

FALKIRK COUNCIL

Subject: POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING POLICIES – INTERIM REPORT
Meeting: EXECUTIVE
Date: 29 SEPTEMBER 2015
Author: DIRECTOR OF CORPORATE AND HOUSING SERVICES

1. PURPOSE

- 1.1 The purpose of this report is to present the interim findings of the policy development panel established to review specific Civic Licensing policies and to make recommendations in relation to taxi licence duration and the late hours catering terminal hour.

2. POLICY DEVELOPMENT PANEL

- 2.1 The policy development panel (pdp) was established on 30 September 2014 by the Executive to review civic licensing policies. The remit of the panel was to consider four particular aspects of civic licensing activity, namely:-
- The duration of taxi and private hire car licences
 - The terminal hour for late hours catering establishments
 - To review the Resolution to ensure that it meets the needs of present day circumstances and remains fit for purpose
 - The development of a policy covering parades and processions
- 2.2 The panel comprised Councillor Jim Blackwood (Chair), Provost Reid and Councillor Denis Goldie. It was supported by Rose Mary Glackin (Chief Governance Officer); Arlene Fraser (Committee Services Officer); Alison Barr (Consumer Protection Manager), and Bryan Douglas (Licensing Co-ordinator).
- 2.3 The panel met on 4 November 2014 to set out the scope of its review. It agreed to prioritise consideration of the civic policies with taxi licence duration and the late hours catering policy in the first instance. The panel then met on five subsequent occasions; 9 December 2014, 12 January, 1 June, 23 June and 18 September 2015. The scoping note and the notes of the meetings are attached as appendices 1 and 2.
- 2.4 The panel has now completed the first tranche of its review and its findings and recommendations in relation to taxi licence duration and the late hours catering policy are set out in the report.

3. REVIEW OF TAXI LICENCE DURATION

- 3.1 The Council regulates taxis and private hire cars and drivers to ensure public safety. The legislation that governs taxi licensing is the Civic Government (Scotland) Act 1982, (the Act). The Act has a default position of civic licences being granted generally for a period of three years. Local authorities have discretion in granting licences for a shorter period as they see fit. At present the policy (which was introduced in 1983) of the Council is to grant driver/ operator licences for a period of 1 year. The remit for the panel was to consider whether this policy remains fit for purpose and relevant.
- 3.2 At the initial scoping meeting the panel instructed officers to:-
- undertake a benchmarking exercise with other local authorities to establish what their licence duration was
 - undertake consultation with the taxi forum to seek their views on licence duration
 - arrange an online survey to find out the views of the public
- 3.3 The results of the benchmarking exercise indicated that there was no uniform approach adopted across the country in relation to licence duration. Some authorities licensed on an annual basis like Falkirk, some for 3 years and others for an initial (probationary period) of 1 year followed by 3 year renewals. The rationale underpinning such differing approaches were given as:-
- an annual licence to ensure regulatory checks are undertaken
 - a 3 year licence in line with the maximum period permitted under the Act, with the discretion of granting for a lesser period if appropriate
 - 3 year licence to reduce application numbers
- 3.4 The Taxi Forum considered the issue of licence duration at its meeting on 17 February 2015. The Forum was generally very supportive of the introduction of a three year licence, especially if such a licence was to be offered at a discounted rate should such a practice result in efficiency savings. The Forum recognised however that not all licenceholders may wish to renew on a three year basis and suggested that the current practice of an annual renewal be available to those who preferred this method. The Forum also suggested that if a three year licence option is introduced it should only be available to those renewing a licence and that all new applicants' be subject to a probationary period of a grant of a 1 year licence initially.
- 3.5 A survey on the Council's website sought views on the taxi and private hire car licence duration and the overwhelming majority favoured a combination of a 1 year licence when first granted and thereafter 3 years on renewal when compared with the status quo or 2 or 3 year only options.

- 3.6 As part of the consultation process Police Scotland were involved in discussions with officers. Police Scotland had no issue with the introduction of a three year licence however they did favour an initial probationary period of 1 year for new applicants. Police Scotland also confirmed that should the licence duration be extended from 1 to 3 years then the current annual administrative checks on applicants would continue.
- 3.7 In considering the licence duration, the Panel were mindful of the “Taxi and Private Hire Car licensing best practice guidance for licensing authorities” issued by the Scottish Government in 2013, which states that whilst a three year licence is the maximum period a licence can be granted, licensing authorities should also consider whether this length of time between renewal affords an appropriate level of scrutiny. In this respect, the panel took into account that the same level of scrutiny that is applied currently to annual applications would also be applied to those who may opt for a three year licence. Having considered all of the information before it, the panel agreed that the policy should be amended to include a three year option for renewal applications and that new applications be granted for a probationary period of 1 year. The panel were conscious that new applicants should have to demonstrate their capability in the initial 12 months of the licence and if there were no issue thereafter then a 3 year licence option would be available at the renewal stage. In deciding to retain the existing 1 year option, the panel felt this was appropriate as it afforded those existing licenceholders who for whatever reason did not want to apply for a three year licence would still be able to renew annually.
- 3.8 Although not included in the scope of the policy development panel, the panel had wider discussion of taxi licensing matters including the issue of taxi testing and in particular the frequency of taxi tests, administrative processes regarding applicants that fail taxi knowledge tests, declining Wheelchair Accessible Vehicle (WAV) numbers and also taxi operator categories (any car, WAV only, WAV/Hybrid/Electric).
- 3.9 Officers undertook benchmarking with other local authorities in relation to taxi testing frequency and also analysed taxi test failure rates in terms of vehicle age. The current policy requires all licensed vehicles to undertake a bi-annual test to ensure continued road worthiness. The results gathered from other authorities differed with some adopting the same practice as Falkirk with others requiring only 1 test per year. One authority who responded confirmed that the cars are tested based upon the age of the vehicle with older cars tested more frequently. The panel considered the taxi test failure rates which clearly showed that the frequency of failures for newer vehicles (0-3 years old) were substantially lower than older vehicles and also to the practices of other local authorities and agreed that the frequency of taxi tests be reduced from bi-annual to annual for licensed vehicles under 3 years of age.
- 3.10 The other taxi licensing matters mentioned in paragraph 3.8 will be the subject of further consideration by the panel in its final series of panel meetings.

