

Supplementary Agenda 1

Regulatory Committee

Friday 27 January 2012 at 9.30 am
in the City Chambers, High Street, Edinburgh

Main Agenda Items

Street Trading

- 4 **Street Trader Licensing – Pedicabs** – report by the Director of Services for Communities (circulated).

Public Entertainment

- 5 **Public Entertainment Licensing – Amendments** – report by the Director of Services for Communities (circulated).

Metal Dealers

- 6 **Civic Government (Scotland) Act 1982 – (Metal Dealers' Exemption Warrants) Order 2012** – report by the Director of Services for Communities (circulated)

Carol Campbell
Acting Head of Legal and Administrative Services

Membership	Councillor Munn (Convener)	Councillor Kate MacKenzie
	Councillor Lang (Vice-Convener)	Councillor Mowat
	Councillor Cairns	Councillor Perry
	Councillor Dundas	Councillor Snowden
	Councillor Henderson	

Notes:

- 1) Members are reminded that they may appoint substitutes. If members intend to appoint substitutes, they should contact Stephen Broughton, Committee Services, City of Edinburgh Council, City Chambers, High Street, Edinburgh EH1 1YJ, Tel: 0131 529 4261 or e-mail: stephen.broughton@edinburgh.gov.uk

- 2) A copy of the agenda and papers for the public part of this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.
 - 3) The agenda, minutes and public reports for all the main council committees can be viewed online by going to www.edinburgh.gov.uk/cpo/. Members and Officers of the Council can also view them by going to the Orb and clicking on Council Papers Online.
 - 4) If you have any questions about the agenda or meeting arrangements please contact Stephen Broughton, Committee Services, City of Edinburgh Council, City Chambers, High Street, Edinburgh EH1 1YJ, Tel: 0131 529 4261 or e-mail: stephen.broughton@edinburgh.gov.uk
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Please recycle this paper

Street Trader Licensing - Pedicabs

Regulatory Committee

27 January 2012

1 Purpose of report

- 1.1 To advise the committee of current arrangements in place for the licensing of pedicabs;
- 1.2 To suggest areas for enhancement of the licensing regime for pedicabs; and
- 1.3 To propose that consultation be carried out with licence holders and other relevant parties on proposals for improvement with a view to an update report to committee, at a date to be agreed.

2 Main report

- 2.1 A report was submitted to the Regulatory Committee on 16th December 2011 regarding a number of matters relating to Street Trader licensing. The report identified an outstanding requirement for a report on the licensing arrangements for pedicabs within the city. This report seeks to address that requirement.
- 2.2 The operation of pedicabs in the city is licensed by the City of Edinburgh Council by means of Street Trader licensing – in this instance, the offering to carry out a service (pedicab rides) for money or money's worth. At present there are around six pedicab companies, each employing the services of a much larger number of pedicab drivers. Further detail on this will be provided for the committee, as required.
- 2.3 The Council's current fees structure for Street Trader licensing provides that a "non food" trader with no employees is charged £160 per year. A "non food" trader with employees is charged a flat rate application fee of £198 per year. There is no fee for individual employees. Each of the pedicab companies apply for, and renew, Street Trader licences with employees, with the companies submitting supplemental employee applications at no additional cost.
- 2.4 Given that the offer to carry out a service for money or money's worth which constitutes the Street Trading activity is made by the individual pedicab driver rather than the pedicab companies, it is considered that the licensing arrangements should be changed to require individual drivers to submit applications. This is likely to lead to an increase in the administrative work

involved in checking and approving applications and the committee may wish to consider introducing an additional low level application fee.

- 2.5 The standard conditions of licence attached to pedicab street trader licences are in relatively short terms (see attached appendix 1). The committee may wish to consider whether the current conditions of licence are sufficient, or whether more detailed conditions may be required, to specifically govern matters such as the conditions of fitness of the vehicle used, the competence of the driver, the safety arrangements in place for vehicles and appropriate insurance arrangements. These matters will require further, detailed consideration and it is recommended that a further course of consultation is carried out with a view to agreeing a set of standard conditions, to be reported to a future meeting of the committee. This is of particular importance given the statutory introduction of a distinction between mandatory (Scottish Government) licence conditions and standard (local authority) conditions in terms of the Criminal Justice and Licensing (Scotland) Act 2010.
- 2.6 The area of operation of pedicab street traders is limited to the extent of the city centre World Heritage Site area. Police and the Council's Public Safety officers have requested that the extent of the area of operation should be reaffirmed for the avoidance of doubt, as there have been instances of pedicabs being operated out with this area. A copy of the relevant plan is attached at appendix 2 to this report.

