

## **ANGUS COUNCIL**

MINUTE of MEETING of the **CIVIC LICENSING COMMITTEE** held in the Town and County Hall, Forfar on Thursday 31 October 2019 at 10.45am.

**Present:** Councillors CRAIG FOTHERINGHAM, RICHARD MOORE, BRIAN BOYD, BRENDA DURNO, DAVID FAIRWEATHER, ALEX KING, DAVID LUMGAIR, GAVIN NICOL and BETH WHITESIDE.

**Also in Attendance:** Councillor LOIS SPEED

Councillor FOTHERINGHAM, Convener, in the Chair.

### **1. APOLOGY**

An apology for absence was intimated on behalf of Councillor Colin Brown BEM

### **2. DECLARATIONS OF INTEREST**

Councillor King declared a non-financial interest in item 10 (Report No 361/19), in that he was a trustee of a Theatre Club which had a public entertainment licence. He indicated that he would participate in any discussion and voting on the item.

### **3. MINUTES OF PREVIOUS MEETINGS**

The minutes of meetings of this Committee of 5 September and 12 September 2019 were approved as correct records and signed by the Convener.

### **4. DELEGATED APPROVALS**

There was submitted Report No 355/19 by the Director of Legal and Democratic Services detailing applications for licences under the Civic Government (Scotland) Act 1982 and other miscellaneous Acts which had been granted/renewed by the Director of Legal and Democratic Services in accordance with the Scheme of Delegation appended to Standing Orders.

The Committee agreed to note the applications detailed in the Appendix to the Report, granted/renewed under delegated powers during the period 21 August 2019 to 4 October 2019.

### **5. TAXI AND PRIVATE HIRE LICENCES**

With reference to Article 5 of the minute of meeting of this Committee of 12 September 2019, there was submitted Report No 356/19 by the Director of Legal and Democratic Services advising members of representations received in respect of the fees charged, and expenses incurred, in relation to taxi and private hire driver and operator licences and the plan to progress this.

The Convener advised that the Council as Licensing Authority was required by statute to seek to ensure that the total amount of fees charged was sufficient to meet the expenses incurred by them in carrying out their functions in relation to taxi and private hire car licences however, it was impossible to project exactly such fees or expenses.

The Committee agreed:-

- (i) to note the legal obligations incumbent upon the Council in relation to fees in respect of taxi and private hire driver and operator licences;
- (ii) to note that a local operator has been in correspondence with Angus Council regarding the methodology used for assessing the licensing fees for taxi and private hire driver licences;
- (iii) to note the financial information contained in **Appendix 1** to the report;

- (iv) that the fees charged by the Council in relation to taxi and private hire driver and operator licences be set annually in September each year starting from 1 September 2020 and be based on:-
  - (a) the income received in the previous financial year;
  - (b) the cost incurred by the Council in administering taxi and private hire driver and vehicle licences;
  - (c) a reasonable and justified contingency of the estimated costs of administering taxi and private hire driver and vehicle licences taking account of the actual income and expenditure in any given year against the budgeted figures; and
  - (d) the legal obligations incumbent upon the Council in relation to fees in terms of the Civic Government (Scotland) Act 1982.
- (v) to note that in setting future fees the Committee would be provided with a budget estimate of income and expenditure to ensure full transparency; and
- (vi) that refunds be made to licence holders in respect of the financial years 2016/17 to 2018/19 in the following percentages:-
  - 2016/17 – 18%
  - 2017/18 – 8%
  - 2018/19 – 19%

## **6. CONSULTATION ON LICENSING NO LONGER ACCEPTING CASH AS A METHOD OF PAYMENT**

With reference to Article 5 of the minute of meeting of the Angus Licensing Board of 31 October 2019, there was submitted Report No 357/19 by the Director of Legal and Democratic Services asking the Committee to consider commencing a public consultation on phasing out cash as a means of paying for all licensing fees.

The Committee agreed that in light of previous discussions held earlier at the Angus Licensing Board that the Report be deferred to allow further investigation of how the consultation could include members of the public who were not digitally minded.

## **7. TAXI FARE REVIEW**

With reference to Article 5 of the minute of meeting of this Committee of 4 April 2019, there was submitted Report No 358/19 by the Director of Legal and Democratic Services which related to the proposed review of the taxi fare structure for Angus.