- 3.11 During this review of the licensing of taxi and private hire, a number of cost savings have been identified and it may be possible to reduce taxi and private hire fees for the forthcoming financial year, 2016/17. Further savings may be accrued from the reduction in administration costs derived from making available a three year licence period. These savings would be proportional to the level of uptake of the three year licence, and therefore officers recommended that the reduced fee levels are applied to the renewal licences as a financial incentive for drivers and operators to move to a three year licence. The setting of the new fees would be carried out as part of the Council's budget setting process.

4. REVIEW OF LATE HOURS CATERING POLICY

- 4.1 The Civic Government (Scotland) Act 1982 makes a distinction between mandatory and non-mandatory (optional) licensing activities. The Council exercised its discretion and resolved in 1983 to licence a number of optional activities, one of which is late hours catering. The Act requires that any such establishment that trades between 11pm and 5am should obtain a late hours catering licence. The Council currently has a policy that requires any late hours catering premises to close at 12.30am in non-town centre locations and 1.30am in town centre locations (save 24 hour supermarkets and petrol stations which are generally allowed to trade until 5am). The policy is attached as an appendix to the report.
- 4.2 At the initial scoping meeting the panel instructed officers to undertake a benchmarking exercise with other local authorities to establish what their late hours catering terminal hour was and the rationale that underpinned it.
- 4.3 The results of the benchmarking exercise indicated that there were practices in relation to the terminal hour varied from authority to authority. Some authorities had a policy of late hours catering premises closing before nightclubs to prevent migration of people; others had a policy whereby late hours catering premises either closed at the same time as night clubs or no later than 1 hour after the closure of nightclubs.
- 4.4 Having considered the benchmarking results, the panel asked officers to gather the views of the Police, Environmental Health, and the Council's anti social behaviour team in relation to late hours catering premises. In addition officers were requested to arrange an online survey to find out the views of the public in respect of whether the terminal hour should be extended or not. Officers also wrote to all licenceholders to seek their views.
- 4.5 Police Scotland commented that numbers of people socialising in Falkirk town centre at the weekends has seen a decline. They also remarked that they had seen no evidence of increased anti-social behaviour and disorder in Falkirk town centre as a result of the recent late opening of premises in Princes Street. The Police said that a 5am terminal hour may encourage persons to loiter longer in the town centres and potentially increase noise nuisance to any residents in the area. They recognised that this it is only an

assumption and have suggested if such a terminal hour was favoured then it may be prudent to introduce it for a trial period of a year to allow such a policy change to be measured and carefully evaluated.

- 4.6 The Council's Environmental Health and conflict resolution teams offered no adverse comments.
- 4.7 A short survey was held on the Council's website asking for views on the late hours catering terminal hour. Opinion was split evenly on whether a distinction between town centre and non-town centres should continue. The majority who responded favoured late hours catering premises closing after night clubs had closed. The question of whether a policy requiring late hours premises located below or beside residential properties to close earlier (known as a tenemental policy) was favoured by the majority. There was found to be an even split of opinion on whether there should be a general default position of all late hours catering premises being granted a licence until 5am unless there were any specific issues/complaints made. In addition, all existing licenceholders were written to and their views sought on the questions posed on the website. The majority of trade responses favoured premises closing after the nightclubs had ended but just over half didn't agree with a terminal hour of 5am. The majority of those within the trade who responded were not in favour of a tenemental policy being introduced.
- 4.8 The dynamics of the late night economy has shifted considerably from when the current late hours catering policy had been introduced. The panel took cognisance of the views of the trade, and also from the police who said that that numbers of people within the town centre in the evenings had shown a gradual decline in recent years. The panel did not favour the tenemental style policy which would have resulted in late hours catering premises within Falkirk town centre closing early and the panel favoured giving those persons exiting various town centre establishments an element of choice of purchasing food at a later time. The panel considered the views and the Police suggestion that any relaxation of the terminal hour for late hours catering establishments within Falkirk Town centre should be for a trial period of 1 year to assess the impact. The panel took the view that Falkirk town centre should be considered separately from other Council areas by virtue of its unique night economy and in particular the nightclubs that operate until the early hours, however it discounted a general terminal hour of 5am. Instead, the panel sought to align the late hours catering premises with the terminal hour of nightclubs. All but one of the nightclubs in Falkirk are located in the centre of the town. In order not to disadvantage the late hours catering premises in the vicinity of the only other nightclub which is in Burnbank Road (just off Grahams Road), the panel favoured increasing the extent to which premises along Grahams Road are included within the Falkirk Town centre – ie by including the length of road from Bryson Street to Bainsford Cross.

