

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

PUBLIC ENTERTAINMENT LICENCES

FEES FOR CHARITABLE & VOLUNTARY ORGANISATIONS

1. SUMMARY

- 1.1 The issue of fees for charities and voluntary organisations for public entertainment licences was considered by Members on 30th May 2012. Following the amendment of the Civic Government (Scotland) Act 1982 by the Criminal Justice and Licensing (Scotland) Act 2010 in relation to public entertainment licensing, free to enter events were included in the definition of public entertainment. At that time concerns had been expressed about the impact of this change on voluntary and charitable organisations.
- 1.2 The decision of the Council of the 14th June 2012, following the recommendation from this committee, was as noted below:-
- (i) No fee should be charged for a free to enter event if the event is organised by a formally constituted voluntary or charitable organisation on the basis that this exemption from payment of a fee only applying if the following criteria are met (i) there is no admission charge or fee; (ii) no charge for use of any of the facilities provided by the event organiser; and (iii) no donations are made towards the cost of running the event;
 - (ii) If entry to an event held by a voluntary or charitable organisation is not free there is no fee for the first 2 events held per year by the organisation with subsequent events held in the same year being charged a reduced fee of £40 per event but that this fee be waived until June 2013.
 - (i) There is a robust monitoring period of a year in relation to any change in the fees agreed in relation to voluntary and charitable based organisations with a further report being placed before the PPSL Committee to advise on cost implications in administering and any other issues in June 2013.

2. RECOMMENDATIONS

- 2.1 Members are asked to consider whether all or a selection of the options detailed at section 4 below should be subject to public consultation and instruct officers to make the necessary arrangements as appropriate.

- 2.2 If Members determine that public consultation is not required then they are asked to identify the preferred option from those detailed at section 4 below and instruct officers to make appropriate arrangements to implement any required changes to the current regime.
- 2.3 A further report should be presented to Members to detail progress in terms of the decision at this meeting.
- 2.4 If members agree to undertake public consultation as recommended, that the current regime continues until new arrangements are agreed and implemented.

3. BACKGROUND

- 3.1 The Council's current resolution requires that a public entertainment licence is obtained in relation to a range of specific classes of entertainment, namely:-

Amusement arcades, boxing, wrestling. Judo or similar presentations, circuses, concerts, dancing, discotheques, roller discos, fairgrounds, ice rinks and leisure centres (with audience accommodation), snooker or billiard halls, theatrical performances, video shows.

- 3.2 On 30th May 2012 Members considered the option of reduced fees for voluntary or charity groups as well as the option to require licensing but not to apply a fee for 'free to enter' events.
- 3.3 After the meeting, Members received significant feedback from groups in their constituencies expressing concern in relation to the new regime. During June 2012 the Head of Governance and Law gave presentations at Local Area Committee meetings to address those concerns.
- 3.4 In recent months, Legal Services have undertaken a further benchmarking exercise to identify the approach taken by 14 other Scottish councils. A summary of these results is attached as **Annex 1**. A summary of the results is shown below:-

Voluntary groups & charities: 12 councils have specific provisions for these groups although some councils impose additional conditions in regard to the fee payable

Consultation: 11 of the councils have undertaken or are planning to consult the public on changes to the licence scheme

Free events: 8 councils apply discounted fees if the event is free to enter

Capacity: 7 councils consider the capacity of the event in their criteria for exemptions e.g. events with less than 500 attendees

4. OPTIONS

4.1 Option 1: Small, non-commercial events

4.1.1 SCOPE: Only a nominal fee would be charged if the event, whether indoor or outdoor, is –

(i) organised by a formally constituted voluntary group

AND

(ii) below a specified threshold (e.g. 100 attendees)

4.1.2 COST: Organisers of non-commercial, small scale events would incur a nominal fee for a Public Entertainment licence but would be liable for hire costs of the relevant premises.

4.1.3 POTENTIAL ADVANTAGES:

(a) This option supports local and charitable fund raising for low capacity events

(b) The administrative burden on the organiser is minimal (simplified licence application)

(c) Public safety is still being protected through imposition of a maximum capacity and simplified risk assessment

4.1.4 POTENTIAL DISADVANTAGES:

(a) Potential breach of the statutory requirement for local authorities to ensure that fees received are sufficient to meet expenses incurred in exercising its functions as licensing authority

(b) Loss of income that would otherwise be received from the full licence fee

(c) Non-commercial organisers may opt to hold their events in council areas where no fee is charged for low capacity events.

4.2 Option 2: No change

4.2.1 SCOPE: This option is to continue with approach as implemented following the Council decision on 14 June 2012 i.e.

(i) No fee should be charged for a free to enter event if the event is organised by a formally constituted voluntary or charitable organisation on the basis that this exemption from payment of a fee only applying if the following criteria are met (a) there is no admission charge or fee; (b) no charge for use of any of the facilities provided by the event organiser; and (c) no donations are made towards the cost of running the event;

(ii) If entry to an event held by a voluntary or charitable organisation is not free there is no fee for the first 2 events held per year by the organisation with subsequent events held in the same year being charged a reduced fee of £40 per event.

