

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13 December 2012

BY: Executive Director (Support Services)

SUBJECT: Amendment of Resolution on Public Entertainment
Licensing regime

1 PURPOSE

- 1.1 To inform the Sub-Committee of the outcome of the resumed consultation process relative to the proposed amendment to the resolution on Public Entertainment licensing in the light of recent legislation.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee either (1) approve the proposed wording of the amended resolution, which wording is attached to this report, and authorise the Corporate Legal Advisor and such staff as she may designate to advertise the adoption of the amended wording in the local press; or (2) initiate a full public consultation on Public Entertainment licensing, as is being suggested by received correspondence as detailed below.

3 BACKGROUND

- 3.1 A report was submitted to the Sub-Committee on 8 March 2012 advising 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.
- 3.2 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 or recreation." The key part of that definition was the section shown underlined, and effectively meant that an event which is free to enter did not require a licence under Section 42.

- 3.3 Section 176 of the 2010 Act has amended Section 42 by deleting the words underlined above, with the effect that free to enter events will now be caught by the licence regime. The proposed change took effect from 1 April 2012.
- 3.4 Public entertainment licences under section 42 are one of a range of licences which are discretionary in terms of the Act, meaning that the licence will only be required if the Local Authority makes a resolution to that effect. In East Lothian the resolution to licence Public Entertainment activities was made in 1984. The current resolution is worded to match the terms of the legislation as originally enacted, and makes specific reference to the payment of money or money's worth. The Sub-Committee agreed in March to the formulation of an amended resolution relative to public entertainment licensing, which deletes the reference to the payment of money or money's worth, in line with the changes to the parent legislation.
- 3.5 The Sub-Committee also agreed that the categories of activities which would require to be licensed under Section 42, which had been unchanged since the original resolution in 1984, should be reviewed and updated, and consideration given to specific exceptions from the requirement to be licensed, given the considerable controversy which the amending legislation caused relative to free local and charitable events being unduly penalised by potentially being brought within the licensing regime for the first time due to the removal of the need for payment of money as outlined above.
- 3.6 In accordance with the decision of the Sub-Committee at their meeting in March, the wording of the resolution was reviewed and amended. In this connection the wording of the resolutions in place in Edinburgh and West Lothian were examined. The proposed wording was very similar to that adopted by our neighbour authorities. The proposed wording of the amended resolution was advertised in the local press on 31 August 2012, giving a 28 day period expiring on 28 September 2012 for the submission of objections and/or observations.
- 3.7 A further report was submitted to the Sub-Committee meeting on 11 October 2012 which advised the Sub-Committee of one objection received regarding the proposals. The objector was unable to attend the meeting but Councillor Goodfellow attended on his behalf. The Sub-Committee did not accept the objections submitted, but agreed that the proposed wording of the resolution be further amended with particular reference to charitable activities and the numerical limit for "Small scale" events.
- 3.8 As a result, the proposed resolution, as amended in terms of this decision, was advertised for a further 28 day consultation period, the advert appearing in the local press on 19 October, with the consultation period ending on 16 November.

- 3.9 I would advise that one fresh objection has been received as a result of this further consultation process. The letter dated 15 November 2012 from the objector addressed to the Chair of the Sub-committee is attached hereto.
- 3.10 With reference to the letter of objection, it has never been the intention to give the impression that the current licensing regime will cease should the proposed amendments not go ahead. As the letter rightly points out, this will not be the case. The point which previous reports have been attempting to make is that the current regime is now inconsistent with national legislation. Therefore, at the very least, the current resolution should be amended to delete the reference to “money or money’s worth”- unless of course the Council wish to review the whole question of whether to continue licensing public entertainment activities at all- the objector is of the view that this whole issue should be the subject of a full consultation process. They are of the view that licensing should only be required on the basis of public safety and security. It must be said that this is not the basis under which the current regime has operated since 1984. A full review is, obviously, one of the options open to the Council.
- 3.11 The Sub-Committee will note the various points raised in the letter regarding the proposed wording and will require to take a view on this. As regards the issue of “not for profit” the letter quotes wording from Glasgow. It must be said that this is exactly what was in mind for the proposals here- profit meaning something other than fundraising for the organising body. The Sub-Committee must consider whether the currently proposed wording is sufficiently clear or whether the confusion the letter of objection anticipates has merit requiring further rewording.
- 3.12 As the legislation has now changed, the Council resolution requires to be altered to remove reference to money or money’s worth, if the intention is to retain the licensing regime for public entertainment. The Sub-Committee must now consider the objection which has been received, and determine whether they wish to address the concerns of the Community Council by initiating a formal, wide-reaching review of the licensing of entertainment activities, or whether they are happy to proceed on the basis of the proposed resolution wording.