5. RESOLUTION AND PUBLIC PROCESSION POLICY

- 5.1 The panel's initial focus was on the taxi licence duration and late hours catering terminal hour. The other strands of the panels review, namely public processions and a review of the Resolution, have not yet been considered fully.

6. CONCLUSIONS

6.1 After considering the evidence detailed in sections 3 and 4, the panel concluded that:

- (1) The introduction of a three year licence option for taxi and private hire car/operator licences would be a positive policy change as it would bring the policy in line with legislative requirements, was welcomed by the trade and could lead to administrative efficiency savings. The panel also was mindful that due to financial practicalities, some licenceholders would prefer to renew their licence(s) annually and were in agreement that the current practice of annual renewal should remain as an option in addition to a 3 year licence for renewal applications.
- (2) The requirement for new vehicles and those up to 3 years old to be tested twice a year at the testing station was unduly onerous and unnecessary given the test failure results. The panel agreed that the frequency of hackney tests should be reduced to once per year for those licensed vehicles that are under 3 years of age
- (3) the late hours catering policy as it relates to late hours catering premises within Falkirk Town centre and for those premises located on Grahams Road until Bainsford Cross (which would include those close to the Martell night club in Bainsford) be adjusted to reflect a later terminal hour set generally at 2.30am Sunday to Thursday inclusive and 3.30am on a Friday and Saturday. The panel also agreed that the terminal hour for Falkirk town centre should take cognisance of the festive period and Bank Holidays as defined by Falkirk Council's Licensing Board's Statement of Licensing Policy which is set out at 3.30am Sunday to Thursday and 4.30am on a Friday and Saturday, these suggested changes being for a trial period of 1 year and carefully evaluated thereafter.

6.2 Having set out its conclusions the panel then agreed to formalise its recommendations. These are set out below:-

- (1) That the Executive agrees to the taxi and private hire car/operator licence duration being amended to include a three year renewal option whilst maintaining the current option of an annual renewal should that be the preferred choice of the licenceholder
- (2) That the Executive agrees that the frequency of hackney tests be reduced from bi-annual to annual for those licensed vehicles that are under 3 years of age
- (3) That the Executive agrees that the terminal hour for late hours catering establishments within Falkirk Town centre be amended to 2.30am Sunday to Thursday inclusive and 3.30am Friday and Saturday and during the festive period and on Bank Holidays (as defined in the Licensing Board's Statement of Licensing Policy) 3.30am Sunday to Thursday inclusive and 4.30am Friday and Saturday. The policy as it relates to the terminal hours for non town centres and the town centres of Denny, Stenhousemuir, Bo'ness and Grangemouth remains unchanged.

7. RECOMMENDATIONS

It is recommended that the Executive:

- (1) Notes the initial review of the civic licensing policies undertaken by the policy development panel; and
- (2) Considers the recommendations set out in paragraph 6.2.

.....
CHIEF GOVERNANCE OFFICER
Date: 29 September 2015
Contact Officer: Alison Barr ext 1265

LIST OF BACKGROUND PAPERS

Nil

Any person wishing to inspect the background papers listed above should telephone Falkirk 01324 5061265 and ask for Alison Barr.

APPENDICES

Appendix 1	Scoping Note
Appendix 2	Notes of PDP Meetings
Appendix 3	Late Hours Catering policy

POLICY DEVELOPMENT PANEL: REVIEW OF CIVIC LICENSING POLICIES

Appendix 1

SUMMARY OF ISSUES

4 November 2014

The role of the policy development panel is to review the policies relating to the duration of taxi driver, taxi operator, private hire driver and private hire operator licences and the terminal hour for late hours catering premises to ensure they remain robust and fit for purpose. The scope will also include the creation of a Public Procession Policy and a review of the current Section 9 Resolution which details those activities which the Council has chosen to licence.

The policy development panel will consist of Cllr Jim Blackwood (Chair), Provost Reid and Cllr Dennis Goldie, +2 members of the opposition.

The work of the Panel will be supported by the following officers:

Alison Barr, Consumer Protection Manager

Bryan Douglas, Licensing Co-ordinator

Arlene Fraser, Committee Services Officer

MEETING 1 - The purpose

This meeting is to highlight issues relating to each of the areas for review. The panel will be asked to determine how it wishes the review to be taken forward. From this a scoping document will be prepared for the panel's consideration. This will set out a review plan for the panel's consideration.

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
1	Taxi driver/ Private hire car driver/ operator licence duration At present the policy of the Council is to grant driver/ operator licences for a period of 1 year. PDP will consider whether this policy remains fit for purpose and relevant.	The Council regulates taxis and private hire cars and drivers to ensure public safety. The Civic Government (Scotland) Act 1982 has a default position of civic licences being granted for a period of three years. Local authorities have discretion in granting licences for a shorter period as they see fit.	Benchmarking exercise with other local authorities with similar size numbers of taxi/	The trade Police	15 to 18 weeks depending on the extent of the consultation with the trade.

