



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Licensing Committee

A meeting of the **Licensing Committee** of North Ayrshire Council will be held remotely on **Wednesday, 09 March 2022** at **10:00** to consider the undernoted business.

Hybrid Meetings Pilot

In light of the current COVID-19 pandemic, this meeting will be held on a predominantly remote basis in accordance with the provisions of the Local Government (Scotland) Act 2003. As part of a hybrid meetings pilot, a small number of Committee Members will, by prior arrangement, also be permitted to attend in person.

Where the meeting is open to the public, a very limited public gallery will also be available, with attendance by prior arrangement by contacting Committee Services (committeeservices@north-ayrshire.gov.uk). Such meetings will also be live-streamed for wider viewing and available to view at <https://north-ayrshire.public-i.tv/core/portal/home>. In the event that live-streaming is not possible, a recording of the meeting will instead be available to view at this location.

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 held on 9 February 2022 will be confirmed and 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 and applications for grant or renewal of licences and permits, 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

Ronnie McNicol (Chair)
Robert Barr
John Easdale
Jean McClung
Davina McTiernan
Donald L. Reid
Ronnie Stalker
Angela Stephen

Chair:

Apologies:

Attending:

At a Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m. involving participation by remote electronic means.

Present

Ronnie McNicol, Todd Ferguson, Robert Barr, John Easdale, Jean McClung, Davina McTiernan, Donald L. Reid and Ronnie Stalker.

In Attendance

W. O'Brien, Solicitor (Licensing), A. Toal, Administrative Assistant (Licensing), D. Robertson, Enforcement Officer (Legal Services) and H. Clancy, Committee Services Officer (Chief Executive's Service).

Apologies

Scott Gallacher and Angela Stephen

Chair

Councillor McNicol in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the Meeting held on 21 January 2022 were confirmed and signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. 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 5 (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."

4. 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.

Appendix A: Hearings

4.1 Private Hire Car Licence: PHCL/375 (New) – Andrew Read

The applicant, having been duly cited to attend, joined the meeting at this point.

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

Decision

Councillor Ferguson, seconded by Councillor Easdale, moved that the Committee continue the application to the next meeting to allow representation by Police Scotland. There being no amendment the motion was declared carried.

4.2 Street Trader Operator's Licence: STL/O/516 & STL/O/518 – Bernadette McQuade (The Wee Fish Van)

The Licence Holder, having been duly cited to attend, was not present or represented. The Solicitor (Licensing) read out a written representation from the Licence Holder.

Decision

Councillor Barr, seconded by Councillor Ferguson, moved that the Committee:

- (1) In relation to the Licence STL/O/516: to grant the Amendment for the whole duration of the Licence, and to any renewed Licence which replaced it, to the extent of changing Standard Condition C.3 ("Movement") to refer to "60 minutes" instead of "20 minutes", under Paragraph 9(2) of Schedule 1 to the Civic Government (Scotland) Act 1982; and
- (2) In relation to Licence STL/O/518: amend their policy in that case, so that the same change shall apply to the same standard condition for the whole duration of the Licence, and to any renewed Licence which replaced it, (but apart from these two Licences, that standard condition shall continue to refer to "20 minutes").

There being no amendment, the motion was declared carried.

Appendix B: Applications for Licences/Renewal of Licences

4.3 ISEL/022 (New) – Eleanor Bone

The Committee noted that this application would be dealt with under delegated authority.

4.4 TDL/00422 (Renewal) – James Cunninghame

The Committee agreed, on the basis of the information presented, to continue consideration of the case.

4.5 TDL/00737 (Renewal) – William Murray

The Committee agreed, on the basis of the information presented, to continue consideration of the case.

5. Urgent Items

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

5.1 Taxi Driver's Licence

The Committee heard from the Enforcement Officer regarding a complaint made against a licence holder.

The Committee agreed, on the basis of the information presented, to proceed to a Hearing on the possible revocation or suspension of the Licence in terms of Paragraph 11(7) of Schedule 1 to the Civic Government (Scotland) Act 1982.

The meeting ended at 11.05 a.m.

NORTH AYRSHIRE COUNCIL

9 March 2022

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;
b) Applications for the grant or renewal of licences and permits under the Civic Government (Scotland) Act 1982 and other statutes within the Committee's remit.

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

Appendix B - Applications for the grant or renewal of Licences and Permits

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

Environmental and Sustainability

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

Hearings (Appendix A)

Case 1	Private Hire Car Licence	PHCL/375 (NEW)
Applicant	Andrew Read	
Case 2	Street Trader Operator's Licence	STL/O/522 (NEW)
Applicant	Stewart Cape and Carrie Simpson	
Case 3	Street Trader Operator's Licence	STL/O/524 (NEW)
Applicant	Carol Proven	
Case 4	Taxi Driver's Licence	TDL/00121
Licence holder	Edward Walsh	
Case 5	Taxi Licence	TL/180
Licence holder	Edward Walsh	
Case 6	Taxi Licence	TL/434 (NEW)
Applicant	Norman Gillespie	

Hearings (Appendix B)

Case 1	Taxi Driver's Licence	TDL/02293 (NEW)
Applicant	John Welsh	