3 Financial Implications

- 3.1 There are no direct financial implications from this report, however as outlined in paragraph 2.4 the Council's current fees structure for pedicab licensing requires that pedicab companies with employees are charged a flat fee for licences and renewals, which covers the applications submitted by the companies on behalf of their employees. It is suggested that consultation be carried out on the proposal that individual drivers, being the street traders (rather than the pedicab companies) should submit individual applications, with the introduction of a low level fee to cover the administrative and enforcement costs.

4 Equalities Impact

- 4.1 Applications for street trader licences are each dealt with according to their respective merits. It is suggested therefore that there is no adverse impact on the public sector equalities duty. There would accordingly be no direct equalities impact arising from this report.

5 Environmental Impact

- 5.1 It is considered that there would be no significant environmental impact arising from the matters outlined in this report. Street trader licence applications are considered on their individual merits and may be conditioned appropriately to address any environmental impacts arising from the licensed activity.

6 Recommendations

6.1 It is recommended that the Regulatory Committee:

- a) agrees to a period of consultation on i) licensing of pedicabs, with a view to requiring that applications for individual street trader licences should be submitted by pedicab drivers, ii) the introduction of a set of standard conditions of licence. A further report to be made to committee on the outcome of the consultation.
- b) reaffirms the area of operation of pedicabs as being the city centre area indicated on the map annexed to this report.

Mark Turley
Director of Services for Communities

Appendices	1a Street Trader conditions of licence 1b Additional conditions of licence 2 City Centre map
Contact/tel/Email	Nick Fraser, Senior Solicitor / 0131 529 4424 / nicholas.fraser@edinburgh.gov.uk
Wards affected	Citywide
Single Outcome Agreement	Supports National Outcome 1 – “We live in a Scotland that is the most attractive place for doing business in Europe” Supports Local Outcome – “Edinburgh is an internationally competitive business location that attracts talent and investment to its growing knowledge-based economy” Supports National Outcome 2 – “We realise our full economic potential with more and better employment opportunities for our people” Supports Local Outcome – “Edinburgh's economy is strengthened, through the skills development and economic participation of its population” Supports National Outcome 10 – “We live in well-designed, sustainable places where we are able to access the amenities and services we need” Supports National Outcome 14 – “We reduce the local and global impact of our consumption and production”. Supports Local Outcome – “Edinburgh residents and businesses find sustainable travel options increasingly attractive resulting in growth in traffic levels being contained”.

Background
Papers

1. Minutes of City of Edinburgh Council – 9th December 2004 (item 11)
 2. Report to Regulatory Committee - Street Trader Licensing – 16th December 2011
- Civic Government (Scotland) Act 1982
Criminal Justice and Licensing (Scotland) Act 2010

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STANDARD CONDITIONS – ALL STREET TRADERS

1. The licenceholder shall not carry on business on any street so as to unreasonably obstruct road users or affect their safety.
2. The licenceholder shall carry on business subject to any direction which the police or authorised officers of the City of Edinburgh Council may reasonably be required to give.
3. The licenceholder shall sell or offer or expose for sale only good or articles described in the licence. In particular no goods or articles of an objectionable or indecent character shall be sold or offered for sale.
4. The licenceholder shall on all occasions, when carrying on business, behave in a proper and civil manner, and shall not carry on business in such a way as to cause a nuisance or annoyance to any person.
5. The licenceholder shall at all times conduct business and position any vehicle used in connection with the business in such a manner that no danger is likely to arise to any other person.
6. The licenceholder shall at all times when trading wear the identity card which is issued with the licence. The licence must be displayed on any vehicle or stance.
7. The licenceholder shall not lend or allow any other person to use any licence or identity card issued by the Council.
8. The licenceholder shall trade only between the hours of operation stated in the licence. At the end of trading hours the licenceholder shall remove and take away any stall, kiosk, mobile unit or vehicle and all other ancillary equipment placed on or in the vicinity of the trading stance.

STANDARD CONDITIONS - STANCES

9. The licenceholder shall trade only from the stance detailed in the licence.
10. The licenceholder shall obtain all necessary and appropriate consents prior to commencing trading from any stance and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance.
11. The licenceholder shall, during business hours and at the end of each day, ensure the collection and removal of any paper, food wrapping, food, litter or refuse, containers and drinks containers on any pavement around the stance within a distance of 25 metres either side. If adjacent stances, to which the street trading licence conditions apply, are within 25 metres, any distance to be cleaned shall be the mid-point between the two stances.