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
		<p>The Scottish Government has issued Guidance suggesting licence duration should be three years unless circumstances dictate otherwise.</p> <p>The present system enables annual regulatory checks (convictions, insurances, medical status, address) to be undertaken. Should licenceholders who pose no issues be afforded the option to be licensed for a period greater than 1 year?</p> <p>Cost of service provision: The licence fee is currently calculated on the basis of the annual cost of the provision of the taxi service.</p>	<p>private hire cars</p> <p>Canvass the opinion of the licenceholders</p> <p>Scottish Government Guidance</p>		<p>The timescale would be shorter if the views of the Taxi and Private Hire Forum are taken as representative of the entire trade.</p>
2	<p>Late Hours catering terminal hour</p> <p>The Council currently has a policy that requires any late hours catering premises to close at 12.30am in non-town centre locations and 1.30am in town centre locations (save 24 hour supermarkets and petrol stations).</p>	<p>The Council licences this activity in the public interest. Having a pre determined policy position in relation to the terminal hour provides an effective method of controlling late night disturbances and providing respite to those who live in a town centre setting.</p> <p>Since the policy was introduced it has been departed from on numerous occasions at the request of the applicant and in light of no adverse comment being received.</p> <p>Should the distinction between town centre and non-town centre be revisited? Should</p>	<p>Benchmark local authorities of a similar size and population</p>	<p>The trade Police Town centre Management Env Health Residents Community Councils</p>	<p>15 - 18 weeks depending on the extent of the consultation.</p>

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
		<p>there be a strict position that no late hours catering premises remain open when (liquor) licensed premises close? Should local circumstances and opinion dictate when late hours catering premises close?</p> <p>*The law changed recently in relation to the definition of late hours catering (lhc). Previously lhc was defined as the provision of meals and refreshments. It is now defined as the provision of food which has a much wider scope and can include items such as chewing gum. If the Council wishes to harmonise the activity in line with the legislative change then the Resolution will require to be adjusted – see item 4 below.</p>			
3.	<p>Establishment of Public Processions Policy</p> <p>In the absence of a formal policy, the Council currently follows Government guidelines in relation to notifications of public processions.</p> <p>The Council is notified of proposed public processions but does not give permission for marches to proceed.</p>	<p>The Council must be notified of any proposed march 28 days in advance of the march going ahead.</p> <p>Although the Council currently follows very closely the guidelines recommended by the Government, there would be benefit from a policy on public processions being devised.</p> <p>A policy could include the following:-</p> <ul style="list-style-type: none"> • General guidance to organisers – how we will deal with the notification etc. • Routes • Timings of marches 	Benchmark with other local authorities who share similar numbers of marches	Organisations who march Police Public Env Health Roads Community Councils on the Opt-In List	16 -18 weeks

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
		<ul style="list-style-type: none"> • Assembly/ dispersal points • Width of marches • Noise – bands permitted to play from set times; the use of loudhailers at post procession rallies • Taking account of local circumstances • How to make an objection • How the Council will assess objections received. 			
4	<p>Review of Resolution</p> <p>Civic Licences fall into two categories: mandatory and “optional”. In relation to the former, the Council has no discretion and must licence that activity. All other licensable activities are optional and require the local authority to “resolve” to licence that activity. This is done through the promotion of a formal Resolution which involves advertising in the local press. The process of amending the Resolution can take almost a year to come into effect.</p>	<p>The Council has resolved to licence a number of activities including:-</p> <ul style="list-style-type: none"> • Taxis/ private hire cars • Street trading • Public Entertainment • Late hours catering • Market operators • Window Cleaners <p>Over time, changes in society have meant that new types of public entertainment have emerged that are not currently included in the Resolution. The PDP could consider whether it wishes to expand the public entertainment categories to include new activities such as bungee jumping etc.</p>	Benchmarking exercise with other local authorities	Police Env Health Public Trade	20 - 24 weeks

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
		<p>There is the likelihood that the Council will receive applications for a new form of street trading (rickshaws) in the future- Licence conditions would be required to be framed. The PDP may wish to consider this.</p> <p>Recent legislative changes relating to late hours catering has resulted in the definition changing from “the provision of meals and refreshments” to “the provision of food” which is a broader definition. If the PDP wished to harmonise the activity and bring it into line with other local authorities, the resolution would require to be changed to reflect this. A consequence of broadening the definition would be to (potentially) bring in more businesses that up until now did not require to be licensed (newsagents selling sweets only).</p> <p>The current market operator licence conditions require to be refreshed and ensure they remain robust. The PDP could consider revised and enhanced conditions</p> <p>The policy on wheelchair only taxis being considered for new taxi operator licences was adjusted last year with the exclusivity of wheelchair vehicles being supplemented with different options such as hybrid and electric vehicles. An unintended consequence of this policy change has seen a small but noticeable drop in wheelchair accessible vehicles with a</p>			

	Policy	Issues	Proposed Information source	Stakeholders	Timescale
		loophole being exploited by the trade whereby wheelchair taxi licences are surrendered and thereafter new licences are applied for hybrid cars. The PDP could look to address this issue.			

Appendix 2

POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING ACTIVITY
NOTE OF MEETING HELD ON TUESDAY 4 NOVEMBER 2014 at 9.30 a.m.

WITHIN MUNICIPAL BUILDINGS, FALKIRK.

