



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

**WEDNESDAY 14 JUNE 2017  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Provost J McMillan (Convener)  
Councillor C McGinn  
Councillor J Findlay  
Councillor J Henderson

**Council Officials Present:**

Mr I Forrest, Senior Solicitor  
Ms D Elworthy, Licensing Officer  
Ms G Herkes, Licensing Officer  
Mr R Fruzynski, Licensing Standards Officer  
Mr D Oliver, Service Manager – Environmental Health  
Mr S Pryde, Principal Amenity Officer

**Others Present:**

PC H Bowsher, Police Scotland  
Mr C Thomson, (Items 3 and 4)  
Mr A Hay, (Items 3 and 4)

**Clerk:**

Mrs F Stewart

**Apologies:**

None

**Declarations of Interest:**

None

As a Convener would not be appointed to this Committee until the meeting of Council on 27 June 2017, the Provost agreed to chair the meeting.

## **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.

### **1. APPLICATIONS FOR GRANT OF A TAXI/PRIVATE HIRE CAR LICENCE**

The Sub-Committee had received 2 applications and both were refused.

### **2. APPLICATION FOR GRANT OF A WINDOW CLEANER'S LICENCE**

The Sub-Committee had received one application and it was refused.

PUBLIC

### **3. UPDATE ON THE RE-USE OF SITE AT LEVENHALL LINKS FOR FUNFAIRS**

A report had been submitted by the Depute Chief Executive, Resources and People, to advise the Sub-Committee of the current position regarding the trial use of land at Levenhall Links for funfairs.

Ian Forrest, Legal Adviser, presented the report, advising that the area of land at Levenhall Links, Musselburgh was previously used as a site for funfairs licensed by the Council under the Public Entertainment resolution. However, following various incidents including vandalism and noise pollution, the site had been removed from the list of sites approved for such activities several years ago. Earlier this year, the Sub-Committee had considered two applications to hold a funfair at this location and decided to grant the applications on a trial basis. The applicants were advised that the grant of the operating licence was not to be taken as a grant of permission by the Council as owner of the site to allow the site to be used. Appropriate permissions had been obtained and both funfairs took place within weeks of each other around the Easter period. Following these events, a number of complaints had been received from neighbouring proprietors and the Musselburgh Old Course Golf Club. As a result, a consultation process was now underway and the outcome of the consultation will not be known for several weeks when a further report will be brought to the Sub-Committee with recommendations regarding the future use of this location for such events. A further application for a funfair at this application had been received and Mr Calvin Thomson, applicant, was in attendance.

#### **Decision**

The Sub-Committee agreed to:

- i. note the position as outlined in the report and the ongoing consultation process; and
- ii. accept a further report in due course regarding the outcome of the public consultation on the trial and make a decision on the continued use of the site in the light of comments provided and recommendations from officers.

#### **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. APPLICATION FOR GRANT OF TEMPORARY PUBLIC ENTERTAINMENT LICENCE**

The Sub-Committee had received one application and it was refused.

PUBLIC

#### **5. PROPOSED AMENDMENT OF RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING REGIME**

The Depute Chief Executive, Resources and People Services, had submitted a report to advise of proposals to amend the present Resolution to licence Public Entertainment Activities. A copy of the present Resolution was attached to the report.

Ian Forrest, Legal Adviser, presented the report. He advised that Public Entertainment licences under Section 41 are one of a range of licences which were discretionary in terms of the Act, meaning that the licence would only be required if the Local Authority made a resolution to that effect. In East Lothian, the resolution to licence Public Entertainment activities was originally made in 1984 and has been amended and updated since then.

As the Council had been receiving regular complaints regarding noise being generated at motorcycle scrambling events, the Service Manager (Environmental Health) had asked whether some control could be imposed on such issues by requiring the event to be licensed as public entertainment. The present resolution contains a list of exemptions from the requirement to obtain a licence which includes *'all non-profit functions held by charitable, religious, youth, sporting, community, political or similar organisations'*. The Legal Adviser stated that, in the past, this exemption had caused confusion, particularly on the issue of whether or not an event was a 'charitable' or 'community' event. It was therefore proposed to amend the present resolution and he outlined several ways of achieving this. Section 5 in Appendix 1 to the report listed all the public events/activities which did not require a licence under Section 41.

