

# **Item: 3**

**Licensing Committee: 1 September 2022.**

**Civic and Miscellaneous Licensing – Functions Report.**

**Report by Corporate Director for Strategy, Performance and Business Solutions.**

## **1. Purpose of Report**

To present a 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.

## **2. Recommendations**

The Committee is invited to note:

### **2.1.**

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 from 1 July 2021 to 30 June 2022, attached as Appendix 1 to this report.

## **3. Introduction**

### **3.1.**

The Council's Licensing Team processes applications for licences, consents and notifications in terms of the Civic Government (Scotland) Act 1982 (the 1982 Act) and the Cinemas Act 1985.

### **3.2.**

This report has been prepared for the information of the Committee and narrates the significant areas of activity engaged in by Licensing Service during the period from 1 July 2021 to 30 June 2022.

## **4. Functions Report**

The functions report for the period from 1 July 2021 to 30 June 2022 (the period) in relation to the exercise of the Council's functions in terms of the Cinemas Act 1985 and the 1982 Act, attached as Appendix 1 to this report, includes information regarding the following:

- The types of licences, consents and notifications governed by the legislation.
- Consultation requirements and periods.

- The number of licences held under the legislation in the Council's area at 30 June 2022.
- The number of applications for licences, consents and notifications in terms of the legislation processed during the period.
- The number of applications for licences, consents and notifications in terms of the legislation refused during the period.
- The number of random taxi and private hire car inspections instructed during the period.
- Commitment of staff time in researching information and preparing reports on a number of matters during the period.
- Commitment of staff time in dealing with enquiries regarding any of the types of licences, consents and notifications governed by the legislation during the period.
- Published documentation available [here](#).

## **5. Corporate Governance**

This report relates to the Council complying with its statutory duties as a Licensing Authority and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

## **6. Financial Implications**

There are no direct financial implications to the Council arising from the recommendations of this report.

## **7. Legal Aspects**

### **7.1.**

The Cinemas Act 1985 deals solely with cinema licences. The licensing authority is the local authority.

### **7.2.**

The 1982 Act governs a variety of types of licences, consents and notifications, as detailed in Appendix 1 to this report. The licensing authority is the local authority.

## **8. Contact Officers**

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## **9. Appendix**

Appendix 1: Civic and miscellaneous licensing functions report for the period 1 July 2021 to 30 June 2022.

## **Appendix 1.**

# **Orkney Islands Council Licensing Committee**

## **Civic and Miscellaneous Licensing – Functions Report.**

**Period: 1 July 2021 to 30 June 2022.**

### **1. Legislative Background**

The Council's Licensing Team processes applications for licences, consents and notifications in terms of:

- The Civic Government (Scotland) Act 1982 (the 1982 Act).
- The Cinemas Act 1985.

### **2. Types of Licences, Consents and Notifications**

#### **2.1.**

The Cinemas Act 1985 deals solely with cinema licences.

#### **2.2.**

Types of licences, consents and notifications governed by the 1982 Act include:

- Indoor Sports Entertainment.
- Knife Dealers.
- Late Hours Catering.
- Marches and processions.
- Market Operators.
- Metal Dealers.
- Public Entertainment.
- Public Procession Notifications.
- Raised Structure Consents.
- Second-hand Dealers.
- Sex Shops.
- Skin Piercing, Tattooing and Acupuncture.
- Street Trading.
- Taxis and Private Hire Cars, Drivers and Booking Offices.
- Window Cleaners.

## **2.3.**

### **2.3.1.**

All applications and notifications require consultation with Police Scotland and other appropriate agencies in accordance with the relevant legislation. For licences in terms of the 1982 Act, the consultation period is prescribed as 28 days, apart from applications for:

- raised structure consents;
- substitution of vehicles; or
- temporary licences.

### **2.3.2.**

The minimum processing period for the majority of applications and notifications is accordingly approximately 6 weeks to allow for necessary administrative work to circulate applications and notifications and to prepare the relevant licences and consents at the conclusion of the consultation period.

## **3. Contextual Information**

### **3.1.**

Numbers of cinema licences in force on 30 June each year:

- 2018: 1.
- 2019: 1.
- 2020: 1.
- 2021: 1.
- 2022: 1.

