

Protective Services Committee
26 November 1998

Irvine, 26 November 1998 - At a Meeting of the Protective Services Committee of North Ayrshire Council at 2.00 p.m.

Present

Jack Carson, Thomas Barr, Patrick Browne, Ian Clarkson, Joseph McKinney, and Thomas Morris.

In Attendance

I. MacKay, Assistant Chief Executive (Legal and Regulatory Services), J. Kerr, Principal Licensing and District Court Officer, and M. McCann, Administrative Assistant (Licensing) (Legal and Regulatory Services); and M. McKeown, Administration Officer (Chief Executive)

Chair

Mr Carson in the Chair.

Apologies for Absence

Elliot Gray, George Steven, and Richard Wilkinson.

1. Minutes Confirmed

The Minutes of the Meeting of the Committee held on 15th October 1998, copies of which had previously been circulated, were confirmed.

2. Gaming Act 1968: Section 34: Application for Licence

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on an application under Section 34 of the Gaming Act 1968 for a permit for gaming machines. The Committee agreed to grant the following application:-

<u>Applicant</u>	<u>No. of Machines</u>
Deep Sea Chip Shop	1
The Quayhead	
Millport	

3. Gaming Act 1968: Section 34: All Cash Machines

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on the variation of mandatory limits on all cash machines.

The Committee is responsible for dealing with applications for permits for Gaming Machines under Section 34 of the Gaming Act 1968. With effect from 20th June 1996 a new type of permit came in to effect in respect of 'All Cash Machines'. The major provision with regard to these machines is that they cannot be played by under 18s. As a result they tend to be limited to

Amusement Arcades, and must be situated in a dedicated, screened off area to prevent unauthorised access.

In terms of the Gaming Act (Variation of Mandatory Limits) (No.2) Order 1998 with effect from 1st October 1998 the maximum prize which may be offered by All Cash Machines has been increased from £10 to £15 pounds. The maximum stake for a single play remains at 30p.

Noted.

4. Civic Government (Scotland) Act 1982: Taxi Fare Review

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on inter-authority comparisons and retail price indexes in respect of taxi fares.

Following the procedures to set the fares and charges for taxis it is proposed that representatives of the Council meet with taxi operators on 14 January 1999 when it is anticipated that taxi operators will submit details of changes in operating costs which have been incurred by them since the existing taxi fare arrangements came in to force on 1 December 1997. Information has been collated showing percentage increases in costs incurred (based on the Retail Price Index) in the period to 16th June 1998, and also highlighting comparisons with other local authorities. This information was presented in the report.

The Committee agreed (a) that the Chair, Vice-Chair, and Councillors Clarkson, Gallagher, Morris and Wilkinson should meet with taxi operators on 14 January 1999; and (b) that the inter-authority comparison and the Retail Price Index information should be used to inform discussion at this meeting.

5. Civic Government (Scotland) Act 1982: Taxi and Private Hire Care Licences

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on the proposed appointment of an authorised officer for vehicle inspections in accordance with the Act.

Under the present system all vehicles used as either taxis or private hire vehicles must undergo an annual inspection to establish their roadworthiness and, if one vehicle is substituted for another, the replacement must be inspected prior to the licence being transferred. Apart from these inspections there are no enforcement provisions in place for the ongoing operation of the legislation, although if the Police are concerned with regard to any vehicle they are empowered to either require that the defect be repaired within a specified time limit or, if they have serious concerns, suspend the vehicle from service immediately and if the repairs are not carried out within 28 days the licence is immediately suspended.

North Ayrshire Council's Transport Section has been requested by Educational Services to examine all vehicles and mini buses contracted to transport school children. Under the current system if a safety defect is found then the driver is advised to have the fault repaired and a report is submitted to Educational Services. Many of these vehicles, though not all, are taxis or private hire cars. It is proposed that the Council should authorise an Officer of the Transport Section, under the terms of the Civic Government (Scotland) Act 1982, to inspect and test taxis or private hire cars, and to grant them similar powers to those held by the Police, namely to order that a repair be carried out within 28 days or to suspend a licence until such time as the repair is done. The authorisation would allow such officers carrying out inspections for Educational Services to instruct repairs to be carried out or suspend the vehicle from operating as a taxi/private hire forthwith.

The Committee agreed that the following individual be designated an Authorised Officer for the purposes of Section 11 of the Civic Government (Scotland) Act 1982:-

Andrew Elliot, Transport Controller

6. Civic Government (Scotland) Act 1982: Late Hours Catering Licences

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on “extensions” to licences over the Christmas/New Year period.

The Committee is responsible for considering applications for Late Hours Catering Licences in terms of the Civic Government (Scotland) Act 1982 and it has been the Committee’s established policy to agree to a terminal hour for such licences of 1.00 a.m., in order to protect public order.

A request has however been received from a Late Hours Catering operator for a variation of the condition to allow extension of the terminal hour from 1.00 a.m. to 2.00 a.m. over the Christmas and New Year period on the same basis as granted to liquor licence holders. It was acknowledged that the only realistic way in which the Committee could consider such a request would be under the provisions of Section 42(5) of the Act which provides that the Authority may on application made to them exempt the use of premises from the requirement to have a licence. It was noted that the local Police were against any extension to Late Hours Catering over this period.

After a full discussion the Committee agreed to refuse the request.

7. Exclusion of Public

The Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the following items of business on the grounds indicated in terms of Paragraphs 6, 13 and 14 of Schedule 7A of the Act.

