

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 26 NOVEMBER 2020

**RESPONSE TO CALL FOR VIEWS FROM THE FINANCE AND CONSTITUTION COMMITTEE OF
THE SCOTTISH PARLIAMENT**

TRAVELLING FUNFAIRS (LICENSING) (SCOTLAND) BILL

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is for the Committee to consider, and then agree, the terms of a response to the call for views from the Finance and Constitution Committee of the Scottish Parliament in respect of the Travelling Funfairs (Licensing)(Scotland) Bill.

1. RECOMMENDATION

It is recommended that the Committee: -

- (i) submit a response to the call for views; and
- (ii) agree the terms of the proposed draft response as detailed in **Appendix 1** to this report, subject to any amendments considered necessary by the Committee.

2. BACKGROUND

2.1 Operators of travelling funfairs in Scotland are currently required to obtain a Public Entertainment Licence in terms of Section 41 of the Civic Government (Scotland) Act 1982.

2.2 The Member's Bill, namely the Travelling Funfairs (Licensing)(Scotland) Bill was introduced to Parliament on 29 April 2020 and is currently at Stage 1 of the Parliamentary process.

2.3 The Bill proposes changes to the licensing system for operators of funfairs in Scotland. The Bill aims to make the system quicker, simpler, cheaper and more uniform across council areas. This system would mean that operators of travelling funfairs would no longer be required to obtain a Public Entertainment Licence in order to operate and would instead be required to obtain a separate travelling funfairs licence.

2.3 The Parliament's Finance and Constitution Committee has launched a call for views on the Bill which closes on 7 December 2020. The Bill, together with explanatory notes on the changes proposed, can be read on the Scottish Parliament website:-

<https://beta.parliament.scot/bills/travelling-funfairs-licensing-scotland-bill>

2.4 Subject to comments that the Committee may wish to make about the terms of the new Bill, it is recommended that the attached response is submitted in response to the call for views from the Committee.

3. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

4. **CONCLUSION**

The Committee is asked to note the terms of the call for views and agree to the terms of the response.

NOTE: No background papers, as detailed 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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DRAFT RESPONSE TO CALL FOR VIEWS:

The Angus Council Civic Licensing Committee (“the Committee”) notes the introduction of the Travelling Funfairs (Scotland) Bill and the changes it proposes. Having considered the Bill, the Committee considers that the aims of the Bill are clear.

The Committee considers that the overall objective of the Bill is similar to that of the provisions already contained within the Civic Government (Scotland) Act 1982. The Committee recognises that the Bill has been introduced following perceived difficulties in some local authority areas in respect of travelling funfairs obtaining Public Entertainment licences under the existing provisions. The Committee confirms that it is not currently aware of such issues within the area of Angus and that licences have been granted without issue within recent years.

Overall, the Committee is of the view that travelling funfairs are adequately catered for in terms of licensing under the Public Entertainment licence provisions. The Committee considers that the current regime ensures that funfairs are safe forms of entertainment for the public to attend and that the public entertainment licensing regime contributes towards this.

The Committee raises the following specific points in relation to the Bill: -

1. Fee

It is noted that the fee to be applied is £50 and that this is fixed, albeit with some provision for this to be increased in line with inflation. The Committee is concerned that this approach to the fees would have a detrimental impact on the finances of the Council. The Council currently calculates the level of fees based on the cost of operating a licensing authority department. The Council aims to set fees at a level where the costs of running a licensing department can be met but where no surplus is made.

The Committee would highlight that £50 is in most circumstances significantly less than what is currently charged for a Public Entertainment licence in Angus. The Council's fees vary depending on numbers attending events and funfairs generally attract a fee of £150 - £220. The Committee is therefore concerned that such a loss in income could have a detrimental impact on the running of licensing departments. The Committee would also highlight that applicants in respect of other forms of entertainment will be expected to apply for a Public Entertainment licence so will be charged a higher fee which creates an unfair licensing system.

The Committee would also be concerned by the reduction in fee on the basis that to set up new licensing systems within local authority areas incurs a significant cost in terms of time and resource. The reduced income alongside the setting up of a new licensing system could be detrimental in terms of the finances of licensing authorities.

2. Deemed grant/health and safety concerns

It is noted that there is a deemed grant provision after 21 days where no decision has been made by the authority.

The Bill seeks to offer reassurance that health and safety concerns remain paramount and have not been changed as a result of the proposed new provisions. The Committee is concerned that a deemed grant provision introduces the possibility of licences being granted in situations where it is not safe or where events have not been adequately planned for. It is essential that

those running travelling funfairs prepare adequately, apply for licences in time and complete full risk assessments. This is the same for every other form of public entertainment.

The Committee is of the view that a deemed grant provision such as that proposed could have a detrimental impact on the public in that it could mean that licences are granted where there are potential health and safety concerns which either haven't been considered or haven't been addressed ahead of the licence being granted.

The Committee notes that applications for a licence require to be received at least 28 days prior to the event.

In terms of the current Public Entertainment licensing regime, the Committee recognises that there is no "condition" or legislative requirement that an application must be submitted any earlier than 28 days in advance of an event. It is however, accurate to say that the Council would have three months to consider it, but often applications are determined in a much shorter time scale. It is only where there are concerns about the application or where there are concerns raised by consultees that this longer time period is required. The Committee considers that such timescales are required for the purposes of ensuring events are safe and well managed. As noted above, the Committee have never experienced issues with travelling funfairs being granted licences in time.