Derek Oliver, Service Manager for Environmental Health, advised that a Safety Advisory Group had now been established to deal with concerns over noise but it was a protracted process. He stated that a Public Entertainment Licence would allow the

Council to attach conditions to a licence and, should an applicant not comply with the conditions, the Council would have the power to act.

The Chair agreed in principle with the recommendation to amend the resolution and believed that it was likely to have the support of the general public.

Members discussed the report and consulted with the Council Officers and Legal Adviser. In response to questions, Members were advised that torchlight parades would be exempt under the current resolution and that any change to the resolution would take approximately 10 months to implement.

Members proceeded to discuss the options outlined at paragraph 3.5 of the report on how best to amend the report to reflect the concerns which had been raised.

### **Decision**

The Sub-Committee agreed to:

- (i) note the terms of the current resolution and the suggested amendments, and selected paragraph 3.5 (iii) of the report as the preferred method of achieving the suggested change:

*'All such events could be required to have a licence – i.e. removing the exemption altogether - with or without some additional category within the licence fee regime to allow for a reduced or even nil fee for particular deserving cases. This would have the effect of ensuring that ALL such events would be captured by the licence regime, while giving the potential, if a fee category is introduced, to shield particular organisers from incurring a fee burden which they currently do not have. This would require appropriate amendment to the current fee structure'.*

- (ii) authorise the Service Manager (Licensing, Administration & Democratic Services) and such staff as she may designate to advertise the proposed changes to the resolution wording in the local press,
- (iii) accept a further report in due course regarding the outcome of the public consultation on the proposed changes and thereafter consider any suggestions made in that consultation prior to adoption of the amended resolution wording.

*Sederunt: Councillor McGinn left the meeting*

## **6. TAXI FARE REVIEW**

The Depute Chief Executive, Resources and People Services, had submitted a report to advise the Licensing Sub-Committee on the outcome of the newspaper advertisement of the scale of taxi fares and charges proposed by the East Lothian Taxi & Private Hire Association and to advertise the approved scales in the local newspaper.

Ian Forrest, Legal Adviser, presented the report. He stated that, following the decision of the Licensing Sub-Committee on 9 February 2017, the Licensing Authority advertised the scale of taxi fares and charges (as proposed by the East Lothian Taxi and Private Hire Association). The advert was placed in the East Lothian Courier dated 16 February 2017 and any representations were due by 20 March 2017. As no

representations had been received, the Licensing Sub-Committee was now in a position to fix the scale of fares and charges, as advertised. Following the fixing of the new scale of taxi fares and charges, the Licensing Authority is required to give notice to the East Lothian Taxi and Private Hire Association (by virtue of Section 17 (4) of the Civic Government (Scotland) Act 1982. The Legal Adviser also advised that taxi operators had a right to appeal these scales to the traffic commissioner within 14 days.

The Legal Adviser stated that there was only a minor change to Tariff 2 from the previous tariff, extending the hours at Christmas and New Year. There was no change to the fares in Tariff 1. It was anticipated that the new rates would come into operation in August 2017.

The Chair stated that the Sub-Committee could suggest to the Taxi Association that a taxi driver's forum could be set up to improve communications between the Licensing Authority and the Association's members.

### **Decision**

The Sub-Committee agreed:

- i. to approve the advertised scale of Taxi fares and charges and to fix same;
- ii. to note that the scale of the taxi fares and charges, as may be fixed by the Licensing Authority, is to be given to the East Lothian Taxi & Private Hire Association ( by virtue of Section 17 (4) of the Civic Government (Scotland) Act 1982;
- iii. to approve that the new rates become operative in August 2017; and
- iv. to advertise the approved scales in the local newspaper.

## **7. DISCUSSION ON THE CONDUCT OF TAXI DRIVERS**

This item was postponed until the next meeting of 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.

### **SUPPLEMENTARY AGENDA**

#### **1. REFUSAL OF APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE CAR LICENCE**

The Sub-Committee had received one appeal against the refusal of a licence. The appeal was upheld and the taxi driver was granted a licence.

**2. APPLICATION FOR GRANT OF A TAXI/PRIVATE HIRE CAR LICENCE**

The Sub-Committee had received one application and it was refused.