4 POLICY IMPLICATIONS

- 4.1 The Council has the statutory power to resolve to require a licence for public entertainment and had made such a resolution. Unless the Council decide to revoke this resolution, the terms of the resolution require to be amended to reflect the changes which have been introduced to the legislation and to remain consistent therewith. The changes to the law have a potential impact on many local and charitable events that have not previously fallen within the ambit of the Section 42 licence by virtue of being free to enter. For this reason the proposed resolution amendment includes proposed exemptions from the licensing regime in order to limit the negative impact on the organisers of such events.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - The potential widening of the activities qualifying as “public entertainment” and thus needing to be licensed in terms of the legislation as amended may lead to a potential increase in fee income relative to this type of licence
- 6.2 Personnel - none
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982
- 7.2 Criminal Justice & Licensing (Scotland) Act 2010, sections 172-178
- 7.3 Resolution of East Lothian District Council 1 July 1984
- 7.4 Reports to Licensing Sub-Committee dated 8 March 2012 and 11 October 2012.
- 7.5 Letter of objection dated 15 November 2012.

AUTHOR'S NAME	Morag Ferguson
DESIGNATION	Corporate Legal Advisor
CONTACT INFO	Ian Forrest, x7389
DATE	3 December 2012

Cllr John McNeil
Chairman
Licensing Sub-committee
East Lothian Council
John Muir House
HADDINGTON
EH41 3HA

15th November 2012

Dear Councillor McNeil

I am writing to record North Berwick Community Council's objection to the adoption by East Lothian Council of the draft resolution on public entertainment licensing advertised in the East Lothian Courier on 19 October 2012. Having considered the revised resolution the Community Council still has concerns, as explained below, that it would not, if adopted, result in appropriate scope for entertainment licensing in East Lothian. The Community Council considers that the appropriate course for East Lothian Council is to conduct a proper review of the scope of entertainment licences in order to bring within the scheme only those events that require to be licensed on grounds of public safety and security and to consult upon the outcome of that review before any decision on changes to the current arrangements.

The Community Council has noted in passing that there are references, within the papers for the licensing sub-committee, to it being necessary to proceed with the adoption of an amended resolution. This gives the impression that, if action to adopt an amended resolution is not taken or is delayed, the current scheme will cease. It is the Community Council's view that these references are mistaken. Delay would not affect the current scheme as it would continue in force under the terms of the existing resolution. The changes in primary legislation that have been made would not affect that position as their effect is simply to enable Councils to include for the first time, should they so decide, events to which the public are admitted without payment. Pursuing a proper review to consider which such free events should in future be subject to licensing would not therefore prejudice the continued operation of the existing scheme.

The revised wording of the proposed resolution is, in the Community Council's view, still defective and, if adopted, would give rise to doubt as to what classes of event require a licence, would bring within the scope of licensing, events that need not and should not be included and risks leaving outside the scope of licensing, events that on grounds of public safety and security ought to be included. It would therefore be reckless of East Lothian Council to proceed with adoption of the draft resolution before there have been properly considered amendments to it.