STANDARD CONDITIONS – VEHICLES AND MOBILE UNITS

12. The licenceholder shall trade from the vehicle or trailer detailed in the licence. If a vehicle or trailer is used by the licenceholder for trading in food the licenceholder must ensure that prior to the first and subsequent anniversaries of the commencement of the licence the vehicle is examined for and on behalf of the Council's Director of Environmental and Consumer Services. Any recommendations made by the Director as a result of the examination must be implemented within one month of the date of examination or such other date as had been mutually agreed. In addition the vehicle or trailer may require to be produced for inspection by the Council from time to time at such time and place as may reasonably be required by the Council. The vehicle or trailer shall be roadworthy and if it is to be used for trading during the hours of darkness it shall have sufficient light and reflectors as determined by the Council.
13. The licenceholder shall not use whistles or other sound producing devices apart from chimes and loudspeakers to attract business.
14. The licenceholder shall comply with all statutory provisions relating to noise and in particular with the provisions of section 62 of the Control of Pollution Act 1974 relating to the use of loudspeakers in streets.

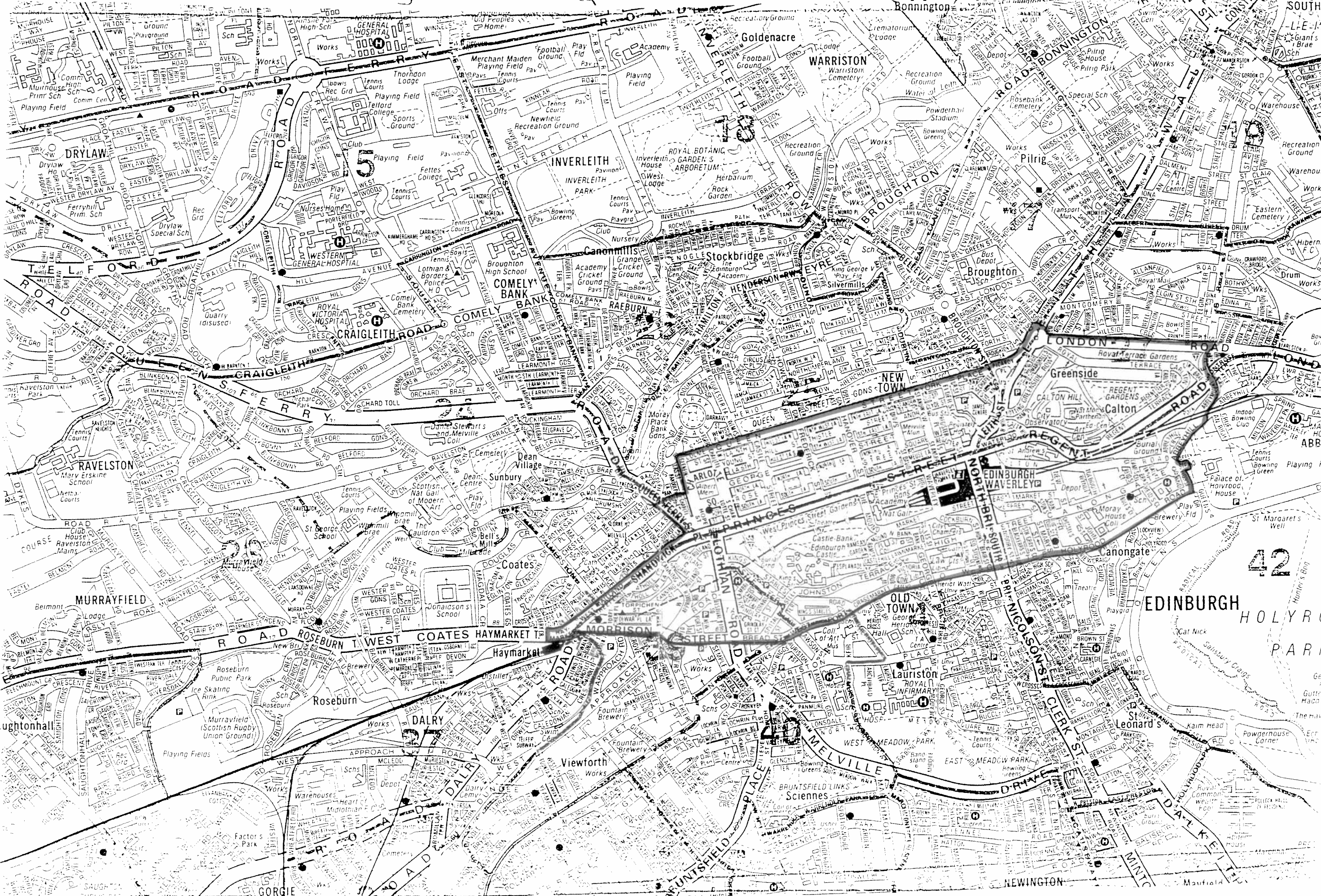
STANDARD CONDITIONS – STALLS

15. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design and erection shall be to the satisfaction of the Council's Director of City Development.
16. All stalls shall be demountable and shall be removed from the stance at the end of trading hours on each working day.
17. Traded goods must be kept on and traded from the stall. At no time shall such goods be permitted to lie on the surrounding area or be left against adjacent walls or railings.

Additional conditions relating to Street Trader licensing - pedicabs

- 1 The Licenceholder shall trade only between the hours of: -

days and times as specified
- 2 The Licenceholder shall not sell, hawk, or offer or expose for sale any article or offer to carry out for money or money's worth any service other than the following:-
Pedicab Rides.
- 3 The Pedicabs should comply with Pedal, Cycle (Construction and Use) Regulations 1983, the Road Vehicles Lighting Regulations 1989 and any other legislation which affects the construction/lighting of the Pedicab.
- 4 The driver/rider of the Pedicab should comply with the National and Local legislation and the Highway Code relating to the use of the Pedicab on the road, i.e. traffic signals, no entry signs and one way streets.
- 5 This Licence will be valid only for so long as the Licence issued to the employer remains valid.
- 6 The applicant must not unreasonably obstruct road or footway users, affect their safety or obstruct access to public seating or waste bins.



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EDINBURGH HOLYROOD PARK

LAURISTON ROYAL INFIRMARY

DALRY

VIEWFORTH

MELVILLE

LEONARDS

NEWINGTON

MINTO

Public Entertainment licensing - Amendments

Regulatory Committee

27 January 2012

Purpose of report

- 1 To advise the committee of changes to the legislation regulating Public Entertainment licensing and the implications of these changes.

Main report

