



**MINUTES OF THE MEETING OF THE  
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 11 OCTOBER 2012  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

---

**Committee Members Present:**

Councillor J McNeil (Chair)  
Councillor J Williamson  
Councillor D Grant  
Councillor J McMillan  
Councillor F McAllister

**Council Officials Present:**

Mr I Forrest, Legal Adviser  
Ms M Winter, Licensing Administration Officer  
Mr P Forsyth, Senior Area Transport Officer  
Mr I Dagleish, Transportation Manager  
Ms F Currie, Committees Assistant

**Others Present**

Insp S Broadhurst, Lothian & Borders Police  
PC H Bowsher, Lothian & Borders Police  
Councillor J Goodfellow (Item 1 only)

**Clerk:**

Mrs F Stewart, Committees Assistant

**Apologies:**

Councillor J Caldwell (Retrospective)

## 1. AMENDMENT OF RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING REGIME

A report had been submitted by the Executive Director (Support Services) to inform the Sub-Committee of the outcome of the consultation process relative to the proposed amendment to the resolution on Public Entertainment licensing in the light of recent legislation.

The Legal Adviser presented the report. He advised that a report to the Sub Committee on 8 March 2012 had stated that various provisions of the Civic Government (Scotland) Act 1982 as regards licensing were the subject of amendment by virtue of the Criminal Justice & Licensing (Scotland) Act 2010.

With particular reference to Public Entertainment licensing, the then current definition of "Place of public entertainment" given in Section 41 of the 1982 Act was "any place where, **on payment of money or money's worth**, members of the public are admitted or may use any facilities for the purposes of recreation." This helped to ensure that an event which was free to enter did not require a licence under Section 41. Section 176 of the 2010 Act had amended Section 42 by deleting the words in bold above, resulting in free to enter events being caught by the licence regime with effect from 1 April 2012.

At their meeting on 8 March 2012, the Sub-Committee had agreed that the categories of activities which would require to be licensed under Section 42 should be reviewed and consideration given to specific exceptions to protect free local and charitable events from being unduly penalised. Accordingly, the wording of the resolution was amended and the current proposed wording, similar to neighbouring Local Authorities, was advertised in the local press on 31 August 2012 giving a 28 day period for the submission of objections. As a result of this consultation process, one objection had been received. This objection followed receipt of correspondence from North Berwick Community Council to the Chair of the Sub-Committee regarding the wider issue of Public Entertainment and had suggested that a full public consultation process regarding public entertainment licensing would be more appropriate.

The Legal Adviser outlined the options open to the Sub-Committee. However, he advised that Members had to agree to the omission of '*on payment of money or moneysworth*' from the resolution in order to comply with national legislation.

The Chair advised that the objector, Mr Robin MacEwan, was unable to attend the meeting today but had invited Councillor Goodfellow to appear on his behalf. For clarification, Councillor Goodfellow pointed out that the objection had been received from Mr MacEwan in a personal capacity and not from North Berwick Community Council. He also made it clear that Mr MacEwan was not suggesting that there should not be a change to the resolution, but was rather taking issue with the procedures adopted by the Sub-Committee relating to the proposed amendment.

The Chair noted that Mr MacEwan was suggesting that the Council had '*misled the public*' in his email dated 28 September 2012 and vigorously denied that this was the case. He advised that he had been present at the Sub-Committee on 8 March 2012 and on this occasion Members had agreed to authorise the Council's Legal Department to draft a new resolution. Subsequently, the Local Government Elections in May 2012 had delayed until August the advertising of the amended resolution. Following today's meeting, the Sub-Committee would write to Mr MacEwan to respond to his concerns and update him on the outcome of today's meeting.

The Chair invited Members to consider a number of changes to the proposed wording of the resolution and invited any further recommendations.

In conclusion, the Chair thanked Mr MacEwan for bringing his concerns forward and asked Councillor Goodfellow to take the good wishes of the Sub-Committee to Mrs Pat Burton who recently retired as Chair of the North Berwick Community Council after giving many years service.

### **Decision**

The Sub-Committee approved the proposed wording of the amended resolution subject to the following changes and authorised the Corporate Legal Adviser and such staff as she may designate to advertise the proposed amended wording in the local press.

- a) Section (C) 1, “small scale” to be amended to “all”;
- b) Section (C) 5, to include all community festivals and fetes; and
- c) Section (C), ‘small scale’ to mean less than 150 persons.

## **2. TRADE REQUEST FOR ADDITIONAL TAXI RANKS IN HADDINGTON, DUNBAR AND TRANENT**

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee of the request received from East Lothian Taxi & Private Hire Association for the creation of additional taxi ranks in Haddington, Dunbar and Tranent. Location plans for the proposed new taxi ranks were attached to the report.

