

# Minute

## Licensing Committee

Thursday, 12 October 2017, 12:00.

Council Chamber, Council Offices, School Place, Kirkwall.



## Present

Councillors Duncan A Tullock, Barbara Foulkes, Alexander G Cowie, Norman R Craigie, Robin W Crichton, Steven B Heddle, J Harvey Johnston and Owen Tierney.

## Clerk

- Hazel Flett, Senior Committees Officer.

## In Attendance

- Gillian Morrison, Executive Director of Corporate Services (for Items 1 to 3).
- Gavin Mitchell, Head of Legal Services.
- David Brown, Environmental Health Manager (for Items 1 to 3).
- Elaine Sinclair, Legal Clerk.

## Police Scotland:

- Temporary Inspector Keith Bendall.
- Sergeant Kenny Walker.

## Declaration of Interest

- Councillor Duncan A Tullock – Item 3.

## 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 Item 4, 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. Review of Optional Civic Government Licensing

After consideration of a report by the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Committee:

Noted:

2.1. That licences issued in terms of the Civic Government (Scotland) Act 1982 fell into two basic categories:

- Mandatory licences.
- Optional licences.

2.2. That the distinction between mandatory and optional licensing referred to the licensing authority having discretion as to whether or not it may regulate and license a particular activity.

2.3. That, where a licensing authority introduced any of the optional types of licences, such licences became a legal requirement in the authority's area.

2.4. That Government advice and case law indicated that licensing of the optional activities should be introduced only where it was shown to be necessary to prevent crime, to preserve public order and safety, or to protect the environment and must be concerned with the regulation and control of the relevant activities and not encroach into areas covered by separate legislation.

2.5. That a new optional category of licences for sexual entertainment venues would be introduced when relevant provisions of the Air Weapons and Licensing (Scotland) Act 2015 were brought into force.

2.6. That the majority of the 32 Scottish licensing authorities had resolved to license most of the optional categories in terms of the Civic Government (Scotland) 1982 in their areas.

2.7. That the Council had resolved to license 8 of the 9 optional categories of licences in terms of the Civic Government (Scotland) Act 1982 in its area.

2.8. Options in respect of future licensing of optional activities, as detailed in section 7 of the report by the Executive Director of Corporate Services, with the preferred option being Option 3, namely to retain the existing optional categories of licences in terms of the Civic Government (Scotland) Act 1982.

On the motion of Councillor Duncan A Tullock, seconded by Councillor Barbara Foulkes, the Committee resolved to **recommend to the Council**:

2.9. That the current optional categories of licensed activity required by the Council be retained.

### **3. Licensing of Theatres and Public Entertainment**

Councillor Duncan A Tullock declared a non-financial interest in this item, in that a close family member was a member of one of the organisations which currently held a theatre licence, and was not present during discussion thereof.

Signed: Duncan A Tullock.

Councillor Barbara Foulkes took the Chair for this item.

After consideration of a report by the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Committee:

Noted:

**3.1.** That operation of public performances of plays in Scotland was regulated by the Theatres Act 1968.

**3.2.** That section 74 of the Air Weapons and Licensing (Scotland) Act 2015 would repeal existing licensing requirements for the use of premises for the public performance of plays in terms of the Theatres Act 1968.

**3.3.** That no date for implementation of section 74 of the Air Weapons and Licensing (Scotland) Act 2015 had yet been specified.

**3.4.** That the Council currently required a public entertainment licence, in terms of section 41 of the Civic Government (Scotland) Act 1982, to be obtained for premises which were to be used for any of the purposes identified in section 5.5 of the report by the Executive Director of Corporate Services.

**3.5.** That, should the Committee recommend that the use of premises for the public performance of plays be licensed by means of public entertainment licensing in terms of the Civic Government (Scotland) Act 1982:

- The Council would require to vary its existing Resolution in terms of section 9 of that Act.
- The process would require a minimum nine month lead-in period.
- A further report specifying the terms of the proposed Notice of Intention to Make Resolution would be required.

**3.6.** Current fees for public entertainment and theatre licences, as detailed in sections 7.2 and 7.3 respectively of the report by the Executive Director of Corporate Services.

**3.7.** That the Committee could, if so minded, propose different classes of fees, compared to other public entertainment premises, for:

- Theatres licensed for public entertainment.
- Theatres providing performances for purely educational or charitable purposes.

**3.8.** The proposal that all premises used for the public performance of plays should be charged the standard public entertainment licence fee.

On the motion of Councillor Robin W Crichton, seconded by Councillor Owen Tierney, the Committee resolved to **recommend to the Council**:

**3.9.** That, following implementation of section 74 of the Air Weapons and Licensing (Scotland) Act 2015, the use of premises for the public performance of plays should not be licensed by means of public entertainment licensing in terms of the Civic Government (Scotland) Act 1982.

Signed: B Foulkes.

#### **4. Application for Grant of Taxi Driver's Licence**

On the motion of Councillor Duncan A Tullock, seconded by Councillor Barbara Foulkes, the Committee resolved that the public be excluded from the meeting for this item, as the business to be considered involved the disclosure of exempt information as defined in paragraphs 6 and 14 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

After consideration of a report by the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Committee:

Resolved, in terms of delegated powers, what action should be taken with regard to an application for grant of a taxi driver's licence.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

#### **5. Conclusion of Meeting**

At 12:35 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.