- 4.2.2 **COST:** Prior to the introduction of the current discounted arrangements for voluntary and charitable groups, **six** temporary public entertainment licenses were granted, with associated Council income of **£750**. Following the introduction of these arrangements **twenty seven** licences were granted (for voluntary and charitable groups) which would otherwise have generated an income of **£3,375** under the previous regime.
- 4.2.3 **POTENTIAL ADVANTAGES:** This regime has been running for a full year; relevant groups should now be more familiar with the criteria and should acknowledge a reduction in costs.
- 4.2.4 **POTENTIAL DISADVANTAGES:** This approach could be regarded as involving more complexity than options 1-3 above.

4.3 Option 3: Use of licensed Council premises

- 4.3.1 **SCOPE:** The Council could licence all council owned schools and halls (subject to appropriate risk assessments) for use by community groups.
- 4.3.2 **COST:** The organiser of the event would not incur a fee for a Public Entertainment licence but would be liable for hire costs of the relevant school or hall. However there would be a cost to the Council in licensing these premises.
- 4.3.3 **ADVANTAGES:**
- (a) This option supports local and charitable fund raising
 - (b) Event organisers can use a licensed school or hall
 - (d) Public safety is still being protected through inspection and risk assessment
- DISADVANTAGES:**
- (a) Potential breach of the statutory requirement for local authorities to ensure that fees received are sufficient to meet expenses incurred in exercising its functions as licensing authority
 - (b) Loss of income that would otherwise be received from the full licence fee

4.4 Option 4: Annual, non-commercial events

- 4.4.1 **SCOPE:** Only a nominal fee would be charged if the event, whether indoor or outdoor, is
- (i) organised by a formally constituted voluntary group based within the boundary of Argyll and Bute Council
- AND**
- (ii) the event will be held no more than once annually

4.4.2 COST: Organisers of non-commercial, events would not incur a fee for a Public Entertainment licence but would be liable for hire costs of the relevant premises.

4.4.3 POTENTIAL ADVANTAGES:

- (a) This option supports local and charitable fund raising
- (b) The administrative burden on the organiser is minimal (simplified licence application)
- (c) Public safety is still being protected through imposition of a maximum of one event annually and simplified risk assessment

4.4.4 POTENTIAL DISADVANTAGES:

- (a) Potential breach of the statutory requirement for local authorities to ensure that fees received are sufficient to meet expenses incurred in exercising its functions as licensing authority
- (b) Loss of income that would otherwise be received by the full licence fee
- (c) Non-commercial organisers may opt to hold single annual events in council areas where no fee is charged for non-commercial organisations.

4.5 Option 5: No licence fee for voluntary groups

4.5.1 SCOPE: No licence fee would be payable for events (indoor or outdoor) where the event is –

- (i) organised by a formally constituted voluntary group based in Argyll and Bute
AND
- (ii) below a specified threshold (e.g. 100 attendees)

4.5.2 COST: the only cost payable by the organiser would be for the hire charge of the venue. However, as noted at s4.2.2 above this option could result in a loss of income of £3,375.

4.5.3 POTENTIAL ADVANTAGES:

- (a) This option supports local and charitable fund raising for low capacity events
- (b) The administrative burden on the organiser is minimal (simplified licence application)
- (c) Public safety is still being protected through imposition of a maximum capacity and simplified risk assessment

4.5.4 POTENTIAL DISADVANTAGES:

- (a) Potential breach of the statutory requirement for local authorities to ensure that fees received are sufficient to meet expenses incurred in exercising its functions as licensing authority
- (b) Loss of income that would otherwise be received from the full licence fee.

4.6 No requirement for Public Entertainment Licences

- 4.6.1 SCOPE: This option involves a radical change in that none of the public entertainment activities included in the current Council resolution would require to be licensed.
- 4.6.2 COST: All existing licence holders would be entitled to a refund on a pro rata basis for the remaining period of their current licence. However, as noted at s4.2.2 above this option could result in a loss of income of £3,375.
- 4.6.3 POTENTIAL ADVANTAGES: Organisers would avoid the administrative and financial burden of the licensing regime.
- 4.6.4 POTENTIAL DISADVANTAGES:
- (a) Significant health and safety concerns for the Council, Police and other agencies, linked to uncontrolled activities. By not licensing public entertainment events the Council would not be adhering to the licensing principles of securing public safety, preventing crime and disorder and preventing nuisance.
 - (b) Council failure to exercise statutory controls incorporated in the Civic Government (Scotland) Act 1982
 - (c) Increased burden on Council and other statutory agencies through alternative enforcement activity to address unlicensed activities
 - (d) The Council's current resolution for Public Entertainment Licences would require to be amended
 - (e) Loss of income to the Council

5. CONCLUSIONS

- 5.1 Benchmarking: the benchmarking exercise indicates that Councils have made arrangements to reduce the financial burden for voluntary groups involved in public entertainment activities.
- 5.2 Options:
- (i) Option 6 detailed above would require amendment of the Council's current resolution for Public Entertainment Licences. In order to vary the existing resolution, the licensing authority must give notice of its intention to do so and detail the places and classes of entertainment which are to be included. The notice must be advertised in a local newspaper and members of the public may make representations within 28 days of the notice being published. Any representations must be considered by the licensing authority before agreeing to vary the resolution.
 - (ii) All of the options are likely to result in decreased income for the Council (relative to the income received prior to the 2012 changes), with the associated concern that the