### **3.2.**

Numbers of 1982 Act licences in force on 30 June each year:

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Indoor Sports Entertainment.	1.	1.	1.	1.	1.
Knife Dealers.	1.	0.	0.	0.	0.
Late Hours Catering.	2.	2.	2.	2.	2.
Market Operators.	3.	2.	1.	0.	2.
Metal Dealers – Premises Based.	1.	3.	2.	2.	1.
Metal Dealer – Itinerant.	0.	1.	0.	0.	0.
Private Hire Cars.	24.	30.	22.	18.	18.
Private Hire Car Drivers.	13.	14.	14.	8.	8.

	2018	2019	2020	2021	2022
Public Entertainment.	0.	0.	0.	0.	0.
Second-hand Dealers.	1.	1.	1.	1.	1.
Sex Shops.	0.	0.	0.	0.	0.
Skin Piercing, Tattooing and Acupuncture.	7.	6.	6.	6.	6.
Street Trading.	19.	14.	33.	29.	35.
Taxis.	33.	40.	41.	31.	35
Taxi Drivers.	97.	103.	100.	89.	85.
Taxi and Private Hire Car Booking Offices.	2.	2.	2.	2.	2.
Window Cleaners.	10.	10.	12.	12.	11.

### 3.3.

Numbers of applications for licences (including renewal applications) and consents for raised structures processed from 1 July to 30 June for each period:

	2017/18	2018/19	2019/20	2020/21	2021/22
Cinema – 1 year (statutory maximum):	1.	1.	1.	1.	1.
Cinema – Temporary	0.	0.	0.	1.	0.
Indoor sports entertainment – 1 year.	1.	0.	0.	0.	0.
Indoor sports entertainment – 3 years.	0.	0.	1.	0.	0.
Late hours catering – 1 year.	0.	0.	1.	0.	0.
Late hours catering – 3 years:	0.	1.	1.	1.	0.
Late hours catering variation (to end of licence)	1.	0.	0.	0.	2.
Market operators – temporary (up to 6 weeks):	1.	2.	0.	0.	0.
Market operators – 3 years.	0.	0.	1.	1.	0.
Metal dealer – Premises Based – 1 year:	0.	1.	0.	0.	0.
Metal dealer – Premises Based – 3 years:	1.	2.	0.	0.	1.

	2017/18	2018/19	2019/20	2020/21	2021/22
Metal dealer – Itinerant – 1 year:	0.	1.	0.	0.	0.
Private hire cars – 1 year:	11.	15.	7.	8.	9.
Private hire cars – 3 years:	7.	7.	2.	2.	5.
Private hire car substitutions (to end of licence):	3.	1.	0.	0.	0.
Private hire car drivers – 1 year:	4.	2.	1.	2.	1.
Private hire car drivers – 3 years:	4.	5.	3.	0.	3.
Public entertainment – temporary (up to 6 weeks).	5.	3.	3.	1.	5.
Public procession notifications:	13.	13.	9.	1.	9.
Raised structure consents:	5.	4.	3.	2.	2.
Second-hand dealer – 1 year:	1.	1.	1.	1.	1.
Skin piercing, tattooing and acupuncture – 1 year:	3.	3.	1.	1.	2.
Skin piercing, tattooing and acupuncture – 3 years:	1.	1.	2.	2.	1.
Skin piercing, tattooing and acupuncture – variation (to end of licence):	0.	1.	0.	0.	0.
Street trading – 1 year:	10.	13.	23.	20.	19.
Street trading – 3 years:	1.	3.	4.	1.	4.
Street trading variation to end of licence.					1.
Taxis – 1 year:	29.	40.	29.	36.	33.
Taxis – 3 years:	2.	1.	0.	1.	1.
Taxi substitutions (to end of licence):	9.	6.	7.	2.	4.
Taxi drivers – 1 year:	48.	51.	47.	45.	43.
Taxi drivers – 3 years:	15.	21.	13.	7.	11.
Taxi and private hire car booking office – 1 year:	1.	2.	1.	1.	2.
Taxi and private hire car booking office – 3 years:	0.	1.	0.	0.	0.