- 2 The licensing of places of public entertainment is governed by section 41 of the Civic Government (Scotland) Act 1982 (“the 1982 Act”). A public entertainment licence is required for the use of premises as a place of public entertainment. The 1982 Act defines “place of public entertainment” as:

“any place where ***on payment of money or money’s worth***, members of the public are admitted or may use any facilities for the purposes of entertainment or recreation...”

The Council’s Public Entertainment Resolution 1994 sets out a list of premises which require to be licensed attached. This is attached as Appendix 1 to this report.

- 3 Section 176 of the Criminal Justice and Licensing (Scotland) Act 2010 repeals the part of the definition highlighted in bold italics above. The potential effect of this amendment is to increase the scope of public entertainment licensing, as it requires local authorities to license “free entry” events.
- 4 The widening of the statutory definition for Public Entertainment licensing is likely to lead to an increase in the events taking place in the city for which will a Public Entertainment licence will be required. It is suggested on that basis that the Council’s current fees structure for Public Entertainment licensing may require to be re-examined. The current fees structure for temporary and annual licence applications is tiered, according to numbers of persons attending events. Further consideration might be necessary with regard to introducing additional tiers see Appendix 2.

- 5 Given the change to the definition of “place of public entertainment”, the committee’s attention is drawn to the terms of the Council’s Resolution (as appended to this report at Appendix 1) and to the current standard conditions of licence which apply to Public Entertainment licences see appendices 3 and 4 to this report. It is suggested that the broadening of the Public Entertainment licensing regime will have implications for the Resolution and for the standard conditions.
- 6 It is proposed that a further report be submitted to Committee following 6 months assessment of the changes, considering both the need for changes to the charging structure and any required changes to the resolution or standard conditions.
- 7 The 2010 Act introduces a distinction between mandatory and standard licensing conditions: the former relates to conditions as set out in secondary legislation from the Scottish Government, with the latter being conditions as approved by the local authority. This distinction will apply to all Civic Government licences.
- 8 Arrangements will therefore be put in place to ensure that the Council’s Civic Government licensing conditions are clearly identified as the “standard conditions”. Additionally there will be clear guidance put in place for event organisers and prospective applicants for Public Entertainment licences, in good time for the legislative change on 1st April 2012.

Financial Implications

- 9 The Council is required to ensure that from time to time the total application fees it receives is sufficient to meet the expenses incurred in exercising its functions as licensing authority. Whilst it is not clear at this stage the extent to which application numbers (and associated fees) will increase over the next financial year, it is not anticipated that the financial impact will be significant.