The wording of the draft resolution that give rise to difficulties are as follows:

1. The wording of (C) 1. which would now exclude from the need for licensing "all non-profit functions held by charitable, religious, youth, sporting, community or political or similar organisations". While it was no doubt the Licensing sub-committee's intention to remove through this exemption any threat to the viability of many worthwhile community events it must be questioned whether very large events held by such organisations should be exempt. The licensing regime is intended to ensure that the safety and security of the public is achieved. It would therefore be better to require the larger events to continue to be subject to licensing and for the Council to ensure that through discussion with organisers and, eventually, through the imposition of licensing conditions the public is safeguarded.

2. The wording of (C) 1. by referring to non-profit functions also means that no fundraising events can benefit from this exclusion. That appears highly unsatisfactory and will come as a

shock to many organisations that raise money for charitable purposes through the holding of events that may now require a licence.

It will also leave unclear whether many ticketed events by not for profit organisations do or do not require a licence as it will not be known until after the event whether a profit has been made. The Council's presumed policy objective of exempting non-commercial events might be better achieved by adopting the wording used by Glasgow Council in this respect. They have stated:

"The Licensing and Regulatory Committee would consider a non-commercial event to be an event that is not organised for the purposes of making profit or deriving any form of financial benefit and where all surplus funds generated by the event are reinvested solely for the purposes of furthering the aims and activities of the organisation or group"

The change in the definition of "small scale" to mean less than 150 persons where the previous draft referred to less than 50 persons is welcome as being intended to ensure that only larger events will be caught. But the wording is still unclear. Are all the individual events in, for example, 'Fringe by the Sea' now to be exempt since they are comprised within a single community festival? And in considering whether an event is "small scale" is it only those present at one time who must be counted or should one count the number attending over the duration of the event - which for an exhibition could be a week or more?

The Community Council hopes that the Licensing sub-committee will recognise the extent of the difficulties with the revised draft resolution and the possibility that its adoption could allow potentially unsafe events to escape the scrutiny that should accompany a requirement to obtain an entertainment licence.

In seeking a review of the application of the licensing regime the Community Council asks for a sensible and detailed consideration of what events required to be subject to a licensing regime and what could safely be excluded. Regrettably the original draft resolution and the subsequent changes appear to have been ill thought through and have possibly dangerous consequences for the public in East Lothian. Further *ad hoc* adjustments to already flawed wording are unlikely to produce a satisfactory result and the Community Council urges the Licensing sub-committee not to adopt the draft resolution but to take the time necessary to review the policy requirements, consult on them and, in the light of the results, set about producing a resolution that it can be confident will satisfactorily achieve the desired policy aims.

Yours sincerely

Kathryn E Smith

Kathryn E Smith
Secretary

North Berwick Community Council as I have had no adverse comments

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13 December 2012

BY: Executive Director (Support Services)

SUBJECT: Proposed Amendments to Conditions of Licence- Taxi and Private Hire

1 PURPOSE

- 1.1 To advise the Sub-Committee of the results of the consultation on proposed changes to licensing conditions regarding the age of vehicles and the signage to be used on Private Hire Cars.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee consider the terms of the letters of objection received, as documented below, and the comments of the Council Transportation Department, and either (a) adopt the proposed changes and determine a date for these coming into effect; (b) make amendments to the proposals in line with the objections received; or (c) abandon the proposals and retain the status quo.

3 BACKGROUND

- 3.1 A report was submitted to the Licensing Sub-Committee on 11 October 2012 proposing changes to current procedures in three areas. One of these, relative to a new form of “red sticker” label to be used on cars which are suspended from active service, was accepted at that meeting. The Sub-committee agreed as regards the other two matters that I would consult with representatives of the Trade and report back to the Sub-Committee with the results of said consultation.
- 3.2 The first proposal was that the wording of the current taxi/PHC licence be amended relative to the clauses on the age of vehicles, in particular to remove the words “Prima facie” where they appear in clause 9, as the inclusion of these words simply clouds the clarity of the clause. If the amendment were accepted, it would be the clear position that a vehicle which had reached the age of six years (or twelve for custom built cabs) would no longer be suitable for renewal of licence.