The Legal Adviser informed Members that the East Lothian Taxi & Private Hire Association (ELTHA) had approached the Council with a request that additional stances for taxis be created in Haddington (3 cars), Dunbar (6 cars) and Tranent (3 cars). The report today was seeking the authority for the Licensing Office to commence the consultation process in respect of the new taxi ranks and to proceed with advertising the proposals.

There was no representative from the ELTHA present at the meeting, however, spokespersons from the Police and the Council’s Transportation Department were present to provide further information to Members.

The Transportation Officer advised that the Community Business Association had newly launched their Vision for Haddington which sets out plans for revitalizing the town centre. He considered, therefore, that it was premature to create new taxi ranks on the High Street and revoke the present taxi stances at this time. He proposed instead that new arrangements for taxi ranks could be considered as part of the Vision for Haddington.

Local Member, Councillor McMillan, agreed and favoured engagement with the whole community as part of a wider consultation process. The Police Inspector advised that the Police would also be involved in the long term Vision for Haddington. He approved of a central location for the taxi ranks but agreed that such a proposal should be included in the town’s long term plans.

The Transportation Officer proposed that the additional taxi stances requested for Dunbar should also be considered as part of a balanced long term plan and opened to wider consultation. He had, however, no objection to the request for additional taxi ranks in Tranent.

The Police Inspector outlined his concerns regarding the additional taxi spaces in Tranent, advising that they could lead to obstruction on the narrow High Street and the loss of a busy loading bay. The Inspector therefore suggested that an alternative site for the taxi ranks could be considered. Local Member, Councillor Grant, advised that he had received no representations on the proposal and had no objection to it going out to consultation.

Members discussed the merits of the proposed additional taxi ranks in Haddington, Dunbar and Tranent.

### **Decision**

The Sub-Committee agreed:

- i. to consider the Trade request outlined in the report and to proceed further with the consultation process for additional taxi ranks in Tranent and not to proceed presently with the request for additional taxi ranks in Haddington and Dunbar.
- ii. to authorise the Corporate Legal Adviser and such staff as she may designate to proceed with the necessary public advertising process relative to the creation of new taxi ranks in Tranent; and
- iii. to receive a further report from the Corporate Legal Adviser advising of the outcome of this process and of any objections received, with a view to formally establishing said taxi ranks in Tranent thereafter.

### **3. PROPOSED AMENDMENTS TO CONDITIONS OF LICENCE – TAXI AND PRIVATE HIRE**

The Executive Director (Support Services) had submitted a report to advise the Licensing Sub-Committee of the proposed changes to the conditions of Taxi and Private Hire car licences relative to the age of vehicles and signage.

The Legal Adviser presented 3 proposals to Members. The first proposal related to the terms of the taxi/private hire car licence issued by East Lothian Council and concerned the acceptable age of vehicles for which a licence may be granted. He proposed that, in the interests of clarity, the words '*prima facie*' contained within Condition 9 should be removed. This Condition would then state clearly that a vehicle would be unsuitable for renewal if more than six years old (or 12 years for purpose built taxi cabs). The Legal Adviser suggested that Members might also wish to consider removing the last paragraph of Condition 9.

The second proposal concerned withdrawing the illuminated screen light and disc which showed taxi vehicles to be properly licenced. Such screen lights, which cost in the region of £40 to install, would be replaced by a sign costing £3 which would be affixed to each side of the vehicle. The third proposal recommended that a new system was adopted when a taxi or hire car is taken out of service whereby the

licence plate was covered by an adhesive 'suspended' notice. The present 'red sticker' system was considered to be unsatisfactory. The Legal Adviser expected that any changes agreed would come into effect at the beginning of 2013.

Members discussed the proposals in detail, consulting the police, the Legal Adviser and the Transportation Manager.

### **Decision**

The Sub-Committee agreed:

- (i) to the proposed changes to the conditions of Taxi and Private Hire Car licences as detailed in the report;
- (ii) to authorise the Corporate Legal Adviser and such officers as she may designate to consult with the taxi trade on the proposed changes; and
- (iii) to accept a further report in November, following said consultation and, after considering any objections and comments received, approve the amended wording to a date to be decided by the Sub-Committee.

### **SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Licensing Sub-Committee unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

#### **4. Applications for Grant of Taxi/Private Hire Car Driver's Licence**

The Sub-Committee considered four applications for grant of a licence and all four were refused.

#### **5. Application for Renewal of Taxi/Private Hire Car Driver's Licence**

The Sub-Committee considered three applications for renewal of a licence; one was agreed and two were refused.

#### **6. Civic Government (Scotland) Act 1982 - Notification of Offence**

The Sub-Committee considered one notification of offence and agreed to take no further action.

#### **7. Suspension of Taxi/Private Hire Car Driver's Licence**

The Sub-Committee considered one suspension of licence. The licence holder indicated that he no longer wished to have a taxi licence and the Sub-Committee agreed that there would be no further proceedings.