Council may be in breach of its statutory duty to ensure that the total amount of fees it receives is sufficient to meet the expenses incurred in exercising its functions as licensing authority

(iii) The option of not licensing any public entertainment activities (Option 6) could be regarded as creating a significant risk for members of the public and potentially result in the Council failing to meet its obligations in regulating public entertainment activities

5.3 The Council's policy on public entertainment licensing could change significantly depending on the option selected. It may therefore be advisable to undertake public consultation in relation to the options under consideration, as numerous other Scottish Councils have done already.

6. IMPLICATIONS

6.1 Policy: potentially significant impact depending on the option selected

6.2 Financial: several of the options detailed will result in reduced income to the Council.

6.3 Legal: implementation of option 6 would require amendment of the Council's resolution on Public Entertainment Licensing. Implementing option 6 may also result in the Council failing to regulate public entertainment activities. Options 1-5 may lead to a breach of the statutory requirement for local authorities to ensure that fees received are sufficient to meet expenses incurred in exercising its functions as licensing authority

6.4 HR: none identified

6.5 Equalities: require assessment to assess potential impact on relevant groups.

6.6 Risk: potential financial and legal risks as at 6.2, 6.3 and 6.5 above.

6.7 Customer Service: if the option selected is linked to significant change in the current arrangements, public consultation may be appropriate.

7. APPENDICES

7.1 Annex 1 provides a summary of the results of the benchmarking exercise undertaken in relation to this issue.

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PUBLIC ENTERTAINMENT LICENCES BENCHMARKING DATA

COUNCIL / FACTOR	CAPACITY	EXEMPTIONS	FREE TO ENTER	LICENCE FEE	CONSULTATION	OTHER COMMENTS
		(Definition / criteria)				
ABERDEEN CITY	not specified	still require PEL; community, charity, voluntary	not specified	75% reduction for charities etc.	via community councils, elected members + website	Resolution; issues @ free firework displays
DUMFRIES & GALLOWAY	not specified	Still require PEL; community based events	Discounted if free to enter	Discounted	via community councils	Resolution; issues @ free firework displays Fees; negative response @ charges for small groups
DUNDEE	not specified	Still require PEL; charity events	Check	Discounted	?	No response as yet
EAST RENFREWSHIRE	not specified	not specified	not specified	Discounted for 'minor' events	No	Premises; Licence numerous council buildings to minimise costs for small groups
EDINBURGH	small scale (<500)	small events exempt from PEL IF charity, community etc.+ free to enter	specified in exemption criteria	discounted for large charity etc. events	yes	no plans for further review

COUNCIL / FACTOR	CAPACITY	EXEMPTIONS	FREE TO ENTER	LICENCE FEE	CONSULTATION	OTHER COMMENTS
GLASGOW	small scale (<500)	events held in school or church halls + small scale	not specified	Review pending	yes	Schools and church halls can be used without need for PEL - see Option 1 Scope already reviewed, planning review of fees
HIGHLAND	specified for commercial events	Still require PEL; charity events etc.	No fee if free to enter	Discount for non commercial + different for indoor / outdoor	planned	Resolution; originally stated no fee for free to enter events. Activities; plan to amend + will include bonfires/fireworks Application forms; plan to simplify for small events
MID LOTHIAN	not specified	Still require PEL; charity events etc.	No fee for free events	Discounted	Planned	No plans for further review
MORAY	not specified	Exemption if charity applicant + charity even	not specified	groups exempt, no fee	Not planned	No response as yet
NORTH AYRSHIRE	Different for small / large events	Completely exempt if Council premises OR no fee / donation AND charity, community etc.	as in exemptions	groups exempt, no fee	Still to confirm detail	Resolution; currently have temporary amendment to resolution, due for review next year

COUNCIL / FACTOR	CAPACITY	EXEMPTIONS	FREE TO ENTER	LICENCE FEE	CONSULTATION	OTHER COMMENTS
SCOTTISH BORDERS	Different for small / large scale events	Exempt if non-commercial + free to enter + period < 6 weeks	see exemption	groups exempt, no fee	Plan to consult elected members, community councils	Activities ; plan to review specified activities Numerous enquiries received initially
SOUTH AYRSHIRE	not specified	exempt if non-commercial + < 6 weeks	not specified	no fee if meet exemption	Basic consultation complete but more planned	Activities ; plan to review specified activities, probably next year
STIRLING	300	completely exempt if not for profit + < 300 + charge < £10 or voluntary donation	see exemption	no fee if meet exemption	Via press, website+ community groups	Resolution ; changed so that small groups etc. were completely exempt, as a means of reducing workload.No further review for at least a year
WEST LOTHIAN	250	Still need licence for non-profit voluntary / community groups	No fee if non-profit voluntary / community groups	no fee if meet exemption	Yes	Resolution ; extended activities Application ; different for individual, businesses, vol orgs