



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

SUPPLEMENTARY AGENDA

for the consideration of the **Licensing Committee** meeting on **Wednesday, 01 June 2022** at **10:00** to consider the undernoted business.

Business

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

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

5 Taxi Stance at Hamilton Street, Saltcoats (Civic Government (Scotland) Act 1982, Section 19)

Submit report by the Head of Democratic Services on the Taxi Stance at Hamilton Street, Saltcoats (copy enclosed).

NORTH AYRSHIRE COUNCIL

1 June 2022

Licensing Committee

Title: **Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)**

Purpose: To advise Committee of procedure

Recommendation: That the Committee agree:

(a) to approve the proposed timetable for the Review and Fixing Process, as set out in the Appendix to this Report; and

(b) to approve the suggested process of Trade Consultation with Taxi Operators.

1. Executive Summary

- 1.1 The Licensing Committee exercise the functions of the Council as "Licensing Authority" under many statutes, including the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).
- 1.2 Taxi fares and other charges are limited to the Scales fixed by the Licensing Authority (1982 Act, Section 17). These are the maximum amounts which may be charged. It is open to Operators to discount these rates if they wish. The fares charged by Private Hire Cars are not regulated.
- 1.3 The Licensing Authority must periodically review the Scales and fix new Scales. Each review must conclude with a decision to fix new Scales within 18 months of the current Scales coming into effect. The current Scales came into force on 24 May 2021 so the Licensing Authority would have had to fix the new Scales by 24 November 2022. The current Scales remain in effect whether or not they are reviewed by that date.
- 1.4 The Appendix to this Report sets out a possible timetable for the review process. There is a statutory obligation to consult with Taxi Operators.

2. Background

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- If there is an appeal, publication occurs as soon as practicable after the determination of the appeal.

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

3. Proposals

3.1 It is proposed that the Committee agree to:

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

4. Implications/Socio-economic Duty

Financial

4.1 The Taxi fare structure has substantial implications for both the trade and the community. In addition, legal costs to the Licensing Authority may arise if the fare review becomes subject to an appeal to the Traffic Commissioner, which may affect future Licence fees.

Human Resources

4.2 None.

Legal

4.3 Possible appeal to the Traffic Commissioner.

Equality/Socio-economic

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

Carbon and Climate Change

4.5 None.

Key Priorities

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

Community Benefits

- 4.7 There are no Community Wealth Building Issues.

5. Consultation

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

Aileen Craig
Head of Democratic Services

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

Background Papers

Possible timetable – Taxi Fare Review 2022 (GEN17)

=====

Locked Field:

Community Wealth Building

4.7 There are no Community Wealth Building issues.

NORTH AYRSHIRE COUNCIL

1 June 2022

Licensing Committee

Title: Taxi Stance at Hamilton Street, Saltcoats (Civic Government (Scotland) Act 1982, Section 19)

Purpose: To inform the Committee of the background and their legal powers.

Recommendation: That the Committee:

- (a) should decide whether or not to appoint the Stance;
- (b) if so, should determine its location, size and operating hours;
- (c) to request the Place Directorate to make any appropriate alterations to signs or road markings.

1. Executive Summary

1.1 The Council has powers to appoint Taxi Stances (as Licensing Authority, not as Roads Authority) under the Civic Government (Scotland) Act 1982, Section 19.

1.2 Only Taxis may use appointed Stances. Drivers of other vehicles (including 'Private Hire Cars') face prosecution under Section 21(7) for inappropriate use:

"If any person, without reasonable excuse, causes or permits any vehicle other than a Taxi to wait on any Stance for Taxis during any period for which that Stance has been appointed by a Licensing Authority under section 19 of this Act, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 2 on the standard scale." (i.e. £500)

1.3. There is a distinction between:

- (a) Council Stances - appointed by the Council
- (b) Private Stances - Taxis stand on private ground by arrangement between the land-owner and Taxi Operators. This is solely a private contractual matter and the Council have no involvement or enforcement powers - it is up to the land-owner to decide who can enter on the land and on what terms.

A Council can appoint Stances on private ground, but only with the consent of the land-owner. There are no Stances like this in North Ayrshire.

The Section 21 offence only applies to Council-appointed Stances.

2. Background

2.1 The Act permits the Licensing Authority to do 4 things:

- (a) appoint a Stance (Section 19(1))
- (b) vary the number of Taxis permitted (Section 19(3))
- (c) alter the position of such Stances (Section 19(3))
- (d) revoke the appointment (Section 19(3))

2.2. All of these require consultation with:

- (a) Taxi operators or representative organisations
- (b) the Police
- (c) the Roads Authority

The Licensing Authority must also publicise the proposal, and allow at least 28 days for written objections or representations from any of the consultees and any member of the public.

2.3. Following representations from Taxi Operators in Saltcoats, the Council made a proposal. Details of the proposal were placed on "Taxi stances" webpage of the Council's licensing website:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/taxi-licences/taxi-stances.aspx>

under the heading "Proposals".

The webpage stated:

"If we propose to make an order about a taxi stance, we must publicise the proposals. Anyone can state objections or representations in writing to: ..."

The webpage included links to the relevant documents:

DRAFT STANCE ORDER (Saltcoats Stance GEN04 GEN19)

DRAFT STANCE PLAN (Saltcoats Stance GEN04 GEN19)

The webpage was amended to cover the proposal under discussion on 7 April 2022, and the webpage stated that the "Last Day for Representations" was Friday 20 May 2022.

- 2.4. In addition letters or emails were sent to all holders of Taxi Licences for the "3 Towns" Taxi Zone, and copied to the Police.
- 2.5. The Committee Report has appeared on the NAC public website as usual.

3. Proposals

- 3.1 As over 28 days have passed since public advertisement, the Council can now make a decision. All objections and representations to the proposal will be in Members' Background Papers.
- 3.2 The Committee:
- (a) should decide whether or not to appoint the Stance and;
 - (b) if so, should determine its location, size and operating hours;
- 3.3 If alterations to signs or road markings are appropriate, the Committee should request the Place Directorate to take appropriate action.

4. Implications/Socio-economic Duty

Financial

- 4.1 There will be financial implications if the Roads Department require to carry out any works to signs or road markings.

Human Resources

- 4.2 None.

Legal

- 4.3 There is no right of appeal to the Sheriff Court against a decision by the Council about a Stance, so any person who complained of the Committee's decision would have to apply to the Court of Session for Judicial Review. The Court would be unlikely to entertain an objection from any person who had failed to state an objection to the Licensing Authority after the proposal had been publicised and the consultation period had expired.

Equality/Socio-economic

- 4.4 None. An "Equality Impact Assessment" is not necessary as the Equality Act 2010 is only one consideration in making a Licensing decision. The Committee should consider whether or not the proposed decision would have any effect on the provision of Taxi services for Disabled people. The location of the proposed Stance is beyond the two 'disabled parking' spaces which are already in place, and the Stance would not be likely to impede use of those spaces.

Environmental and Sustainability

4.5 None.

Key Priorities

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

Community Benefits

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

5. Consultation

5.1 Consultation has been carried out according to the statutory requirements.

Aileen Craig
Head of Democratic Services

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

Background Papers

DRAFT STANCE ORDER (Saltcoats Stance GEN04 GEN19)

DRAFT STANCE PLAN (Saltcoats Stance GEN04 GEN19)