

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - LICENSING CONDITIONS,
LICENSING FEES AND PREPARATION FOR LICENCE RENEWALS**

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise members of recent changes to Civic Government Licensing legislation, as well as informing members of potential changes that may be implemented in the near future.
- 1.2 In addition, this report also updates members on preparations for the renewal of licences granted under the *Civic Government (Scotland) Act 1982*, as well as inviting members to consider revision of the respective fees and conditions which apply to these licences.

2. RECOMMENDATIONS

- 2.1 Members are asked to note the contents of this report.
- 2.2 Members are asked to agree to consult with licence holders and other relevant parties on the proposed amendments to the licence conditions as detailed in **Appendix 1**.
- 2.3 Members are asked to agree to continue to have regard to the existing Taxi Surveys at hearings for taxi operator licences, and consider at a later date whether new reports are required at such a time where circumstances have changed to a material degree.
- 2.4 Members are asked to agree on the proposed new fees for all Civic Government licences as detailed in **Appendix 2**, so that they can be passed on for approval by the Council.
- 2.5 It is recommended that licences currently subject to a fixed three year period and due for renewal in June 2018 continue to be granted on that basis.

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LICENSING FEES AND PREPARATION FOR LICENCE RENEWALS**

1. SUMMARY

- 1.1 The purpose of this report is to advise members on various issues in relation to Civic Government Licensing.
- 1.2 Section 12 of the *Civic Government (Scotland) Act* 1982 provides that the Council must seek to ensure that fees it charges in respect of taxi and private hire car licences and applications are sufficient to meet the expenses it incurs in carrying out its functions in relation to those licences. Paragraph 15 of Schedule 1 to the 1982 Act also seeks to ensure that all fees received are sufficient to meet the Council's expenses incurred in exercising their business under Part 1, Part 2 and Schedule 1 of the 1982 Act. Members are now invited to consider the issue of licence fees, which will be subsequently considered by the full Council in anticipation of the new three year renewal period beginning in June 2018.
- 1.3 The majority of licences (approximately 500) fall due for renewal at the end of June 2018. This report details the position in relation to the renewals of those licences.

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3. CHANGES TO LICENSING LEGISLATION

3.1 Taxis and Private Hire Cars/Booking Offices:

3.1.1 Immigration Checks: With effect from 1st December 2016, Council officers have been required to check the immigration status and right to work in the UK of all taxi and private hire car driver applicants, as the Council must not grant licences to illegal immigrants. The check must take place at some point during the application process. In addition, if a migrant has leave to remain in the UK for a limited time then the grant of any licence must be restricted to the duration of that leave to remain. If a licence holder becomes disqualified from holding a licence by reason of his/her immigration status then the licence will cease to have effect. The *Immigration Act 2016* also provides that the Council may suspend or revoke a licence where a licence holder commits an immigration offence or is required to pay an immigration penalty. These grounds for suspension or revocation will not apply if the conviction is 'spent' (in terms of the *Rehabilitation of Offenders Act 1974*), or the penalty is fully paid and was imposed over three years ago. The UK Government has now extended these immigration check provisions to booking offices for taxi and private hire cars under the *Immigration Act 2016 (Consequential Amendments) (Licensing of Booking Offices: Scotland) Regulations 2017/1317*, which came into force on 22nd January 2018, and so Council officers are now also required to check the immigration status of all booking office licence applicants.

3.2 Public Entertainment Licensing:

3.2.1 Funfairs: In July 2017, the Scottish Government published non-statutory best practice guidance in relation to Public Entertainment Licenses in respect of funfairs. It is intended to encourage licensing authorities to adopt best practice to support and encourage funfair operators across Scotland. There is also a draft proposal for a Bill to exempt travelling funfairs from public entertainment licensing requirements and to create a distinct new licensing system for travelling funfairs which has been lodged in the Scottish Parliament. A Consultation on the proposal has recently closed. Members will note that on 21st February 2018, the Planning, Protective Services and Licensing Committee authorised the Head of Governance and Law to submit a consultation response on behalf of the Council which indicated that the Council was fully opposed to the proposal.

