

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 23 FEBRUARY 2017

PUBLIC ENTERTAINMENT LICENCES

REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to invite the Committee to consider whether it wishes to re-visit what type of events require Public Entertainment Licences, particularly in connection with major sporting events.

1. RECOMMENDATIONS

The Committee is asked to;-

- (i) note that the Council currently requires a Public Entertainment Licence for the use of premises or land for a major sporting event; and
- (ii) determine whether it wishes to continue with the requirement that major sporting events require Public Entertainment Licences.

2. BACKGROUND

2.1 This Committee, on 16 August 2012, considered a report by the Director of Corporate Services in respect of the licensing of places of public entertainment (Report 465/13 refers). That report advised of changes to the Civic Government (Scotland) Act 1982 (“the 1982 Act”) in respect of Public Entertainment Licences. Following consideration of that report the Committee, amongst others, determined:-

“agree that a review and consultation exercise should be carried out in respect of (i) whether the use of premises as a place of public entertainment when there is no payment of money or money’s worth for admission requires a public entertainment licence; and (ii) the activities which should be required to obtain a public entertainment licence.”

2.2 Following the review and consultation exercise referred to above, a further report was submitted to this Committee at its meeting on 15 August 2013 (Report 456/13 refers). Following consideration of that report this Committee:-

- (i) noted the terms of the public consultation exercise which had been undertaken by the council in relation to proposed amendments on the Public Entertainment Licensing regime operated by the Council; and
- (ii) agreed that the Committee was mindful to pass a resolution to the effect that the activities listed in the Appendix to that Report would require to be licensed, subject to the exemptions also listed in the Appendix.

For completeness, the Appendix referred to above is attached as **Appendix 1** to this report. Following completion of the statutory requirements of the 1982 Act in relation to amending resolutions in respect of licensing requirements, the resolution was passed at the meeting of Angus Council on 12 December 2013. Committee is specifically asked to note that the resolution of the Council provides that a Public Entertainment Licence shall be required for the use of premises for a major sporting event.

2.3 Last year the Council received representations from the organisers of the Senior Open which was being held at Carnoustie Golf Links. The Council was invited to consider whether the Senior Open, which it was never disputed was a major sporting event required a Public Entertainment Licence. The representations were based on an exemption in the 1982 Act which exempted the requirement for a Public Entertainment Licence for “an athletic or sports ground being used as such”. Legal advice was tendered to the effect that a golf course being used in the normal course of events need not obtain a public entertainment licence (i.e. where

the predominant activity taking place is players playing golf). Legal Services were also of the view that there comes a point when the size of an event and the ancillary entertainments at an event is such that it changes the nature of the activity taking place. With events such as the Senior Open, the predominant activity is not playing golf but watching players play golf. Add to this the significant additional activities provided at the event (such as hospitality tents, other entertainments and catering facilities) and the activity ceases to be athletic or sports ground while being used as such and outwith the exemption provided. However, it should be noted that this is not a matter of settled law.

- 2.4 The Public Entertainment Licence application for the Senior Open was received, processed and issued without difficulty. However, in light of the correspondence received, officers undertook to invite the Committee to re-visit the decisions made in 2013 in respect of major sporting events.
- 2.5 Having considered the types of Public Entertainment Licences issued in recent years, it would appear that only large events at Carnoustie Golf Links require a Public Entertainment Licence under the category of major sporting event. Major sporting events at Carnoustie Golf Links are well run and there is close collaboration between the organisers and the Council's Safe Events Group. It is therefore, open to the Committee to consider removing the requirement for major sporting events to have a Public Entertainment Licence.
- 2.6 In considering the above, Committee is invited to consider the following:-
- (i) The sale of alcohol at major sporting events will still require to be licensed under the Licensing (Scotland) Act 2005;
 - (ii) Any activity at a major sporting event which is specified requires a Public Entertainment Licence will still require a Public Entertainment Licence (e.g. fairgrounds, public exhibitions and live band performances);
 - (iii) Section 89 of the Civic Government (Scotland) Act 1982 provides that the approval of the Council is required to use or permit the use of a raised structure for the purpose of providing for himself or others raised seated or standing accommodation. "Raised structure" means a platform, stand, staging or other similar structure;
 - (iv) Section 10 of the Safety of Sports Grounds Act 1975 provides that If the local authority are of the opinion that the admission of spectators to a sports ground or any part of a sports ground involves or will involve a risk to them so serious that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited or restricted, the authority may serve a notice (referred to as a "prohibition notice") on such persons. It is a criminal offence to fail to comply with the provisions of a prohibition notice; and
 - (v) Any amendment to existing road traffic arrangements will still require the consent of the Council as roads authority.
- 2.7 Accordingly, Committee is invited to determine whether it wishes to re-visit the Council's decision in December 2013 to require a Public Entertainment Licence for major sporting events. It would appear that there are three options available to the Committee, being:-
- (i) Maintain the status quo;
 - (ii) Remove the requirement that requires Public Entertainment Licences for major sporting events; or
 - (iii) Remove the requirement that requires a Public Entertainment Licences for major sporting events but only in respect of major sporting events taking place in sports grounds.