Equalities Impact

- 10 Applications for public entertainment licences are each dealt with according to their respective merits. It is suggested therefore that there is no adverse impact on the public sector equalities duty. There would accordingly be no direct equalities impact arising from this report.

Environmental Impact

- 11 It is considered that there would be no significant environmental impact arising from the matters outlined in this report. Public Entertainment licence applications are considered on their individual merits and may be conditioned to address any environmental impacts arising from the licensed activity.

Recommendations

- 12 It is recommended that the Committee:
- a) notes the terms of the forthcoming statutory amendment;
 - b) agrees to a six month monitoring period and report thereon, from the date of the amendment, with regard to the current conditions of licence, the terms of the Council's existing Public Entertainment Resolution and licence fees structure.

Mark Turley
Director of Services for Communities

Appendices	<ol style="list-style-type: none">1. City of Edinburgh Council's Public Entertainment Resolution 19942. Extract from Council licence application fees table3. Conditions of licence for Public Entertainment licences4. Conditions of licence for Temporary Public Entertainment licences
Contact/tel/Email	Nick Fraser, Senior Solicitor / 0131 529 4424 / nicholas.fraser@edinburgh.gov.uk
Wards affected	Citywide
Single Outcome Agreement	<p>Supports National Outcome 1 – “We live in a Scotland that is the most attractive place for doing business in Europe”</p> <p>Supports Local Outcomes – “Edinburgh is an internationally competitive business location that attracts talent and investment to its growing knowledge-based economy” and “Edinburgh’s Festivals have a global competitive edge”</p> <p>Supports National Outcome 2 – “We realise our full economic potential with more and better employment opportunities for our people”</p> <p>Supports Local Outcome – “Edinburgh's economy is strengthened, through the skills development and economic participation of its population”</p> <p>Supports National Outcome 10 – “We live in well-designed, sustainable places where we are able to access the amenities and services we need”</p>
Background Papers	Civic Government (Scotland) Act 1982 Criminal Justice and Licensing (Scotland) Act 2010

PUBLIC ENTERTAINMENT

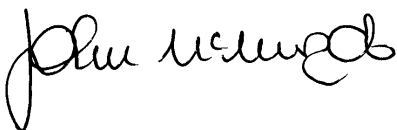
THE CITY OF EDINBURGH PUBLIC ENTERTAINMENT RESOLUTION 1994

The City of Edinburgh District Council, the appropriate Local Authority under the Civic Government (Scotland) Act 1982 ("the District Council" and "the Act") are satisfied that Section 41 of the Act, which makes provision for the licensing of premises as places of public entertainment should have effect in the City of Edinburgh District.

THEREFORE the District Council, in exercise of the powers conferred on them by Sections 9 and 41 of the Act, hereby make the following Resolution:

- (1) Section 41 of the Act relating to public entertainment licences shall have effect throughout the City of Edinburgh District.
- (2) Subject to the provisions of Section 41 and Schedule 1 of the Act a Public Entertainment Licence shall be required for the use of the premises specified in Clause 3 as places of public entertainment as from the Tenth day of December Nineteen hundred and Ninety four.
- (3) The premises in the City of Edinburgh District which require to be licensed under the Resolution are as follows:
 - (a) Billiard, Snooker and Pool Halls
 - (b) Premises used for Circuses
 - (c) Concert Halls
 - (d) Premises used for oral recitals including poetry reading and story telling
 - (e) Dance Halls and Discotheque
 - (f) Premises used for Exhibitions
 - (g) Premises used for Firework Displays
 - (h) Premises used for health and fitness activities including without prejudice to the foregoing generality gymnasia, saunas and massage parlours
 - (i) Premises used as sun-tan centres
 - (j) Premises used for Laser Displays and Games
 - (k) Premises used for Performing Animals
 - (l) Premises used for Pop Concerts and other live band performances
 - (m) Premises used for Variety or Musical Shows
 - (n) Video Machine Arcades
 - (o) Premises used for Paintball Games
 - (p) Premises used for Raves
 - (q) Premises used for go-karting
 - (r) Premises used for Amusement Devices being rides, machines, contrivances, structures or other such equipment including side stalls and side shows, tents, booths or similar enclosed structures, which are installed or erected and operated for or in connection with the amusement or entertainment to the public, including without prejudice to the foregoing generality bouncy castles, carousels and bungy jumping and bungy running equipment.
- (4) This Resolution may be cited as the City of Edinburgh Public Entertainment Resolution 1994.
- (5) The City of Edinburgh Public Entertainment Resolution 1988 is hereby revoked as from the Tenth day of December Nineteen Hundred and Ninety four.