In attendance: Provost Reid; Councillors J Blackwood and D Goldie; Bryan Douglas (Licensing Co-ordinator); Arlene Fraser (Committee Services Officer), and Rose Mary Glackin (Chief Governance Officer).

Councillor Blackwood gave a brief background to the formation of the policy development panel and outlined the 4 aspects of civic licensing activity which the panel would consider, namely:

- the duration of taxi and private hire car licences
- the terminal hour for late hours catering establishments
- the development of a policy covering parades and processions
- the review of the Resolution to ensure that it meets the needs of present day circumstances and remains fit for purpose

The panel agreed that the panel consider the above activities as per listed above.

Taxi and Private Hire Car Licences

The panel discussed the Council's current position in terms of the duration of taxi and private hire car licences which enables annual regulatory checks to be carried out. Reference was also made to the Scottish Government guidance which suggests that licence duration should be 3 years unless circumstances dictate otherwise.

The panel were advised of the various options and approaches available and which other local authorities had adopted.

It was noted that the costs associated in processing applications required to be in equilibrium with application fees and work on costing would require to be undertaken if there was any change to the policy.

The Policy Development Panel **agreed:**

- (i) to commence the review on the duration of taxi and private hire car licences and the terminal hour for late hours catering establishments;
- (ii) that a benchmarking exercise be carried out for both these areas with comparative local authorities, and to include within this exercise, the rationale from the authorities;
- (iii) to meet with members of the Taxi Forum and to consult with stakeholders by way of an on-line consultation.

Terminal Hour for Late Hours Catering Establishments

The current policy position was discussed in relation to the differing terminal hours for establishments within town centres and non-town centres and the reasoning for this i.e. alleviate late night disturbances within town centres.

It was recognised that since the current policy came into force in 2007, there have been numerous departures from policy by Committee for both town centre and non-town centre establishments. In view of this, the panel may wish to consider whether the LHC policy remains relevant and fit for purpose.

Reference was also made to the recent change in the law in relation to the terminology of late hours catering. Previously, LHC was defined as the provision of meals and refreshments but it has now changed to "the provision of food" which has a much wider scope. The panel may wish to look at the activity and bring it into line with other local authorities by way of a change to the Resolution.

Policy Covering Parades and Processions

The panel were advised on how notifications for parades and processions are dealt with at present, including issues which have arisen and how these have been addressed following the Government's guidelines.

Reference was made to the benefits of creating a public processions policy and how it would assist not only officers in dealing with notifications, but also those submitted notifications and objectors alike.

It was reiterated that policies are useful in setting out the Council's approach but, can be departed from.

Agreed that a benchmarking exercise with other local authorities having a similar number of marches be undertaken and thereafter that officers report back before proceeding.

Review of the Resolution

A short discussion took place in relation to the review of the resolution and noted that the contents of the current Resolution be looked at a future meeting.

Agreed that a copy of the Resolution be circulated to members.

Date of Next Meeting

Tuesday 9 December at 9.30 a.m.

POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING ACTIVITY

NOTE OF MEETING HELD ON TUESDAY 9 DECEMBER 2014 at 9.00 a.m.

WITHIN MUNICIPAL BUILDINGS, FALKIRK.

In attendance: Provost Pat Reid and Councillor Jim Blackwood; Alison Barr (Consumer Protection Manager); Bryan Douglas (Licensing Co-ordinator); Rose Mary Glackin (Chief Governance Officer) and Brian Pirie (Democratic Services Manager)

Apology – Councillor D Goldie

An agenda had been circulated for the meeting together with a note of the previous meeting and a draft scoping document for the review of Taxi Licence duration and Late Hours Catering Terminal hours. The panel had requested at the previous meeting on 4 November that officers undertake a benchmarking exercise with other Local Authorities in regard to the two reviews. A report presenting a summary of the responses to date had also been circulated with the agenda for the meeting.

- (1) Note of the meeting of the policy development panel held on 4 November 2014.
The note was approved.**
- (2) Review of Civic Licensing Policies – Scoping Document/Review of Civic Licensing Policies and the report on the benchmarking exercises.**

The panel discussed the draft scoping document and in particular the proposed open meeting to be held in January 2015. It was proposed that the open meeting would deal with both reviews however members felt that it would be impractical to discuss both at a single meeting.

It was agreed after discussion that two separate sessions would be held.

Additionally, after discussing the results of the benchmarking exercise members requested that further information be provided and that the panel meet, in advance of any open forum meetings, to consider the information requested. In reaching its view the panel discussed the following taxi licence related issues :-

- The extent to which stakeholders, such as the Police Scotland, had engaged with the review thus far;
- The impact of issuing licences for 3 years in terms of costs and administrative processes
- The charging structure should the licence duration be extended to 3 years
- The rationale behind taxi licence duration within other Councils
- The potential impact on independent taxi drivers/operators if a 3 year licence was introduced
- The current processes for checking documents such as vehicles insurance
- The percentage of licence holders who pay their vehicle insurance on a monthly basis and the likely impact of a requirement to insure for 12 months being implemented
- The role of Police Scotland in checking the conviction history of licenceholders and providing the information to the Council and the obligation on licenceholders to notify the Council of any changes in circumstances
- The extent to which the current licensing process is computerised and the impending capability to submit online applications
- The need to balance the administrative arrangements in place against the individual applicants needs

- The potential for application fees to be paid monthly

The panel requested further information, including:-

- A breakdown of fee levels for different length licences offered by other Local Authorities
- The views of Police Scotland, in relation to any proposed move from an annual licence to a 3 year licensing regime
- Analysis of the issues raised at the meeting
- The proposals for the public meetings (consult with stake holders including potential invitees)

In regard to the late hour catering terminal hour members requested that further information is provided – including the views of Police Scotland, Environmental health and housing and the impact of Glasgow's recent decision to licence all Civic Licensing activities for 3 years.