The Report advised that following the consultation period, eight responses had been received from operators which, combined, provided three proposals. One of these proposals were later withdrawn by the operator and the final two proposals were detailed in Appendix 1 to the Report.

It was noted that the majority of the responses did not seek any change to the current scales however, one proposal sought an increase to the current scales. Appendix 2 provided members with an indication of the approximate percentage increases in respect of this option submitted.

The Committee agreed:-

- (i) to approve option 1, no change in fares as proposed by Robert Innes, Colin Watt, Phillip Powell, Duncan McKenzie, James Brown and Mark James and detailed in Appendix 1 to the Report;
- (ii) to publish the new fare scales as appended to the Report (**Appendix 1** to this minute) proposed implementation date and details of how to make representations;
- (iii) that in the event that no representations were received at least one month after the date of publication of the proposed scales, to delegate authority to the Director of Legal and Democratic Services to implement the fixed scales as soon as possible in consultation with Police Scotland;

- (iv) to note that any recommended increase represented the maximum fare chargeable by taxi drivers and was not a compulsory fare; and
- (v) to note the requirement in terms of meter changes within the body of the report and determine to follow the process used currently by Dundee City Council in the event of any meter change.

## **8. SEXUAL ENTERTAINMENT VENUES**

There was submitted Report No 359/19 by the Director of Legal and Democratic Services which advised the Committee of the changes to the Civic Government (Scotland) Act 1982 introduced by the Air Weapons and Licensing (Scotland) Act 2015 which implemented provisions giving Local Authorities in Scotland a discretionary power to licence Sexual Entertainment Venues and invited the Committee to consider instructing a public consultation on the licensing of Sexual Entertainment Venues in Angus to inform future decision making.

The Committee agreed:-

- (i) to note the changes to the Civic Government (Scotland) Act 1982 which introduced provisions giving local authorities the discretionary power to licence Sexual Entertainment Venues; and
- (ii) to instruct the Director of Legal and Democratic Services to undertake a public consultation on the licensing of Sexual Entertainment Venue in Angus to inform future decision making and that the consultation include the questions noted in **Appendix 1** to the Report.

## **9. LICENSING OF SEX SHOPS**

There was submitted Report No 360/19 by the Director of Legal and Democratic Services asking the Committee to consider making a resolution in respect of the licensing of sex shops in the Angus area in terms of Section 45 of the Civic Government (Scotland) Act 1982.

The Committee agreed:-

- (i) to note that the Civic Government (Scotland) Act 1982 permitted local authorities to require sex shops to be licensed;
- (ii) to note that the Civic Licensing Committee had not yet resolved to issue licences in respect of sex shops and that Angus Council did not currently have any such businesses within its local authority area; and
- (iii) to recommend to Angus Council that it passes a resolution to require sex shops to be licensed and instructs the Director of Legal and Democratic Services to publish in a newspaper circulating in the Angus area the terms of the proposed resolution together with a notice stating that the Council intend to make the resolution and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice.

## **10. THEATRES LICENCE**

There was submitted Report No 361/19 by the Director of Legal and Democratic Services recommending that the Committee note the changes to the Civic Government (Scotland) Act 1982 introduced by Section 74 of the Air Weapons and Licensing (Scotland) Act 2015 which repealed provisions relating to the licensing regime for theatres under the Theatres Act 1968.

The Report indicated that Angus Council had previously made a Resolution which accounted for theatres being licensed under the Public Entertainment licensing regime. A copy of the most recent Resolution passed was attached at **Appendix 1** to the Report.

The Report advised that there were currently no theatres in Angus which did not have a Public Entertainment licence.

The Committee agreed:-

- (i) to note the changes to the Civic Government (Scotland) Act 1982 repealing the existing requirement for theatrical performances to be licensed under the Theatre Act 1968;
- (ii) to note that theatres would not be able to obtain licences under the Theatres Act 1968 following the above change in legislation noted at (i) above; and
- (iii) to note that in accordance with Angus Council's current Public Entertainment Resolution, theatres would be licensed under the Public Entertainment licensing regime.

## **11. LATE HOURS CATERING LICENCE EXEMPTION APPLICATION**

There was submitted Report No 362/19 by the Director of Legal and Democratic Services regarding an application for an exemption from the requirement to obtain a late hours catering licence for a particular occasion which required to be determined by the Committee, as detailed in Appendix 1 to the Report.

