

Minute

Licensing Committee

Thursday, 1 September 2022, 12:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors Duncan A Tullock, Kristopher D Leask, David Dawson, Steven B Heddle, W Leslie Manson and Gwenda M Shearer.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Karen Greaves, Corporate Director for Strategy, Performance and Business Solutions.
- Gavin Mitchell, Head of Legal and Governance.
- Erik Knight, Head of Finance.
- Hazel Flett, Service Manager (Governance).
- Sheila Tulloch, Service Manager (Legal Services).
- Elaine Sinclair, Legal Clerk.

Police Scotland:

- Sergeant Gavin McDevitt.

Observing

- Roddy Mackay, Head of Planning and Community Protection.
- Nick Long, Service Manager (Environmental Health).
- Jamie Macvie, Service Manager (Development Management).
- Steven Poke, Service Manager (Building Standards).
- Lillian Rendall, Legal Clerk.

Apology

- Councillor Rachael A King.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Duncan A Tullock.

1. Disclosure of Exempt Information

The Committee noted the proposal that the public be excluded from the meeting for consideration of Appendix 4 of Item 5, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

2. Civic and Miscellaneous Licensing – Functions Report

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, and after hearing a report from the Head of Legal and Governance, the Committee:

Noted the report in relation to the exercise of the Council's functions in terms of the Civic Government (Scotland) Act 1982 and the Cinemas Act 1985, for the period 1 July 2021 to 30 June 2022, attached as Appendix 1 to the report by the Corporate Director for Strategy, Performance and Business Solutions.

3. Equality Act 2020 Amended

Taxis and Private Hire Cars, Drivers and Wheelchair Accessible Vehicles

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, and after hearing a report from the Head of Legal and Governance, the Committee:

Noted:

3.1. Amendments to the Equality Act 2010 with respect to:

- The duties of taxi and private hire car drivers and operators to disabled persons.
- The duty of the Council, as licensing authority, to maintain and publish a list of designated wheelchair accessible vehicles.

3.2. That the Licensing Service would advise all taxi and private hire car operators and drivers of:

- Their new duties to disabled passengers.
- The new provision for drivers to apply for an exemption from the duty to give the passenger such mobility assistance as was reasonably required on medical grounds or due to a physical condition.

3.3. That three wheelchair accessible vehicles were licensed and were eligible to be designated by the Council in terms of section 167 of the Equality Act 2010.

The Committee resolved, in terms of delegated powers:

3.4. That, in terms of section 167 of the Equality Act 2010, the details of three licensed vehicles and their operators, attached as Appendix 1 to this Minute, should be published as the Council's list of designated wheelchair accessible vehicles.

3.5. That the Corporate Director for Strategy, Performance and Business Solutions should arrange for the Council's list of designated wheelchair accessible vehicles in terms of section 167 of the Equality Act 2010 to be routinely updated and maintained.

Councillor Steven B Heddle joined the meeting during discussion of this item.

4. Licensing of Short-term Lets – Policy on Temporary Exemptions

After consideration of a joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing reports from the Head of Legal and Governance and the Service Manager (Legal Services), the Committee:

Noted:

4.1. That, on 22 June 2022, when considering a draft Statement of Policy on Temporary Exemptions from the requirement to obtain Short-term Let licences, the Licensing Committee resolved:

- That the draft Statement of Policy, attached as Appendix 1 to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, be approved for public consultation for the period from 27 June to 7 August 2022.
- That the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure should submit a joint report, to the meeting of the Licensing Committee to be held on 1 September 2022, on the outcome of the consultation, referred to above, together with a proposed final version of the Statement of Policy for adoption.

4.2. That the statutory consultation process was undertaken during the period 27 June to 7 August 2022 inclusive, with the outcome detailed in section 5 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure.

4.3. The options in respect of considering what action to take with regard to adoption of a Statement of Policy on Temporary Exemptions from the requirement to obtain Short-term Let licences, as detailed in section 6 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, with the preferred option being Option 2, namely to adopt the Policy as proposed and not grant Temporary Exemptions.

The Committee resolved, in terms of delegated powers:

4.4. That the Statement of Policy on Temporary Exemptions, attached as Appendix 2 to this Minute, be adopted.

5. Licensing of Short-term Lets – Fees for Short-term Let Licences

After consideration of a joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, together with an Island Communities Impact Assessment, copies of which had been circulated, and after hearing a report from the Service Manager (Legal Services), the Committee:

Noted:

5.1. That, on 22 June 2022, when considering proposed fees, effective from 1 October 2022, for the short-term let licensing scheme in Orkney, the Licensing Committee resolved:

- That the proposal that licences for short-term lets have a duration of three years at first application and on renewal be approved for public consultation for the period 27 June to 7 August 2022.
- That the fees for the short-term let licensing scheme to be introduced on 1 October 2022, attached as Appendix 1 to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, be approved for public consultation for the period 27 June to 7 August 2022.
- That the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure should submit a joint report, to the meeting of the Licensing Committee to be held on 1 September 2022, on the outcome of the public consultation, referred to above, together with the proposed fees for the short-term let licensing scheme, and duration of licences, to be effective from 1 October 2022.

5.2. That a comparison of proposed fees to be charged by the Council with those to be charged by other local authorities in Scotland had been undertaken, attached as Appendix 2 to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure.

5.3. That the statutory consultation process was undertaken during the period 27 June to 7 August 2022 inclusive, with the outcome summarised at sections 9 and 10 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure.

5.4. The full consultation responses, attached as Appendices 3, 3A and 3B to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure.

5.5. The options in respect of setting application fees for licences for short-term lets, as detailed in section 11.3 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, with the preferred option being Option 2, namely simplifying the structure by removing the highest fee, amalgamating the lowest two bands, and reducing fees across the board by 20%.

Councillor Duncan A Tullock, seconded by Councillor David Dawson, moved:

- That licences for short-term lets should have a duration of three years at first application and on renewal.
- That, where an application for a short-term let licence had been unsuccessful and a licence refused, the non-refundable element of the application fee should be capped at £240.
- That the fees for the short-term let licensing scheme, to be introduced on 1 October 2022, namely Option 2, as detailed in section 11.3.2 of the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, be approved.
- That the fees for the short-term let licensing scheme be reviewed annually, commencing in March 2024.

Councillor Kristopher D Leask moved an amendment that the fees for the short-term let licensing scheme, to be introduced on 1 October 2022, be set at the levels which had been the subject of public consultation during the period 27 June to 7 August 2022, subject to application of a 25% discount for properties in the non-linked isles in respect of application fees for Secondary Letting, Home Sharing and Home Letting, material changes in premises and temporary licences.

On receiving no seconder, his amendment fell, and the Committee:

Resolved, in terms of delegated powers:

5.6. That licences for short-term lets should have a duration of three years at first application and on renewal.

5.7. That, where an application for a short-term let licence had been unsuccessful and a licence refused, the non-refundable element of the application fee should be capped at £240.

5.8. That the fees for the short-term let licensing scheme, to be introduced on 1 October 2022, attached as Appendix 3 to this Minute, be approved.

5.9. That the fees for the short-term let licensing scheme be reviewed annually, commencing in March 2024.

Councillor Steven B Heddle left the meeting during discussion of this item.

6. Conclusion of Meeting

At 12:56 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.