4. LICENCE CONDITIONS

4.1 A review of the conditions applying to each specific licence has been carried out and a number of proposed changes have been identified as detailed in **Appendix 1**.

- 4.2 Of the substantive proposed changes, the first is an addition of a new standard condition for metal dealers. This condition is suggested in order to highlight to licence holders that they must comply with their new duties as set out in the *Air Weapons and Licensing (Scotland) Act 2015* in relation to acceptable forms of payment, recording and retaining details of transactions, and reducing metal crime in Scotland.
- 4.3 Another proposed change is the creation of a new standard condition for boat hire licences. This condition places a duty on licence holders to report to the Council, as licensing authority, any incidents of passengers leaving the licence holder's vessel and entering the water involuntarily.
- 4.4 In relation to street traders, a proposed change to the Schedule of Conditions is the removal of the existing Standard Condition 17 (the 100m Rule) and replacing this with a new Standard Condition 17 whereby mobile street traders are only authorised to trade in any one area for a limited amount of time before being required to move on elsewhere. This substitution has been proposed in light of matters recently raised as to the admissibility of the existing 100m Rule. The alternative condition is based on the rationale for protecting public order and public safety, as well as reducing risk of traffic congestion.
- 4.5 Finally, after consultation with Environmental Services, it is proposed that a new standard condition be added for window cleaner licences. This has been suggested in order to reiterate to licence holders their duties under Health and Safety legislation to assess risk and implement safe working practices. Licence holders will also be required to comply with all guidance issued by the Health and Safety Executive, particularly in relation to working at height. Furthermore, the application form for a window cleaner's licence will also be amended to include questions which ask applicants to confirm that they will assess risk on an ongoing basis and put in place appropriate control measures.
- 4.6 If members are in agreement, it is recommended that there be a consultation with licence holders, Police Scotland, Environmental Services and other relevant parties as to the proposed amendments with a further report to be prepared by Council officers and brought before the committee to allow members to decide on the proposed amendments to the conditions.

5. TAXI SURVEYS

- 5.1 Section 10(3) of the *Civic Government (Scotland) Act 1982* deals with taxi licences and provides that the grant of a taxi licence may be refused by a licensing authority for the purpose of limiting the number of taxis in respect of which licences are granted if, but only if, they are satisfied that there is no significant demand for the services of taxis in their area which is unmet.
- 5.2 In carrying out this test to ascertain whether there is significant

unmet demand in respect to the Bute and Cowal; Mid Argyll, Kintyre and Islay; Helensburgh and Lomond; and Oban, Lorn and the Isles areas, the Planning, Protective Services and Licensing Committee currently refer to surveys carried out between late 2013 and early 2014 in relation to those respective taxi zones.

- 5.3 It has been noted that since publication of the respective surveys, there have not been any significant changes to circumstances, population or taxi numbers in any of the taxi zones. For this reason, members are invited to continue to have regard to the existing surveys until such a time that there are material changes to circumstances in either of the zones which render the reports out of date, at which point members may wish to determine that new surveys should be carried out.

6. LICENSING FEES

- 6.1 At the meeting of the PPSL Committee on 18th March 2015, it was agreed that licences continue to be granted for a three year period for the licences due for renewal in June 2015.
- 6.2 As the June 2018 renewal period is approaching, a proposed list of fees are contained in **Appendix 2**. These proposed new fees represent a 6% increase on all of the fees currently charged. An increase of 6% is proposed as Civic Government Licensing fees have not risen since June 2015, and any new fees will be set until June 2021. Members are invited to agree on the proposed list of new fees so that they can subsequently be passed on for approval by the Council.
- 6.3 It should be noted that taxi driver licences, private hire car driver licences, booking office licences and skin piercing and tattoo operator licences do not fall within the fixed three year renewal period but are granted for a period of three years from the date of grant of the licence.