Date of Next Meeting

The panel agreed to meet on 12 January at 2.00pm

POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING ACTIVITY

NOTE OF MEETING HELD ON TUESDAY 20 JANUARY 2015 at 10.30 a.m.

WITHIN MUNICIPAL BUILDINGS, FALKIRK.

In attendance: Provost Pat Reid, Councillors Jim Blackwood and Dennis Goldie; Alison Barr (Consumer Protection Manager); Bryan Douglas (Licensing Co-ordinator); Arlene Fraser (Committee Services Officer), and Rose Mary Glackin (Chief Governance Officer).

An agenda had been circulated for the meeting, together with a note of the previous meeting together with a report by the Chief Governance Officer which contained further information which the panel had requested at the previous meeting.

1. Note of Meeting held on 9 December 2014

The panel **agreed** the note of the meeting of the policy development panel held on 9 December 2014.

2. Report by Chief Governance Officer

The panel discussed the information set out in the report and raised various points, which included the following:-

- the licence fee levels from the local authorities who had been approached as part of the initial benchmarking exercise
- the wide variance in fee levels charged across the country and the possible reasons behind this
- the various options offered by some authorities for licence duration, including discounted rates for longer durations
- the new time recording system (CHRONOS) being used by licensing staff which would provide more sophisticated information when carrying out a future cost analysis in relation to the overall cost of providing a licensing service
- details of the issues raised at the meeting between licensing officers and Police Scotland and noting that a formal response was still awaited from the Police
- the advantages and disadvantages of moving from an annual licence to a three year licence
- an analysis on the number of taxi and private hire car renewal applications and nature of offences committed which were determined by the Civic Licensing Committee from 1 January 2009 until 31 December 2014, which included recurring names, which may suggest a pattern of behaviour in a very small proportion of licence holders
- the analysis on the number and nature of taxi and private hire car related suspension hearings carried out from 2009 until 2014 (12 hearings in total), which again, showed recurring names
- the panel were of the opinion that some applications could be dealt with by officers rather than being determined by the Civic Licensing Committee. In order to reduce the number of applications determined by committee, an assessment would require to be carried out to ascertain whether the Chief Governance Officer's remit within the Scheme of Delegation could be broadened
- as a matter of course, the applicant's offence history and any previous committee appearances be disclosed within the committee reports
- at present, the Council does not advertise civic applications, however an electronic version of the public registers will be available once the GLAMIS online application process is live. Data Protection issues will have to be investigated
- as with the taxi licence duration, local authorities have not adopted a consistent approach in terms of late hours catering licence terminal hours

- examples of the varying practices of other benchmarked local authorities which included that some authorities had no policy on terminal hours and allowed premises to open until 5.00 a.m. unless there were specific issues
- the distinction between hot and cold food
- the town centre economy, particularly at weekends
- whether or not the current policy's distinction between town centre and non-town centre premises should remain

After further discussion, the panel **agreed** that:

- a formal response be sought from Police Scotland on their views in terms of both taxi licence duration and late hours catering terminal hour
- a cost analysis be carried out if the preferred option was to licence for an initial one year period, and if there are no issues, the licence holder can opt to renew their licence annually or three yearly thereafter
- instead of having 2 public meetings, the licensing section consult with the taxi trade at the next Taxi Licensing Forum to be held in February 2015; they carry out 2 separate on line surveys seeking views on both areas currently under review i.e. taxi licence duration and late hours catering terminal hour
- the licensing section to liaise with the Council's press office to determine methods of public engagement e.g. press release/advert to ensure that any proposed changes are evidence based
- an assessment be undertaken on the number of applications currently determined by the Civic Licensing Committee; bring forward for consideration, potential changes to the Council's Scheme of Delegation which could potentially reduce the number of applications remitted to committee for determination
- the licensing section seek views from Environmental Health and Housing services on the late hours catering terminal hour

The panel had a short discussion on the number of wheelchair accessible vehicles since the amendment to the vehicle specification policy was introduced in June 2013. It was considered that there would be merit in carrying out an assessment of the impact that the change in policy had achieved insofar as whether it had met its aim of encouraging a more environmentally friendly fleet of licensed vehicles and whether as an unintended consequence of this policy change, there had been a decrease in the number of licensed wheelchair accessible vehicles.

3. Date of Next Meeting

Date to be arranged.

POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING ACTIVITY

NOTE OF MEETING HELD ON MONDAY 1 JUNE 2015 at 9.30 a.m.

WITHIN MUNICIPAL BUILDINGS, FALKIRK.

In attendance: Provost Pat Reid, Councillors Jim Blackwood (Convener) and Dennis Goldie; Alison Barr (Consumer Protection Manager); Bryan Douglas (Licensing Co-ordinator); Arlene Fraser (Committee Services Officer), and Rose Mary Glackin (Chief Governance Officer).