Given under the Seal of The City of Edinburgh District Council this Tenth day of March Nineteen Hundred and Ninety-four.



JOHN McMURDO
HEAD OF LEGAL SERVICES/PROPER OFFICER

Appendix 2

Extract from Council licence application fees table

28.	PUBLIC ENTERTAINMENT	Commercial operation capacity > 10,000	new / temporary	8488
29.		Commercial operation capacity 5,001 - 10,000	new / temporary	5093
30.		Commercial operation capacity 1,001 - 5,000	new / temporary	2547
31.		Commercial operation capacity 201 - 1,000	new / temporary	1273
32.		Commercial operation capacity 1 - 200	new / temporary	849
33.		Commercial operation capacity > 10,000	Renewal (1 year)	6366
34.		Commercial operation capacity 5,001 - 10,000	Renewal (1 year)	3395
35.		Commercial operation capacity 1,001 - 5,000	Renewal (1 year)	1698
36.		Commercial operation capacity 201 - 1,000	Renewal (1 year)	849
37.		Commercial operation capacity 1 - 200	Renewal (1 year)	690
38.		Charitable Organisation (< 200) / Community Events	6 weeks	106
39.		Amusement Devices > 20		3395
40.		Amusement Devices 6 - 20		1698
41.		Amusement Devices 1 - 5		690
42.		Amusement Devices 1 only		150

PUBLIC ENTERTAINMENT

NOTES FOR GUIDANCE

1. A plan of the premises (4 copies) drawn accurately to a suitable scale must be submitted with this application.
2. The heading "Public Entertainment" covers many different types of activity. Accordingly some of the Sections of the application form may not be relevant to the activity you wish to have licensed. Please bear this in mind when completing your application.
3. The application should be lodged at least 28 days before the date from which you wish the licence to operate.
4. Licences can be granted for up to 3 years but the Council have decided that a maximum of one year is appropriate for this type of licence. All full licences will be granted until 30th June in the year of expiry. Applicants for temporary licences (maximum 6 weeks) should simply state the period during which they intend to operate.
5. Paragraph 2 of Schedule One of the Act deals with advertisement of your application. A style of Notice is attached. The Notice must be displayed on or near your premises in a position where it can be easily read for at least 21 days beginning on the date the application is lodged with the Council. You must return to the Council at the expiry of the 21 days a copy of the notice with the certificate at the foot completed.

LICENCE CONDITIONS

1. The Licensee or Manager shall be responsible for the day-to-day running of the premises. There shall be sufficient staff on duty when the premises are open to the public.
2. The Licensee or Manager shall give clear instructions to staff on their duties in the event of fire. A legible statement of such duties shall be posted in conspicuous positions within the premises. The Licensee shall comply with any requirements of the Firemaster.
3. The number of people admitted to the premises shall be strictly controlled to ensure that there is no overcrowding.
4. The premises must be structurally sound and safe. Any scaffolding for staging, props or seating shall be adequately designed and constructed for the load to which it is to be subjected. The means of suspension for scenery, lighting grids and similar items shall be to the satisfaction of the Council.
5. The general layout of the premises shall be to the Council's satisfaction. In the case of funfairs all structures and equipment must be examined and approved by the Council before being used by the public.
6. All approaches, staircases and passageways shall be kept free from obstruction. No seat or other obstruction shall be placed in any of the passageways and no-one shall be allowed to stand or sit in any passageway during performances.
7. All doors and barriers shall open outwards and shall not be fastened or locked except by emergency bolts when the premises are open.
8. All exit doors in the premises shall be indicated by a fixed lighting transparency bearing the word "EXIT" in letters not less than 10 centimetres high. All exit doors shall be opened immediately before the end of each performance. The transparency shall be illuminated by a maintained system of lighting and must be visible from the auditorium at all times when the premises are open to the public.
9. Any decorative surface finishing shall be either non-combustible or durably flame-proofed.
10. All scenery, curtains, drapes and fabrics in the premises shall be flame-resistant.
11. The use of smoke bombs, smoke generators, flash powder, flash boxes, detonators and similar items is not permitted without the written approval of the Firemaster and the Council.
12. All upholstered furniture shall comply with the Smouldering Cigarette Test and Butane Flame Test in British Standard 2852, Part I, 1979.
13. The Licensee or the Manager shall intimate every outbreak of fire to the Firemaster immediately.
14. Lasers or other similar devices shall not be used without the Council's written permission.
15. The premises shall be lit to the satisfaction of the Council. A maintained system of secondary lighting shall be provided throughout the building, kept in proper working order and kept on when the premises are open to the public.
16. The electrical installation to the premises shall be kept in proper working order to the satisfaction of the Council. No alterations or additions to the electrical installation shall be made without the Council's written approval.
17. No temporary electric lighting installation shall be used in any part of the premises without the Council's written consent. All temporary connections to the permanent installation in the premises shall be disconnected immediately after each performance.
18. All gas taps in the premises shall be out of reach of members of the public and all electrical lighting switches to public areas shall be inaccessible to the public.
19. The premises shall be properly ventilated and heated to the satisfaction of the Council. Temporary or moveable forms of heating shall not be used without the Firemaster's written approval.
20. Sanitary accommodation shall be provided to the satisfaction of the Council.
21. The Food Hygiene Regulations and The Health and Safety at Work Act, 1974, shall be complied with.

