

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 10 AUGUST 2017

REVIEW OF LICENSING

REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to advise the Committee of the extent and nature of the licences administered by the Council and to review the resolutions of the Council to require licences for certain activities in terms of the Civic Government (Scotland) Act 1982.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) note the activities that the Council are required to licence under various enactments and as set out in **APPENDIX 1** to this report;
- (ii) note the activities that the Council are required to licence under the Civic Government (Scotland) 1982 and as set out in **APPENDIX 2** to this report;
- (iii) note the activities which the Council have discretion to require a licence under the Civic Government (Scotland) 1982 and as set out in **APPENDIX 3** to this report; and
- (iv) determine whether the Council should commence the statutory process of reviewing its resolutions in respect of those activities which the Council have discretion to require a licence and, if so, to what extent.

2. BACKGROUND

- 2.1 Angus Council, as local authority for the Local Government Area of Angus, is responsible for licensing a significant number of activities under a significant number of statutory enactments. **Appendix 1** to this report sets out the types of licences that the Council are required to licence, the number of licences in force as at 31 March 2017 and the fee for applying for that licence. Where the licence relates to one off events, and does not licence premises or persons over a period of a year or over, then the number of licences granted in the year to 31 March 2017 is provided.
- 2.2 In addition, the Civic Government (Scotland) Act 1982 (“the 1982 Act”) imposed additional rights and duties on local authorities in respect of the licensing of certain activities. The 1982 Act (as amended from time to time) obliged the Council to licence certain activities. **Appendix 2** to this report sets out the activities that the Council are obliged to licence, the number of licences in force as at 31 March 2017 and the fee for applying for that licence. Where the licence relates to one off events, and does not licence premises or persons over a period of a year or over, then the number of licences granted in the year to 31 March 2017 is provided.
- 2.3 As well as imposing the obligation to licence the activities referred to above, the 1982 Act gave the Council the discretion to elect to licence certain activities. **Appendix 3** to this report sets out the activities that the Council have, by resolution, elected to licence, the number of licences in force as at 31 March 2017 and the fee for applying for that licence. Where the licence relates to one off events, and does not licence premises or persons over a period of a year or over, then the number of licences granted in the year to 31 March 2017 is provided.
- 2.4 Committee is asked to note that the Council have resolved to licence all of the activities that the 1982 Act permits the Council to resolve to licence. It is also understood that most local authorities in Scotland have resolved to licence all of the activities that the 1982 Act permits the Council to resolve to licence.

- 2.5 It is submitted that there are a number of reasons for licensing certain activities. These can be summarised as follows:-
- (i) to ensure that persons who are to be placed in a position of trust are fit and proper persons to be placed in that position of trust;
 - (ii) to ensure that statutory authorities (e.g. Police Scotland and the Scottish Fire and Rescue Service) are made aware of certain events or activities, have the ability to raise concerns about those events or activities and the persons organising the events or carrying out the activities; and, to input into the process of determining what conditions should be applied to the granting of licences in respect of those events or activities;
 - (iii) to ensure the public is made aware of certain events or activities and have the right to object or make representations regarding those events or activities; and
 - (iv) to ensure that premises (including vehicles and vessels) used for holding events or conducting activities are suitable and convenient having regard to:-
 - (a) the location, character or condition of the premises,
 - (b) the nature and extent of the event or activity,
 - (c) the kind persons likely to be in the premises,
 - (d) the possibility of undue public nuisance,
 - (e) public order or public safety; and
 - (f) other good reasons; and
 - (v) to ensure that the grant of licences is made conditional on certain safeguards being implemented having regard to the nature of the activity.
- 2.6 Committee is invited to review the events and activities that the Council have elected to licence under the Civic Government (Scotland) Act 1982. If the Committee is minded to recommend to the Council that it should resolve to desist from requiring certain events or activities to be licensed then a process set out in the 1982 Act must be followed. This can be summarised as:-
- (i) the Council must publish in a newspaper circulating in their area the terms of the proposed resolution, the intention to make the resolution and that representations about the proposed resolution may be made in writing to the Council within 28 days of the first publication of the notice;
 - (ii) the Council must consider any representation made to the authority prior to making any resolution; and
 - (iii) if the Council makes a resolution then it must publish in a newspaper circulating in their area the terms of the resolution and the date upon which it shall take effect (which can be any date after the making of the resolution).
- 2.7 In addition to the above, the Committee is asked to note the following:-
- (i) in respect of the licensing of the operation of a vehicle as a taxi, the operation of a vehicle as a hire car, the driving of a taxi or the driving of a hire car, the Council can resolve to licence all or none of these activities;
 - (ii) Police Scotland have previously advised of the involvement of Serious and Organised Crime in activities licensed by local authorities across Scotland and that the licensing of those activities can assist in deterring, preventing and detecting such involvement; and
 - (iii) since 1 December 2016, all local authorities have been legally required to carry out checks on all applicants for taxi and private hire car driver licences to prevent persons without lawful immigration status and the right to work from holding such licences. It is the stated intention of the Home Office to extend these checks to other licensed activities (such as late hours catering and second hand dealer licences).

3. FINANCIAL IMPLICATIONS

- 3.1 If the Committee is minded to recommend to the Council that it should resolve to desist from requiring certain events or activities to be licensed then this will result in a reduction in fee income. However, this will be offset by a commensurate reduction in the resources required to receive and process applications.

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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