B) Community & School Fundraising Exemptions:

All two conditions must apply before this exemption applies.

If

- (a) the place is operated by a charitable, educational, religious, youth, recreational, community, political or similar organisation and
- (b) charges or donations are wholly for the benefit of the operating organisation, or another organisation which is within (a)

it does not need a PEL.