8. Health and Safety at Work Etc. Act, 1974 - Prohibition Notice

Submitted report by the Assistant Chief Executive (Legal and Regulatory Services) on the serving of a Prohibition Notice on a residential care home within North Ayrshire in terms of the Health and Safety at Work Etc. Act 1974.

On 28th July 1998 an incident was reported to the Environment Section concerning a staff member within a Residential Care Home in North Ayrshire who had sustained injury as a result of the violent actions of a resident of the Home. The injuries sustained by the staff member concerned resulted in him being off work for more than three days making the incident reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1993.

Investigation of the incident revealed that the Residential Home in question had no safe system of work in place to protect staff from a resident who may display violent tendencies and following discussions between the Council’s Environment Section and the organisation responsible for the home, it became clear that the Organisation was not resourced to put such a system in place.

A Prohibition Notice was therefore served on the home in terms of the Health and Safety at Work Etc. Act 1974 and, whilst this has been complied with, and the resident concerned was moved to more appropriate alternative accommodation, it was proposed that Environmental Health Officers should continue to work with the Organisation concerned to ensure that a safe system of work is put in place.

The Committee agreed to support the proposed course of action.

9. Civic Government (Scotland) Act 1982: Applications for Licences

Submitted report by the Legal Services Manager on (a) applications for the grant or renewal of licences under the Civic Government (Scotland) Act 1982; (b) licence holders where the issues raised may require a hearing; and (c) individual licences where formal hearings have been convened and which require to be determined by the Committee.

The Committee agreed to dispense with these matters as indicated in Parts I, II and III respectively of the attached Appendix Pros I.

Meeting ended at 3.30 p.m.

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Appendix No **PROS 1**

Part I: Applications for licences under the Civic Government (Scotland) Act 1982

	<u>Type of Licence Reference No.</u>	<u>Applicants Details</u>	<u>Decision</u>
1.	TDL/660	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed (a) to instruct the applicant to attend for a medical examination in terms of Section 13 (4) of the Civic Government (Scotland) Act 1982 and to authorise the Principal Licensing and District Court Officer to grant the licence if the outcome of the medical is satisfactory; and (b) otherwise to proceed to a Hearing.
2.	TDL/140	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
3.	TDL/284	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.

4.	TDL/108	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
5.	TDL/082	Joseph McGhee	Grant
6.	TDL/227	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
7.	TDL/061	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
8.	TDL/294	Henry Testo	Grant
9.	TL/165	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted if the outstanding issues could not be resolved prior to that date.
10.	STL/O/037	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
11.	STL/O/122	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
12.	STL/O/029		Having received a verbal report from

		As per application	the Solicitor (Licensing) the Committee approved the action taken by the Principal Licensing and District Court Officer under delegated powers and noted that this application was incompetent.
13.	LHCL/026	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to continue this matter to the next meeting if the outstanding issues could not be resolved prior to that date.
14.	LHCL/036	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted if the outstanding issues could not be resolved prior to that date.
15.	SHDL/061	Clive L J Blackwood	Grant
16.	CL/002	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed (a) to proceed to a Hearing on the basis of the information submitted; and (b) that that Building Control continue to monitor the premises in the intervening period.
17.	PEL/031	As per application	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.
18.		Three Towns Blind	Grant

		Club	
19.	STL/O/142	Peter S Speight & Kirstie A Speight	Grant

Part II: Reports in Respect of Individual Licence Holders

	<u>Type of Licence/ Reference No</u>	<u>Decision</u>
1	TDL/624	That no proceedings be taken with regard to suspension at this time but that the licence holder be advised that any further instances would result in a full review being undertaken including the issues now reported
2	MOL/001	Having received a report from the Solicitor (Licensing) the Committee agreed to authorise Spook Erection to operate their market on Thursday 24th December 1998.
3	TDL/161	Having received a verbal report from the Solicitor (Licensing) the Committee agreed to proceed to a Hearing on the basis of the information submitted.

Part III - Determination of Hearings convened under the Civic Government (Scotland) Act 1982

	<u>Licence Type/ Reference No.</u>	<u>Date Received</u>	<u>Decision</u>
1.	TDL/693	29 July 1998	Continued.

The Committee agreed that this matter be continued to the January 1999 meeting to allow the applicant to attend.			
2.	PHCDL/017	26 August 1998	Grant
<p>The applicant having been duly cited attended the Hearing. The Solicitor (Licensing) outlined the background to the Hearing as intimated to the applicant in letter dated 2nd November 1998. Thereafter the applicant addressed the Committee before withdrawing from the meeting along with the Solicitor (Licensing).</p> <p>In granting the licence the Committee agreed to restrict the period of grant in terms of Paragraph 8(1) (b) of Schedule I of the Civic Government (Scotland) Act 1982 to one year.</p>			
3.	TDL/059 & TL/046		That no proceedings be taken with regard to suspension at this time but that the licence holder be advised that any further instances would result in a full review being undertaken including the issues now reported
<p>The Licence Holder having been duly cited attended the Hearing and agreed that the Hearings be taken together, the circumstance being the same in each case. The Solicitor (Licensing) advised the Committee as to the background to the Hearings as intimated to the applicant in letter dated 27th October 1998. The Licence Holder then addressed the Committee before withdrawing from the meeting together with the Solicitor (Licensing).</p>			