22. There shall be prior consultation with the Council's Director of Environmental Services regarding open air events involving musical performances of the use of a public address system. The Council shall have prior notification of the name(s) of a person or persons who will be available during all performances and responsible for ensuring any music or public address system is controlled so as not to cause a nuisance to the satisfaction of the Director of Environmental Services or his appointees.
23. A telephone shall be installed in the premises.
24. The Licensee shall display the Public Entertainment Licence and Conditions in a prominent position.
25. No alterations shall be made to the structure, seating arrangements or exits without the Council's written consent.
26. The Firemaster, any Police Constable and any authorised Council Official shall be permitted free access to the premises at any time.
27. No exhibition, demonstration or performance of hypnotism shall take place except with the Council's written consent.
28. The Council or the Firemaster shall have the power to set a limit on the maximum number of people to be admitted to the premises for any performance.
29. The opening hours shall not deviate from any imposed by the Council's Planning and Development Committee.
30. All equipment/apparatus in premises with sauna, massage or bathing facilities shall be maintained in a clean condition.
31. The Licensee shall not permit the giving of any live animal as a prize at any stall or side show at a fair ground.
32. One or more earth leakage circuit-breakers must be installed if live amplified music is to be performed on the premises. The installation should comply with the current Institute of Electrical Engineers — Regulations for Electrical Installations.
33. Adequate arrangements must be made for the welfare of animals appearing in performances to the satisfaction of the Council's Director of Environmental Services.
34. The licence shall not be effective until the licensee has received final clearances from the Firemaster and the Council's Director of Property Services confirming that the premises may be operated. **THIS CONDITION APPLIES ONLY WHERE FINAL CLEARANCE IS REQUIRED.**

(Revised March 1997)

TEMPORARY THEATRES & TEMPORARY PUBLIC ENTERTAINMENT

NOTES FOR GUIDANCE

1. GENERAL

The Guidance Notes have been drawn up to help applicants comply with procedures and requirements for **Temporary (short-term)** Public Entertainment and Theatre Licences. If you have any problems or require further advice, information can be obtained from the following sources:-

Licensing	0131-529 4208	249 High Street, Edinburgh
Property Management	0131-529 4512	Waverley Court, Business Centre G6, 4 East Market St Edinburgh
Chief Fire and Safety Officer	0131-228 2401	(Fire Safety) Lauriston Place, Edinburgh
Environmental and Consumer Services	0131-529 3459 0131-529 3447 (Noise) 0131-529 3467 (Food Hygiene)	Chesser House, 500 Gorgie Road Edinburgh
Chief Constable	0131-311 3221	(Licensing) Fettes Avenue

2. DO I REQUIRE A LICENCE?

2.1 Public Entertainment Licences

These licences are governed by The Civic Government (Scotland) Act 1982. A licence is required where you intend to have entertainment, such as a dance, concert, variety show or other entertainment to which members of the public are to be admitted and where some payment for admission is to be paid. If people must buy some article, e.g. a programme, then a licence is still required. A Public Entertainment Licence is required for any premises or any place. If you have a Theatre or Cinema Licence or certain licences issued under the Licensing (Scotland) Act 1976 you do not need to apply for a Public Entertainment Licence.

2.2 Theatre Licences

These licences are governed by the Theatres Act 1968. A licence is required where it is intended to perform any play in public. It does not matter if the performance is free — a licence is still required. “Play” is defined in the 1968 Theatres Act as “any dramatic piece, whether involving improvisation or not, which is given wholly or in part by one or more persons actually present and performing and in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role”. This includes **any** ballet. A Theatre Licence is required for any premises or any place whether or not another type of licence is in force.