An agenda had been circulated for the meeting, with a note of the previous meeting and a report by the Chief Governance Officer which contained further information which the panel had requested at the previous meeting.

1. Note of Meeting held on 20 January 2015

The panel **agreed** the note of the meeting of the policy development panel held on 20 January 2015.

2. Report by Chief Governance Officer

The Consumer Protection Manager was heard in relation to the consultations carried out, the responses received, the result of the on-line surveys, the cost analysis undertaken and associated financial implications.

During discussion, the following points relating to any change in taxi licence duration and other associated issues were highlighted, namely:

- the response from Police Scotland confirmed that they had no issues with any proposed extension of taxi/private hire licences to 3 years, following a one year probationary period for new applicants, subject to the annual checks in relation to convictions being maintained
- further information was sought on the advantages of issuing taxi plates every 6 months, and that a benchmarking exercise be undertaken with other authorities
- that the introduction of a three year licence option could reduce administrative processes which could result in a reduction of costs
- the license condition which requires licence holders to inform the licensing authority of any convictions is being emphasised in all correspondence, and failure to comply will result in a report to the Civic Licensing Committee
- that in future, when the Enforcement Officer is carrying out spot checks of taxis and private hire car vehicles that he includes “sight of insurance document” within the range of items to be produced
- the Council has no policy on vehicle retirement age
- that as an unintended consequence of the change in the Council policy on vehicle types, there has been a gradual decline in the number of wheelchair accessible vehicles and consideration on ways to address this trend should be sought
- the problems wheelchair users have in accessing “Dial-a-Journey”, which receives funding from Falkirk Council and which can be expensive for users (not sure it’s expensive for users – may be that the cost of a journey is expensive and doesn’t provide value for money – I’m sure the Council either pays for this service or heavily subsidises it)
- the Taxi Forum were fully supportive of the option of a three year licence duration with a probationary 1 year at initial grant, whilst retaining the option to renew on an annual basis
- the benchmarking exercise with other authorities indicated savings of between 10% to 20% on a 3 year licence duration when compared to a one year licence

Alison Barr then summarised the late hours catering terminal hour options which were outlined in the report. During discussion, the panel made reference to the following:

- Police Scotland could see no rationale to distinguish between the sale of hot and cold food in terms of late hours catering licensing
- Environmental Health had received no complaints in the last 5 years
- the Conflict Resolution Team had only dealt with one incident which related to youths setting fire to a bin outside a premise in Polmont
- changes to the Resolution were required to ensure the Council's definition of late hours catering reflected the recent legislative amendments
- Falkirk was not a city and its night-time economy was struggling
- the policy adopted by Glasgow City Council and their stance on premises located underneath residential tenemental dwellings
- that any extension to the late hours catering terminal hour should mirror that of the terminal hour of licensed premises, particularly nightclubs, and whether or not a distinction between town centre and non-town centre terminal hours should remain

The panel **agreed** that in order to make their final conclusions, that a further meeting be arranged and that officers undertake the following:

- a benchmarking exercise be carried out with comparative local authorities on timescales for issuing taxi plates e.g. bi-annual, annual or other period of time
- provide information on any savings that could be made if plates were produced annually rather than every 6 months
- to carry out an analysis on the current fleet detailing how many hackney tests failures there's been in the last 3 years and a comparison between the age of vehicle failures
- bring proposals to amend the Scheme of Delegation, specifically in relation to taxi knowledge test failures i.e. is there a requirement for the applicant to be cited to committee
- to present the Resolution and any suggested revisions to the next meeting for consideration

3. Date of Next Meeting

Tuesday 23 June at 11.30 a.m.

POLICY DEVELOPMENT PANEL – REVIEW OF CIVIC LICENSING ACTIVITY

NOTE OF MEETING HELD ON 23 JUNE 2015 at 10.30 a.m.

WITHIN MUNICIPAL BUILDINGS, FALKIRK.

In attendance: Provost Pat Reid, Councillors Jim Blackwood (Convener) and Dennis Goldie; Alison Barr (Consumer Protection Manager); Bryan Douglas (Licensing Co-ordinator); Rose Mary Glackin (Chief Governance Officer) and Brian Pirie (Democratic Services Officer).

An agenda had been circulated for the meeting, with a note of the previous meeting and a review of the Civic Licensing Policies by the Chief Governance Officer, the panel had requested at the previous meeting.

1. Note of Meeting held on 1 June 2015

The panel **agreed** the note of the meeting of the policy development panel held on 1 June 2015.

2. Review of Civic Licensing Policies

The panel had, at its last meeting requested that the following actions were taken forward:-

- a benchmarking exercise be undertaken with comparator local authorities in respect of vehicle inspections and associated plate issue;
- to carry out an analysis of the current fleet detailing how many hackney test failures there have been in the past three years and a comparison between the age of vehicles;
- bring proposals to amend administrative procedures, specifically in relation to taxi knowledge test failures i.e. is there a requirement for the applicant to be cited to Committee;
- to present the Resolution and any suggested revisions to the next meeting for consideration.