	2017/18	2018/19	2019/20	2020/21	2021/22
Window cleaners – 1 year:	4.	4.	5.	4.	3.
Window cleaners – 3 years:	2.	0.	5.	2.	2.
Total:	211.	235.	197.	143.	165.

### 3.4.

- 2017 – 2018: Of the 211 applications processed, 0 were refused.
- 2018 – 2019: Of the 235 applications processed, one was refused by the Committee.
- 2019 – 2020: Of the 197 applications processed, 2 were refused by the Committee.
- 2019 – 2020: The following were not issued, although processed, as the relevant events could not take place in terms of Scottish Government public health provisions arising from the Covid-19 pandemic:
  - 2 applications for raised structure consents.
  - 1 public procession.
- 2020 – 2021: Of the 143 applications processed, 2 were refused by the Committee.
- 2021 – 2022: Of the 165 applications processed, 0 were refused.

### 3.5.

During 2021 – 2022, the Licensing Service also issued:

- Replacement booking office licences: 1.
- Replacement taxi licence certificates: 7.
- Replacement sets of taxi licence plates: 3.

### 3.6.

Numbers of notifications of public processions processed from 1 July to 30 June for each period:

2017/18	2018/19	2019/20	2020/21	2021/22
14.	12.	13.	2.	4.

### 3.7.

Numbers of random taxi and private hire car inspections instructed from:



- 1 July 2017 to 30 June 2018: 43.
- 1 July 2018 to 30 June 2019: 57.
- 1 July 2019 to 30 June 2020: 57.
- 1 July 2020 to 30 June 2021: 0.
- 1 July 2021 to 30 June 2022: 43.

### **3.7.1.**

Random inspections of taxis and private hire cars ceased when COVID-19 lockdown commenced in March 2020. For a period, the Council's contracted garage was closed and then commenced operating restricted hours, carrying out only urgent or essential work by appointment. Through the pandemic, fewer taxis and private hire cars were operating or able to operate; contact was minimised; and non-essential journeys reduced. Pressures on the Licensing Team also increased during the pandemic and in particular the first half of 2021 when the Team was reduced to one member of staff.

### **3.8.**

From 1 July 2021 to 30 June 2022 staff time (multiple hours) was spent researching information and preparing reports on a range of matters including the applications referred to in section 3.3 above and the following additional matters:

- Annual licensing fees review.
- Annual maximum taxi fares and charges review.
- Annual Report in relation to the Committee's Functions in terms of the Civic Government (Scotland) Act 1982 and the Cinemas Act 1985.
- Complaints, leading to potential consideration of revocation or suspension of licence.
- Implementation of new licensing scheme for Short-term Lets to commence from 1 October 2022.

### **3.9.**

#### **3.9.1.**

The Council's Licensing Team deals with many enquiries regarding requirements for licences, consents and notifications under the relevant legislation. These are dealt with by telephone, email or letter. Not all enquiries result in applications.

#### **3.9.2.**

Information regarding average numbers of enquiries received and time taken to process is provided in the following table:

<b>Matter.</b>	<b>Average Time (Hours).</b>	<b>Average No. of Enquiries.</b>			
		<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
Cinema:	0.50.	4 per annum.	2 per annum.	2 per annum.	2 per annum.
Drivers – taxis or private hire cars:	0.50.	4 per week.	3 per week.	3 per week.	3 per week.
Indoor sports entertainment:	2.00.	1 per annum.	1 per annum.	0 per annum.	0 per annum.
Knife dealers:	0.50.	2 per annum.	0 per annum.	0 per annum.	0 per annum.
Late hours catering:	1.00.	2 per annum.	2 per annum.	1 per annum.	1 per annum.
Market operators:	4.00.	2 per annum.	1 per annum.	1 per annum.	1 per annum.
Market operators (temporary):	1.50.	3 per annum.	1 per annum.	1 per annum.	1 per annum.
Metal dealers:	1.00.	2 per annum.	0 per annum.	0 per annum.	1 per annum.
Private hire cars:	0.75.	42 per annum.	40 per annum.	20 per annum.	20 per annum.
Public entertainment:	0.50.	8 per annum.	2 per annum.	1 per annum.	1 per annum.
Public procession notifications:	0.50.	7 per annum.	9 per annum.	1 per annum.	1 per annum.
Raised structure consents:	0.50.	4 per annum.	4 per annum.	1 per annum.	1 per annum.
Second-hand dealers:	0.50.	2 per annum.	1 per annum.	1 per annum.	1 per annum.
Skin piercing, tattooing and acupuncture:	0.75.	6 per annum.	4 per annum.	3 per annum.	3 per annum.
Street trading:	0.75.	20 per annum.	20 per annum.	20 per annum.	20 per annum.
Taxis:	0.75.	30 per annum.	30 per annum.	30 per annum.	30 per annum.
Taxi and private hire car booking office licences:	0.50.	1 per annum.	1 per annum.	1 per annum.	1 per annum.