- 3.3 The second proposal was to replace the current system of screen lights for Private Hire cars with an adhesive label which would be placed on each door/side of the cars. This would result in a significant financial saving to the Council. Currently the screen light costs around £40 per vehicle. The proposed labels would in contrast cost approximately £3. Appropriate rewording of certain conditions within the PHC licence, as highlighted in the previous report, would be required should this proposal be implemented.
- 3.4 Following consultation on these proposed changes, two letters of objection were received. These are attached to this report. It will be noted that one of the letters objects to the proposed adhesive labels but supports the clarification of the age of vehicles. The letter suggests a more acceptable solution would be to retain the current screen light system but pass the cost thereof onto the operators. In contrast the other letter suggests that the six year limit is too arbitrary and should actually be relaxed. At present the final paragraph of clause 9 does give the Licensing Authority some leeway to consider a renewal application in respect of an older vehicle. At the previous meeting the Sub-Committee were of the view that this wording should be retained.
- 3.5 The Sub-committee require to consider these letters and come to a decision on whether to proceed with the proposals. If the changes are to be introduced there will require to be a reasonable lead-in time to enable operators to prepare for the changes, particularly in the case of those with vehicles close to or over the six year age level.
- 3.6 Further, the memo from Transportation which is also attached hereto highlights certain changes to the wording of the current Guidance document for taxi/PHC which will be required to bring that document into line with the proposals. The Sub-Committee are therefore asked to approve these changes in the event that they agree to implement the proposals.

4 POLICY IMPLICATIONS

- 4.1 None. As Licensing Authority, the Council may impose or amend conditions of licence as deemed necessary subject to appropriate consultation.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

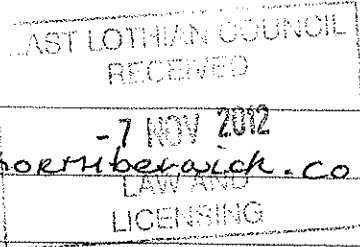
- 6.1 Financial - Changing from the current screen light to the proposed sign for Private Hire Cars is estimated to result in a saving of approximately £34 per car.
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Report to Licensing Sub-Committee dated 11 October 2012.
- 7.2 Two Letters of objection dated 7 November 2012.
- 7.3 Memo from Transportation dated 28 November 2012.

AUTHOR'S NAME	Morag Ferguson
DESIGNATION	Corporate Legal Advisor
CONTACT INFO	Ian Forrest, Senior Solicitor
DATE	3 December 2012

ELITE PRIVATE HIRE
32 LONGSTONE AVE
EAST LINTON
EH40 3BS



Dear Sirs,

I would like to make an objection to the proposed amendments to private hire vehicles.

The screen lights I appreciate costs the council £40 to supply and install. Why can that cost not be applied and paid for by the customer themselves?

I would rather incur the cost of the light myself rather than have my vehicle's covered in "large tacky stickers".

The by rule I agree with there are too many old and run down vehicles posing as taxis.

I have recently began as a private

hire company and operate to a very high standard giving a professional service to our customers. We have a dress code for all the drivers and intend to be the best at what we do. We have set a standard, obey all the rules and regulations and put other companies around us in the shade.

I'm in favour of taxi inspectors being out there just so other firms will pull their socks up a bit and prevent lowering the tone.

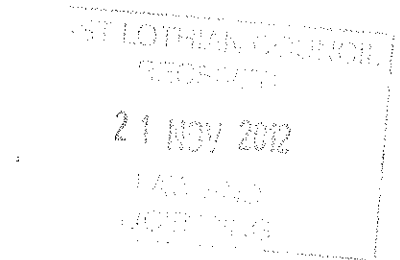
The stickers you have proposed are going to lower the tone. We have our Seghriwindly badges and screen light is this really necessary to have more added to the cars.