Ms Johnston, agent for the applicant was present and addressed the Committee on the reasons for the application.

The Committee agreed:-

- (i) to accept the letter received from Gosschalks Solicitors, on behalf of their client Wm Morrison Supermarkets PLC, dated 25 September 2019 and received 30 September 2019, as an application for exemption from the requirement to hold a late hours catering licence;
- (ii) to grant the application to Wm Morrison Supermarkets Plc for exemption from the requirement to hold a late hours catering licence for Morrisons Daily Petrol Filling Station, Arbroath, between 23.00 and 00.30 on both Saturday 21 December 2019 and Monday 23 December 2019; and
- (iii) to impose the Angus Council late hours catering conditions, with deletion of the word "licence holder" and insertion of the word "applicant" applicable to late hours catering licences attached as Appendix 2 to the Report.

## **12. WHEELCHAIR ASSISTED VEHICLES**

There was submitted Report No 363/19 by the Director of Legal and Democratic Services which provided an update, for members in relation to assessing and addressing unmet need for wheelchair accessible vehicles in Angus.

The Committee agreed to hear Councillor Speed, who addressed the Committee during which she expressed concern that there were only 7 seven vehicles declared as wheelchair accessible vehicles within Angus. She advised that she felt that Angus residents with physical disabilities faced inequalities as they struggled to find suitable accessible vehicles that could accommodate them and highlighted the need for additional funding to ensure that taxi operators were financially supported or incentivised to purchase accessible vehicles that would enable a fully inclusive service for all.

Much discussion took place and members of the Committee expressed views on seeking additional funding to help the trade address the unmet need for wheelchair accessible vehicles in Angus.

The Committee agreed:-

- (i) to note the work previously undertaken and progress in connection with the commencement of Sections 165 and 167 of the Equality Act 2010 and in relation to assessing and addressing unmet need for wheelchair accessible vehicles in Angus;
- (ii) to note that officers had commenced maintaining a designated list of wheelchair accessible vehicles following the Committee's decision of 13<sup>th</sup> September 2018;

- (iii) to note that on the designated list there were currently seven vehicles declared as wheelchair accessible vehicles (as determined by the current assessment criteria for appointing vehicles to the designated list approved by the Committee on 13 September 2018);
- (iv) to note that the current number of wheelchair accessible vehicles per licensed zone was as follows:-
 

Arbroath/Carnoustie	1 taxi	0 private hire
Forfar/Kirriemuir	4 taxi	1 private hire
Monifieth/Sidlaw	0 taxi	0 private hire
Montrose/Brechin	0 taxi	1 private hire; and
- (v) to consider imposing requirements on the trade in the future to address the unmet need for wheelchair accessible vehicles in Angus but agreed not to impose such requirements on the trade until a scoping exercise had been carried out; and
- (vi) to instruct the Director of Legal and Democratic Services to investigate the availability of suitable consultants to assess and advise on the extent and nature of unmet need for wheelchair accessible vehicles in Angus and to recommend measures to address assessed unmet need and to report back to advise of the outcome of those investigations and the likely costs involved.

### **13. EXCLUSION OF PUBLIC AND PRESS**

The Committee resolved, in terms of Standing Order 27(2) that the public and press be excluded from the meeting during consideration of the following items, so as to avoid the possible disclosure of information which was exempt in terms of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973, paragraphs 3 and 6.

### **14. NEW APPLICATION – ANIMAL BOARDING ESTABLISHMENT**

There was submitted Report No 364/19 by the Director of Legal and Democratic Services regarding an application received for a new licence under the Animal Boarding Establishments Act 1963 which required to be determined by the Committee, as detailed in the Appendix to the Report.

#### **(a) Animal Boarding Licence (AB4)**

The Committee considered comments received from the Environmental and Consumer Protection Service dated 23 September 2019, in relation to an application for an Animal Boarding Establishment (AB6) received on 13 August 2019.

The Committee noted that the applicant had withdrawn the application.

### **15. NEW APPLICATIONS**

There was submitted Report No 365/19 by the Director of Legal and Democratic Services regarding applications received for new licences under the Civic Government (Scotland) Act 1982 which required to be determined by the Committee, as detailed in the Appendix to the Report.