7. PREPARATION FOR LICENCE RENEWALS

- 7.1 It is proposed that reminder letters will be issued to all licence holders once the application fees have been confirmed. Licence holders will be asked to lodge their applications for renewal as soon as possible. A copy of the reminder letter is attached as **Appendix 3**. Applications will be dealt with in the order that they are received.
- 7.2 Applicants will be advised of the provisions of Paragraph 8 of Schedule 1 to the 1982 Act which provides that if an application is made for the renewal of a licence before its expiry, the existing licence shall continue to have effect until the application for renewal has been determined.
- 7.3 Prior to the renewal period, the Council's IT systems will be tested to ensure that the information contained therein is accurate and up to date.

- 7.4 Consultation will take place with Police Scotland and Environmental Services in relation to the renewal process.
- 7.5 Members should note that it is intended to utilise staff who have had previous experience of Civic Government Licensing to assist in the renewal process.
- 7.6 Applications for renewal of licences are not advertised at the Area Offices. There is still however the 28 day period where objections/representations can be lodged and no application for renewal can be granted prior to the expiry of that period. Therefore, if an application for renewal is received on the 30th June 2018, the earliest possible date that it can be dealt with is 29th July 2018 if all the paperwork has been provided by the applicant, no objections/representations have been made and all relevant responses have been received.
- 7.7 All applications are inserted in a register which is available online for public inspection. By virtue of Paragraph 14 of Schedule 1 to the 1982 Act, the Licensing Authority requires to keep a register of all applicants for licences under the Act. It also requires that as soon as reasonably practicable after the receipt of each application, details of such receipt and details of the final decision of each application may be entered into the register.
- 7.8 The register must include a note of the kind and terms of each licence granted by the Licensing Authority; and a note of any suspension, variation of terms or surrender of a licence.
- 7.9 The register requires to be open for public inspection at such reasonable times and places as may be determined by the Licensing Authority. The register for Argyll and Bute has been maintained online since 1st April 2015.
- 7.10 The application forms for all Civic Government licences will also be amended to include a statement which advises the applicant of the Council's participation in the National Fraud Initiative and that information about licences granted will be shared with other agencies for the purpose of preventing fraud.
- 7.11 Furthermore, the privacy statement on all application forms is in the process of being reviewed and revised by Council officers in light of the new General Data Protection Regulation (GDPR) coming into force in May this year.

8. CONCLUSIONS

- 8.1 The changes introduced by the 2016 Act requiring checks on the immigration status of taxi drivers, private hire car drivers and booking offices were successfully implemented with a high level of co-operation between services.

- 8.2 The proposed amendments to the licensing conditions serve to re-iterate to licence holders the importance of their statutory duties and reflect some recent changes in the law.
- 8.3 The taxi surveys currently being used, although now around 4 years old, still appear to reflect the general situation in relation to all the taxi zones. However, should material changes in circumstances occur at a later date, members may wish to consider whether the surveys require to be updated.
- 8.4 Once the new licensing fees have been agreed on by the Planning Protective Services and Licensing Committee, the Committee's recommendation will be brought before the full Council for its approval.
- 8.5 Continuing with the three year renewal period is fair to all licence holders. Issuing reminder letters to current licence holders advising of the status of their existing licence during the period their application is being dealt with will clarify the position.

9. IMPLICATIONS

Policy:	No changes are proposed at this time.
Financial:	Financial implications are set out in the report.
Legal:	The Council will require to implement the legislative changes set out in the report as and when they come into force.
Personnel:	None.
Equalities:	None.
Risk:	None.

APPENDICES

- 1. Proposed Changes to Licence Conditions
- 2. List of Proposed Changes to Licence Fees
- 3. Standard Letter to Licence Holders for Licence Renewals

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5th March 2018

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