Yours faithfully,
Shirley Doyall
T/A ELITE PRIVATE
HIRE

JONATHAN GILLIES T/A ALBA TAXIS
12 GOSHEN FARM STEADING
MUSSELBURGH
EAST LOTHIAN
EH21 8JL

7 NOVEMBER 2012

IAN FORREST
EAST LOTHIAN COUNCIL
JOHN MUIR HOUSE
HADDINGTON
EAST LOTHIAN
EH41 3HA



Dear Mr Forrest

PROPOSED AMENDMENTS TO CONDITIONS OF TAXI/PRIVATE HIRE
LICENCE(S) AND REPLACING SCREEN LIGHTS/DISCS FOR NEW
ADHESIVE SIGN - CONSULTATION

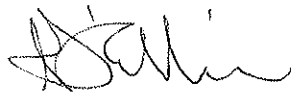
In response to your letter dated 25th October 2012 regarding the above :-

1. I fully support the replacement of screen lights for adhesive signs . The sign is more apparent and recognizable and cost effective to both operator and Council .
2. I object to the removal of the words “prima facie” and thus the removal of the flexibility that the current condition of the age of vehicles implies for the following reasons:
 - (i) I currently have three vehicles with private hire discs and as the economic climate worsens (especially in the taxi trade) I find my vehicles annual mileages decreasing . I would therefore prefer to extend a renewal date beyond six years old .
 - (ii) Vehicle manufacturers are consistently extending the warranties ,durability and reliability of cars . I would therefore prefer to extend a renewal date beyond six years old .
 - (iii) In my twenty year experience- to purchase a vehicle at four years old and licence for three/four years is the most economical method to licence private hire vehicles. I would therefore prefer to extend a renewal date beyond six years old .
 - (iv) As the current licence procedure allows , a private hire vehicle beyond six years old can be renewed as long as it passes the Council inspection (£223.00) .Therefore the only criteria separating a six year old vehicle (going through the same inspection) from a seven year old vehicle, is the year identified on the number plate – does this detract from the service provided ?
 - (v) The correlation between age of vehicle and repair/faults/breakdown exists to a far greater extent between MILEAGE and repair/faults/breakdown . I would purchase a

four year old vehicle with 12,000 miles before a two year old vehicle with 60,000 miles , and would therefore prefer to extend a renewable date beyond six years old .
(vi) Resource implications are twofold if the Council does not renew vehicles over six years old . Personally ,either, reinvestment would apply to two vehicles instead of three- lost revenue for the Council in respect of £223.00 licence fee (and £40.00 retest if applicable) , or to licence three vehicles – contract tender prices increase.

Thank you for your consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jonathan Gillies', written in a cursive style.

JONATHAN GILLIES

Email

From: Maree Winter
Date: 28 November 2012

Hi Ian/Catherine

Please see response from Ian Dagleish regarding the report to go to committee on the 13th December.

Regards
Maree
Licensing Admin Assist.
Litigation & Licensing
Law & Licensing
East Lothian Council
01620 827867
mwinter@eastlothian.gov.uk

From: Dagleish, Ian
Sent: 28 November 2012 10:36
To: Winter, Maree
Cc: Kelley, Alan; Kane, Brian; Tumulka, Peter
Subject: Conditions guidance

Maree

As discussed if the approval is given for the removal of the screen lights and replacement with door stickers then the following alteration will be required in the Guidance:

Page 8 Cleanliness and appearance Remove 10th item "Check window mounted Private Hire sign" including failure criteria.

As a result of this change it is probably wise to insert a further check on Page 17 "Doors" and in the Inspection column insert "Check doors for "Private Hire" sticker (Private Hire vehicles only)" and Failure column "Insecure", "Worn" and "Not Fitted".

I also noticed that there is reference to Keith on Page 7 of the Guidance and therefore this will also require to be changed.

Any queries let me know.