Having regard to (iii) above, "sports ground" would be defined as "any place where sports or other competitive activities take place in the open air and where accommodation has been provided for spectators, consisting of artificial structures or of natural structures artificially modified for the purpose".

3. FINANCIAL IMPLICATIONS

- 3.1 Not licensing certain activities may reduce the income to the Council in respect of fees. However, this would be offset by a commensurate reduction in the resources required to process the application.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

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List of Appendices:

Appendix 1 – Resolution of Angus Council at its meeting on 12 December 2013

ANGUS COUNCIL

PUBLIC ENTERTAINMENT LICENSING

RESOLUTION

Angus Council has, in accordance with the provisions of the Civic Government (Scotland) Act 1982, varied its resolution to license premises or land being used for the purposes of public entertainment. This resolution will mean that from 1 December 2014, a licence to be known as a Public Entertainment Licence shall be required for the use of premises or land within Angus where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation of the following kinds:

- Billiard, snooker and pool halls;
- Circuses;
- Concert Halls;
- Theatres;
- Dance halls and Discotheques that do not have a liquor licence;
- Firework displays or bonfires;
- Premises used as suntan centres;
- Fairgrounds;
- Public Exhibitions;
- Health and fitness premises (e.g. gymnasia, saunas, massage parlours etc);
- Laser displays and games;
- Exhibition of persons or performing animals;
- Pop concerts and other live band performances;
- Variety or musical shows;
- Video machine arcades;
- Paintball games;
- On or off road vehicle events (including all vehicles and bikes) racing, rallying, motorbike and vehicle stunt shows etc.;
- Indoor or open air music events;
- Go karting, quad biking etc.;
- Funfairs;
- Fetes;
- Carnivals, Galas and other outdoor events such as major sporting events, countryside festivals, seafest events etc.
- Christmas Light Events and other Christmas, Hogmanay and New Year Celebrations

- Music Festivals;
- Public Halls;
- Boxing, wrestling, cage fighting or similar presentations;
- Mechanical rides or simulators;
- Activities including inflatable structures; and
- Adult entertainment.

Please note that following a change of legislation, the events which fall within one or more of the above categories will require to be licensed unless one of the listed exemptions applies.

The legislation provides for a number of statutory exemptions as follows:-

- An athletic or sports ground while being used as such;
- Premises in respect of which an Indoor Sports Entertainment Licence under Section 41A of the Civic Government (Scotland) Act 1982 is required while such premises are being used for the purposes mentioned in that section;
- An educational establishment while being used as such;
- Premises belonging to or occupied by any religious body while being used wholly or mainly for the purposes connected with that body;
- Premises licensed under the Theatres Act 1968, the Cinemas Act 1985 or the Gambling Act 2005;
- Licensed Premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during licensed hours within the meaning of that Act
- Premises in which machines for entertainment or amusement are being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment.

The Council has also agreed that the following free-to-enter public events can proceed without a licence or a fee, provided that the event has a capacity of 200 or less:-

- Functions held by charitable, religious, youth, sporting, community, political or similar organisations
- Exhibitions of art work
- Performance of live music incidental to the main purpose of the premises or land (e.g. occasional musical performances in shop premises etc.)
- Oral recitals including poetry reading and story telling

Licences will normally be granted for the duration of the event but where premises are to be used on more than one occasion, licences can be granted for up to one year. A reduced fee for a licence is payable in respect of a Scottish registered charity.