#### **(a) Taxi Driver's Licence (TD93)**

The Committee considered a letter of representation from Police Scotland dated 27 September 2019, in relation to an application for a Taxi Drivers Licence (TD93) received on 16 September 2019.

The applicant was present and addressed the Committee.

Constable Forbes then addressed the Committee on the contents of the letter from Police Scotland dated 27 September 2019.

The Committee agreed that the application be granted but that the applicant be given a warning of the possible consequences of any future adverse reports.

**(b) Private Hire Car Driver's Licence (PHCD52)**

The Committee considered a letter of objection from Police Scotland dated 7 October 2019, in relation to an application for a Private Hire Car Drivers Licence (PHCD52) received on 23 September 2019.

The Committee noted that the applicant had "spent and protected convictions" as detailed in a further appendix received on 24 October 2019 amending the letter of 7 October 2019. The date of the letter had not changed.

Constable Forbes then addressed the Committee and gave outline details of the age and nature of the "spent and protected convictions" which were contained in the further appendix.

The Committee unanimously agreed that, in all the circumstances that justice could not be done without admitting details of the spent and protected convictions. The Appendix was then circulated to members.

Constable Forbes gave details regarding the spent and protected convictions and a number of questions were asked by members.

The applicant was present and addressed the Committee during which he submitted a character reference.

The Committee agreed that the application be granted but that the applicant be given a warning of the possible consequences of any future adverse reports.

**A. GENERAL**

**TARIFF ONE**

Hirings begun between 6am and 6pm Monday to Friday inclusive (except Christmas Eve, Christmas Day, Boxing Day, Hogmanay, New Years Day, and 2 January).

- (A) If the distance does not exceed 1660 yards – for the whole distance - £3.50
- (B) If the distance exceeds 1660 yards:
  - (1) For the first 1660 yards - £3.50
  - (2) For each additional 85 yards or uncompleted part thereof – 10p
- (C) Waiting time – for each period of 15 seconds – 10p

**TARIFF TWO**

Hirings begun between 6pm and 6am Monday to Friday and from 6pm Friday till 6am Monday (except Christmas Eve, Christmas Day, Boxing Day, Hogmanay, New Years Day and 2 January). This tariff is also applicable for hirings commenced between 6am and 6pm on Christmas Eve and Hogmanay.

- (A) If the distance does not exceed 1260 yards – for the whole distance - £3.80
- (B) If the distance exceeds 1260 yards:
  - (1) For the first 1260 yards -£3.80
  - (2) For each additional 75 yards or uncompleted part thereof – 10p
- (C) Waiting time – for each period of 15 seconds – 10p

**TARIFF THREE**

Hirings begun between 6pm on Christmas Eve through to 6am on 27 December and from 6pm on Hogmanay through to 6am on 3 January.

- (A) If the distance does not exceed 1320 yards – for the whole distance –£5.10
- (B) If the distance exceeds 1320 yards:
  - (1) For the first 1320 yards - £5.10
  - (2) For each additional 65 yards or uncompleted part thereof – 10p
- (C) Waiting time – for each period of 10 seconds – 10p

**TARIFF FOUR**

(Only for larger type vehicles carrying five or more passengers at their own request) for hirings begun between 6pm on Christmas Eve through to 6am on 27 December and from 6pm on Hogmanay through to 6am on 3 January.

- (A) If the distance does not exceed 1320 yards – for the whole distance – £6.20
- (B) If the distance exceeds 1320 yards:
  - (1) For the first 1320 yards – £6.20
  - (2) For each additional 65 yards or uncompleted part thereof – 20p
- (C) Waiting time – for each period of 13 seconds – 20p

**B – LARGE MINI-BUS TYPE VEHICLES**

**(Carrying five or more passengers together at their own request)**

- (A) Where Tariff 1 would apply – Charge Tariff 2
- (B) Where Tariff 2 would apply – Charge Tariff 3
- (C) Where Tariff 3 would apply – Charge Tariff 4

**C – ADDITIONAL CHARGES**

1. Extras to be added on all tariffs 10p per case or object carried.
2. £60 to be levied in respect of passenger soiling a vehicle which results in the vehicle being taken out of service for any period of time.
3. Where a taxi is called but not used – normal fare to be charged according to distance as if the taxi had been occupied from the time it left the stance or garage.
4. Extras to be charged on all tariffs for each passenger after the first passenger 20p