Cheers

Ian

Ian Dagleish
Transport Services Manager

01620 827932

07980 202626

idalgleish@eastlothian.gov.uk

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13 December 2012

BY: Executive Director (Support Services)

SUBJECT: Installation of Cameras in Taxi/Private Hire Vehicles

1 PURPOSE

- 1.1 To advise the Sub-Committee on the installation of SVC 100 GPS front facing cameras in taxi/private hire vehicles

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee approve the installation of SVC 100 GPS front facing cameras in taxi/private hire vehicles in the instances where the insurance company advise the drivers of taxi/private hire vehicles as mandatory

3 BACKGROUND

- 3.1 The Licensing Authority received the correspondence referred to in Appendix 1.
- 3.2 It is understood that from the 1 December 2012 that several taxi insurers are making the installation of front facing cameras compulsory.
- 3.3 It is understood that some insurers (see correspondence in Appendix 1) are providing cameras free of charge to taxi and private hire vehicles in East Lothian Licensing Authority if taxi drivers/private hire drivers are insured with them.
- 3.4 The SVC100GPS-LC32 camera is a front facing camera which records external images only along with g-forces and impact speeds in the event of incidents.
- 3.5 The Licensing Authority will be provided access to the data if necessary via Smart Witness and data will only be used in the event of an accident or an offence being reported and the Licensing Authority will be kept informed of the latter.

- 3.6 The cost of the installation and the installation would be the responsibility of the driver and/or operators of the taxis/private hire vehicles.
- 3.7 The Council's Freedom of Information & Data Protection Compliance Officer has confirmed that there are no data protection issues being breached by the installation of the front facing camera in the terms proposed by the manufacturer.
- 3.8 The Council's Transport Service Manager has confirmed he has no objection to the installation of the front facing camera

4 POLICY IMPLICATIONS

- 4.1 None

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 None

7 BACKGROUND PAPERS

- 7.1 None

AUTHOR'S NAME	Catherine Molloy
DESIGNATION	Senior Solicitor
CONTACT INFO	Catherine Molloy, Senior Solicitor, x7389
DATE	

26th October 2012

URGENT

Senior Licensing Officer
East Lothian Council
Council Buildings
25 Court Street
Haddington
EH41 3HA



Dear Sirs

TfL Approved Front Facing Cameras - Markerstudy Insurance Company

I refer to our letter dated 8th June 2012 and note that we are yet to receive your response. Our original letter included a letter from TfL and a product spec.

Over 75% of councils have already replied in the positive and I attach a draft letter for you to use as a template.

From 1st December 2012, several taxi insurers are making the installation of front facing cameras compulsory and therefore we do need to receive your comments as soon as possible. We are not recording internally.

I attach a letter from an insurer who is providing £269.99 cameras free of charge to public and private hire vehicles in your area that insure with them. Studies suggest that claims reduce by 35% following introduction of these cameras.

The device itself is smallest in world, lockable / tamperproof / encrypted and is being hard wired in to the vehicle by approved installers to manufacturer standards.

If you have any queries whatsoever please email me at nickp@smartwitness.com or call us on 0844 947 1000

I look forward to receiving your response at your earliest convenience.

Yours faithfully

Nick Plowman

Nick Plowman
Smartwitness Vehicle CCTV

25- October 2012

Markerstudy House
43 Westminster Road, Borets Green,
Sewenoke, Kent TN10 3DB
Telephone: 0844 374 6900
Fax: 0844 324 6900
Email: info@markerstudy.com

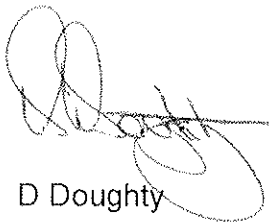
www.markerstudy.com

To whom it may concern,

I am writing to confirm that with effect from the 01st December 2012, we will be launching on a mandatory basis camera technology on all our private and public hire policies. The product is Smart Witness TFL approved SVC100GPS-LC front facing camera technology.

The camera will be provided free of charge to our customers as long as they have a valid private/public hire policy with Markerstudy.

We would appreciate your co-operation in providing written confirmation to Smart Witness that you have no objections to the installation of these cameras.