A report, by the Chief Governance Officer, had been circulated in advance of the meeting. It provided an update on the actions in regard to:-

- vehicle inspections;
- analysis of the current fleet test results;
- medicals
- proposals to amend administrative procedures in relation to knowledge test failures
- late hours catering;
- the current resolution

Following an overview of the detail of the report the following points were made:-

1. Vehicle Inspections

- None of the benchmarked Local Authorities have a retirement policy for vehicles. The majority have age limits for vehicles when coming onto the fleet (The Council's policy is that vehicles must be no older than 4 years old when introduced to the fleet);
- The age of a vehicle is not necessarily an indicator of road worthiness. However more frequent testing could be introduced as part of the licensing conditions;
- Stricter test conditions could be introduced to ensure road worthiness.

2. Current fleet test records

- Vehicles can be failed for mechanical and non-mechanical reasons. The information provided, showing the % which failed per month but does not show the reasons for failure and further information was requested;
- The responsibility for ensuring that a vehicle is capable of passing the test lies with the operator. If a vehicle fails then there is a cost for the vehicle to be re-tested;
- The majority of benchmarked Local Authorities test their vehicles on an annual basis. Currently the Council requires bi-annual testing for all vehicles;
- The evidence provided in appendix 1, which shows the reasons for failure, in January 2013 is inconclusive but does show a range of reasons and has apparent correlations between age and mileage;
- Stirling Council tests annually for new cars and more frequently for older vehicles. Members asked for further information on the impact of this on their fleet;
- There was logic in separating the mechanical and non-mechanical aspects of the current test, with the latter being undertaken by the Enforcement officer;
- The Authorities primary concern must be the safety of the public and to that end regular six monthly testing of older vehicles was supported, however the frequency of tests for those licensed vehicles that are under 3 years of age should be reduced from bi-annual to annual
- An unintended impact of current policy on vehicle type was a reduction in the proportion of wheel chair accessible vehicles. Members asked for further information on the fleet makeup, changes from year to year and an assessment of whether the policy has achieved its aims; and
- The possibility of introducing a minimum % of wheel chair accessible vehicles was discussed. It was considered that this could result in the number of taxis decreasing with an increase in private hire cars. Members requested an analysis for a future meeting.

Councillor Goldie left the meeting at this point.

3. Medicals

- Drivers currently undergo medical testing at the initial application stage and then at certain age milestones: 46, 51, 56, 61 and each year thereafter.
- The cost of a medical, £40, is not truly reflected in application fees for older drivers who are subject to annual examination;
- The introduction of 3 year licences would necessitate revised accounting procedures to ensure that income from fees balances with expenditure;

4. Administrative processes

Currently applicants who fail a taxi knowledge test 3 times are remitted to Committee for a decision on whether a fourth and final test should be permitted. A revised procedure, whereby the decision to grant a final opportunity lies with an officer, was set out in the report. Should the applicant fail again then the details could be presented to Committee in a report with a recommendation to refuse the application. In such circumstances, the applicant would require to be given an opportunity to be heard by the authority. This could be done in writing by the applicant.

Members considered and supported the proposal.

5. Resolution

In terms of the Civic Government (Scotland) Act 1982, Licensable activities fall into two categories – Mandatory and Optional. Where licences are optional an Authority must resolve to licence the activity. The Council has resolved to licence a number of activities including taxi/private hire cars, late hours catering and market operator. However since the resolution was introduced a number of 'licensable' activities have become more prevalent including the operation of rickshaws as street traders. Similarly some of the activities currently contained in the Resolution are no longer in use.

Members asked for proposals to revise and modernise the Council's current Resolution.

6. Late Hours Catering

Recent legislative changes to late hours catering have resulted in the definition changing from 'the provision of meals and refreshments', to 'the provision of food'. The definition of food is wide – from all food and drink to chewing gum. A consequence of this change is that more businesses will require to be licensed. The resolution in turn will have to be amended to reflect the definition.

Members considered an analysis of the current late hours licenses on Graham's Road and discussed the impact of the change in the definition.

Members agreed with a proposal in the report that the current policy is amended so that for late hours catering premises situated within the Falkirk town centre and the immediate vicinity of the Martell nightclub are generally granted a terminal hour until 30 minutes after the closure of nightclubs.

3. Date of Next Meeting

The date of the next meeting would be confirmed at a later date.

FALKIRK COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

LATE HOURS CATERING POLICY

1. Falkirk Council will license premises and vans and stalls serving food, both on a “sit in” and “take out” basis between the hours of 11pm and 5am.
2. This licence will be known as a “Late Hours Catering Licence” and will run for a period of one (1) year from the granting of the licence.
3. The areas contained within the designated Town or District boundaries detailed in the Falkirk Council Local Plan (finalised draft) deposit version in respect of Falkirk, Denny, Bo’ness, Grangemouth and Stenhousemuir will be classed as non residential and would generally have a terminal hour granted for licences of 1.30am unless there is good reason for the Licensing Authority to determine that an earlier terminal hour is appropriate. All other areas are classed as residential and would generally have a terminal hour granted for licences of 12.30am. This includes vans and stalls.
4. At the “terminal hour” in respect of permanent structures, the door to the premises requires to be closed and locked. No further customers will be allowed access to the premises. Only customers who are in the premises and have placed and paid for an order prior to the terminal hour will be served. At the “terminal hour” in respect of vans, stalls etc, only customers who have placed and paid for their order will be served. Immediately thereafter, the premises require to be closed and locked to customers. This will be a condition attached to all late hours catering licences.
5. Licences for 24 hour petrol retailers and 24 hour supermarkets would generally be granted from 11pm to 5am.