		2018/19	2019/20	2020/21	2021/22
Window cleaners:	0.50.	4 per annum.	8 per annum.	8 per annum.	8 per annum.
Miscellaneous (not categories of licence which are dealt with by the Licensing Team):	0.25.	6 per month.	4 per annum.	6 per annum.	6 per annum.

## 4. Future Developments

### 4.1.

As a second phase in the development of the Customer Service Platform, licensing applications are in the process of being automated to the extent that this is possible in law. Online applications are now available and being utilised for taxi and private hire car operators, their booking offices and drivers. Online applications for licences for short-term lets are being developed with a view to being ready for the implementation of the scheme from 1 October 2022.

### 4.2.

In terms of the draft Immigration (Alcohol Licensing and Late Hours Catering) (Scotland) Regulations 2018, currently before the UK Parliament, the Council may be required to reject applications made for late hours catering licences by individuals not entitled to work in the UK. The process will be similar to that already enacted in relation to applications for taxi and private hire car driver licences. The proposed legislation will impose an additional pressure on the Licensing Service who will require to make this additional check when processing relevant applications.

### 4.3.

From 28 June 2022, the Equality Act 2010 was amended to implement new and extended duties on:

- Local authorities to designate vehicles as wheelchair accessible taxis or private hire cars and maintain and publish a list.
- Operators and drivers of:
  - Non-designated wheelchair accessible taxis.
  - Non-designated wheelchair accessible private hire cars.
  - Designated wheelchair accessible taxis.
  - Designated wheelchair accessible private hire cars.

#### 4.3.1.

A separate report regarding this matter has been prepared for the Committee and the Licensing Service is in the process of informing drivers and operators of their new duties.

#### **4.4.**

From 1 April 2023, applicants for the following types of licences will require to complete a tax check when submitting their applications, as part of a mandatory HMRC Tax Conditionality requirement:

- Drivers of taxis or private hire cars.
- Taxi and private hire car booking offices.
- Metal dealers with sites in the local authority's area.
- Itinerant metal dealers who move around Scotland.

#### **4.4.1.**

Applicants will require to complete a tax check with HMRC using a Government Gateway ID, which should produce a tax check code, which the applicant will require to provide on their licence application. The local authority will then do an online check to confirm that the tax check code is valid and correct. If the applicant does not provide a valid tax check code, the local authority will not accept the licence application. HMRC and the UK Government will undertake a publicity campaign prior to the introduction of the requirement and the Council will also advise applicants who will be affected, as the legislation is introduced.

## **5. Published Documentation**

### **5.1.**

The Council publishes information about cinema licensing, including an application form, in the Related Downloads section [here](#).

### **5.2.**

The Council publishes information about civic government licensing, including guidance, conditions and application forms, in links [here](#).

### **5.3.**

The Council's Register of civic government licences is published in the Related Downloads section [here](#).

### **5.4.**

The Council publishes information about marches and processions, including a notification form and its Register of approved notifications, in the Related Downloads section [here](#).

### **5.5.**

The Committee reviews fees for civic and miscellaneous licence applications annually with effect from 1 April each year. The fees, together with a summary of required supporting documentation for each type of application, are published in the Related Downloads section [here](#).

## 5.6.

Information about the members of the Committee, together with agendas, reports and Minutes relating to meetings of the Committee, are published in the Related Downloads section of and in links [here](#).

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