D Doughty

Head of Taxi
Markerstudy Insurance
Office; 0844-264-2211
Mobile; 07912-053642



Markerstudy Limited
Authorised and regulated by the
Financial Services Authority (No. 000000)
Incorporated in England and Wales (No. 06000000)
Registered Office: Markerstudy House
43 Westminster Road, Borets Green,
Sewenoke, Kent TN10 3DB

Environment

Community Protection Service

PO Box 502, Vancouver House, Gurney Street, Middlesbrough, TS1 9FW **Tel: (01642) 245432**

FAO Mr Nick Ploughman
Smartwitness
Unit 2
Valley Point
Beddington Farm Road
Croydon
Surrey
CR0 4WP

Direct Line : (01642) 728719

Switchboard: (01642) 245432

Fax: (01642) 728902

Our Ref:

Your Ref:

When telephoning please ask for:

John Hodgson

25 June 2012

Dear Mr Ploughman

Smartwitness Vehicle Cameras

Having considered your request to install SVC100GPS front facing cameras in vehicles, I am able to confirm that this Council has no objections to these systems being fitted in vehicles licensed by this authority.

Should any undesirable features become evident then reserve the right to withdraw authority of installation and use.

Yours sincerely


Senior Licensing Officer

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13th December 2012

BY: Executive Director of Corporate Resources

SUBJECT: Criminal Justice & Licensing (Scotland) Act 2010-
Changes to Civic Licensing regime

1 PURPOSE

- 1.1 To advise the Sub-Committee of further process in respect of changes being introduced to the Civic Government Licensing regime by the Criminal Justice & Licensing (Scotland) Act 2010.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee formally adopt the resolution relative to Late Hours Catering licences as stated at paragraph 3.2 below
- 2.2 That the Sub-Committee authorise the Corporate Legal Advisor or such other officers as she may nominate to proceed to advertise the formal adoption of the resolution relative to Late Hours Catering licences as referred to at paragraph 2.1 above, and as required by section 8 of the 1982 Act.

3 BACKGROUND

- 3.1 In terms of Section 9 of the 1982 Act, a resolution relative to discretionary licences requires to be advertised in the local press for public comment. As authorised by Sub – Committee the amended resolution relative to Late Hours Catering licences was advertised in the East Lothian Courier on 5th October 2012
- 3.2 The amended resolution was advertised as

“East Lothian Council, as Licensing Authority for East Lothian resolves that with effect from x throughout the whole area of the Licensing Authority the previous resolution made by the Licensing Authority relative

to Late Hours catering licences, which resolution came into effect on 18th February 1992, shall be amended in the following terms

The words “meals or refreshment” where they occur in Section 42 of the 1982 Act shall be delete and the word “food” shall be substituted in place thereof.

- 3.3 Any representations in respect of the amended resolution was required to be made to the Council by 2nd November 2012
- 3.4 The Council did not receive any representations.
 - 3.4.1 Formal adoption of the amended resolution requires to be advertised. The advertisement would give notice in the following terms
 - 3.4.2 “that with effect from the relevant date on which the resolution comes into effect that it will be an offence under the Civic Government (Scotland) Act 1982 to do without a licence whatever the resolution specifies as being an activity requiring to be licensed and that
 - 3.4.3 that applications for licences in respect of the activity will be considered by the Licensing Authority after the expiry of one month after the date of the making if the resolution”

4 POLICY IMPLICATIONS

- 4.1 None- the Council has the statutory power to resolve to require a licence for Late Hours Catering and had made such a resolution. The terms of the resolution simply require to be amended to reflect the changes being introduced to the legislation and to remain consistent therewith.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The potential widening of the activities qualifying as “Late Hours Catering” and thus needing to be licensed in terms of the legislation as amended will lead to a potential increase in fee income relative to this type of licence
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982
- 7.2 Criminal Justice & Licensing (Scotland) Act 2010, sections 172-178
- 7.3 Resolution of East Lothian District Council 18th February 1992

AUTHOR'S NAME	Morag Ferguson
DESIGNATION	Corporate Legal Advisor
CONTACT INFO	Catherine Molloy, Senior Solicitor, x7389
DATE	