

FALKIRK COUNCIL

Subject: REVIEW OF CIVIC LICENSING POLICIES
Meeting: EXECUTIVE
Date: 30 September 2014
Author: CHIEF GOVERNANCE OFFICER

1. INTRODUCTION

- 1.1 The purpose of this report is to advise the Executive of a recommendation from the Civic Licensing Committee that a policy development panel be set up to review certain aspects of licensing policy.
- 1.2 The proposal arises from a meeting of the Civic Licensing Committee on 3 September 2014 where matters were considered with regard to the duration of taxi and private hire car licences and the terminal hour for late hours catering establishments.

2. BACKGROUND

Taxi and Private Hire Car Licences

- 2.1 In October 1983, the General Purposes Committee of the former Falkirk District Council considered the duration of licences granted under the (then) newly introduced Civic Government (Scotland) Act 1982 (“the Act”) and agreed that all licences should endure for three years with the exception of taxi vehicle and drivers’ licences which should last for one year only. This decision was set against the default position in the Act that, generally, all licences should endure for a maximum of three years. It is understood that the policy position adopted for taxi licences was based on issues of public safety and ensuring appropriate and effective control of the trade in the public interest.
- 2.2 At its meeting on 3 September 2014, the Civic Licensing Committee considered an application which sought exemption from the policy position of granting taxi licences for a period of one year and instead sought a licence of 3 years’ duration. While having sympathy with the submission made by the applicant, the Committee considered that it would not be in the interests of the trade or the public to deal with such matters on an ad hoc basis and that a review of the policy position was appropriate to determine whether or not it remained fit for purpose.
- 2.3 In reaching this view, the Committee had regard to the most recent edition of the Scottish Government’s “Taxi and Private Hire Car Licensing: Best Practice Guidance for Licensing Authorities” which addresses the duration of licences and acknowledges it as an important element of ensuring public safety and preventing criminality within the trade. The Guidance goes on to say that “while a three year licence is the legal maximum, licensing authorities should consider carefully whether this length of time between renewal provides an appropriate level of scrutiny. There is a balance to be struck between a policy which is not an undue burden on drivers and licensing authorities alike and one which provides assurance to the travelling public.” The Guidance also provides that “while a three year licence can be good practice for licence holders that present no

cause for concern, licensing authorities may wish to consider annual licenses for new applicants or where they feel a more frequent level of scrutiny is required. An annual licence may also be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay for the fee for a three year licence, if it is larger than the fee for an annual one. It can therefore be good practice to offer drivers the choice of an annual or a three year licence.”

- 2.4 As section 12 of the Act also requires licensing authorities to charge such fees in respect of taxis and private hire cars licence applications as may be resolved by them in order to meet the administrative costs of carrying out their functions under the Act, any review of licence terms would also involve a review of the charging structure to ensure it remained in equilibrium.

Late Hours Catering Licences

- 2.5 A new late hours catering licence application was also considered by the Civic Licensing Committee where trading hours outwith policy were sought. Currently, the policy position adopted by Council has a terminal hour of 1.30am at weekends within town centre locations. There has been an increasing incidence of requests for hours beyond that limit. An informal review of practices in other Council areas shows varying approaches throughout the country. Committee considered that this was another policy area where a formal review would be of benefit in determining whether the basis for the existing policy was still valid or whether change should be considered.

Other Licensing Areas

- 2.6 If the Executive is minded to establish a policy development panel to review the policy areas recommended by the Civic Licensing Committee, there are other areas of licensing policy development currently being looked at that may usefully be included in the review.
- 2.7 One of those areas covers parades and processions. While this sort of activity isn't formally licensed by the Council, anyone proposing to hold a parade or a procession must notify the local authority which, in turn, must assess the proposal against certain factors set out in the Act before deciding whether to make an order preventing the procession from taking place or imposing conditions on it.
- 2.8 Although the Council deals efficiently with notifications for processions, following Scottish Government guidance and suggested good practice in doing so, we have no policy position on how such applications are dealt with and on the matters that the Council would take into account in deciding whether to issue an order in respect of any particular procession or parade.
- 2.9 In recent years there has been an upward trend in the number of notifications received, with the total for last year reaching 94. The vast majority of processions attract no comment and pass without incident. There would probably be benefit in introducing a fast track, low key approach to dealing with them, thus reducing unnecessary bureaucracy for all involved. However, a small number of notifications have attracted significant public comment or objection. The absence of a policy in relation to how decisions are taken on such matters generally has been commented on by the Civic Licensing Committee with a request that the lack be addressed. This area of work has been in the Licensing Section's work plan for some time and there would be benefit in utilising the policy development panel, if it is established, to bring it to a conclusion.
- 2.8 The second area that could be included in any review is the Resolution covering those areas of activity that Council has decided should be part of the licensing regime. The Act

sets out the civic licensing framework for local authorities in Scotland. Certain activities specified in the Act are subject to mandatory licensing. Such activities include houses in multiple occupation, metal dealers, indoor sports entertainment centres, skin piercing and tattooing and knife dealers. Other activities are optional. They include taxis, window cleaners, street traders, late hours catering, public entertainment, boat hire and market operators. Each licensing authority can determine whether or not to operate a licensing scheme for any, or all, of these optional activities, having regard to local circumstances.

- 2.9 The Council, having resolved in 1983 to operate a licensing scheme for various optional licensing activities including taxis, has, over the intervening period, reviewed and adjusted the Resolution having regard to societal changes. A recent example of this was the expansion of the public entertainment licence category to include paintball activities. It is considered that the Resolution could usefully bear further review to ensure that it meets the needs of present day circumstances and remains fit for purpose.

3. THE REVIEW PROCESS

- 3.1 It is recommended that the review of the taxi and private hire licence duration, late hours catering policy, the Resolution and the creation of a public processions policy be taken forward through the establishment of a policy development panel. The remit would include consideration of benchmarked analysis collated from other local authorities and consultation responses from stakeholders on proposals.
- 3.2 To expedite matters, it is suggested that the panel could consider the order in which it would wish to undertake each element of the review. The following order is provided as a suggestion:-
1. the duration of taxi and private hire car licences
 2. the terminal hour for late hours catering establishments
 3. establishment of a public processions policy, and
 4. consideration of the Resolution.

4. RECOMMENDATION

- 4.1 **It is recommended that the Executive considers the establishment a policy development panel with a remit to review the civic licensing policies referred to within the report.**

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Chief Governance Officer
Date: 5 September 2014

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LIST OF BACKGROUND PAPERS

Nil