2.3 Hypnotism

Performances of hypnotism are governed by the Hypnotism Act 1952. Public entertainment and theatre licences issued by the Council prohibit exhibitions, demonstrations or performances of hypnotism without a separate consent being obtained. If you intend to present hypnotism in unlicensed premises you still require consent from the Council. If you intend to stage an exhibition, performance or demonstration of hypnotism please contact the Licensing Section at 249 High Street Edinburgh EH1 1YJ, for further information and appropriate forms. You will be required to submit a complete description of the exhibition, etc. and copies of any posters, advertisements or programme relating to it.

3. WHAT IF THERE IS A LICENCE IN FORCE ALREADY?

If there is already an annual licence of the type required in force for the part of the premises you will be using, then you do not need to apply for a temporary licence, even if the licence is not in your own name. In certain limited circumstances, an existing temporary licence of the type required held by somebody else may also cover your use. You should check the temporary licence very carefully to ensure that your use is provided for and that it covers proposed times.

If you intend to make any changes to the premises, e.g. re-arrange seating, extend a stage, or use a different scenery, you must comply with the conditions imposed in the licence and you should ask the Property Services Officer, Fire Prevention Officer and Environmental Services Officer to approve these alterations before you commence your entertainment or play. Failure to do so may lead to any licence in force being revoked or suspended until the premises are brought up to the required standard.

4. WHEN SHOULD I APPLY FOR A LICENCE?

All applications for temporary Public Entertainment and Theatre Licences should be lodged no later than 4 weeks before the first date you require. You should lodge applications as soon as possible, especially for those during the Edinburgh Festival, to give the Council the opportunity of properly considering your application. If you fail to lodge the application in time, then it is possible that your licence will not be granted.

5. WHAT CONDITIONS WILL APPLY TO A LICENCE?

The conditions which normally apply to licences are attached for your information. If you have a good reason for not wanting a condition to apply, you must, **when you apply for the licence**, apply for exemption from that condition.

6. WHAT OTHER DOCUMENTS MUST BE PRODUCED?

When you apply for your licence, you **must** also submit 4 copies of a plan, drawn to a suitable scale, showing full details of the premises. If only part of a building is to be used, the plan must be sufficiently complete to show the exit routes from that part direct to the open air. Plans must show details of any scaffolding or stage construction, the seating layout with gangways and passage widths, exit positions and widths (including the direction of opening of doors), and prop storage where this is likely to infringe on exit routes. Chairs require to be secured together in lengths of not less than 4 chairs.

7. HOW DO I APPLY FOR A LICENCE?

All necessary application forms are attached to this guidance note. Select the ones required, complete **all** sections of each form, and either deliver or post them with your cheque/postal order/cash (*not cash by post*) and plan to:-

The City of Edinburgh Council, Licensing Section, 249 High Street, EDINBURGH EH1 1YJ

Always make sure that you can be contacted by letter or telephone — if you change your address, write to advise this.

8. LICENCE TYPES & FEES

Go to: http://manage.edinburgh.gov.uk/Licensing/app_types/fees.htm

9. WHAT HAPPENS WHEN THE APPLICATION IS LODGED?

When a licence application is received the Licensing Section obtains reports from the Chief Constable, the Chief Fire and Safety Officer (C.F.S.O), the Department of City Development's Property Management function, the Department of Environmental and Consumer Services and a Lighting/Electrical Engineer. In compiling these reports, officials may visit the premises or contact you. On receipt of all the reports the licence is granted if there are no objections. You may be requested to attend a meeting of the Regulatory Committee at fairly short notice, if there are any problems. The licence is conditional on final inspections by the officials of the Property Management function, the Lighting/Electrical Engineer and the C.F.S.O. If the premises fail to pass these tests, or you have not set them up in their final form, the licence will be of no effect. You should therefore make certain that the premises are ready for inspection **at least 24 hours** before your first performance (Friday morning if you are to start on Saturday or Sunday). The licence and conditions attached to it must be prominently displayed at the premises at all times when members of the public are admitted.

10. WHAT CAN I DO TO ENSURE THAT THE PREMISES ARE SUITABLE?

10.1 For the Department of City Development – Property Management

The Property Management function of the City Development Department will give advice and assistance to help you ensure that the premises will be suitable. At this stage you should make a careful note of the following matters which also cover electrical and lighting matters:—

10.1.1 General Structure

The premises to be used must be generally structurally sound. They must in no way present any danger to persons frequenting the premises and must be capable of supporting the loadings imposed in a building of public assembly. Any scaffolding for staging, props or seating, must be adequately designed and constructed for the loads to which they are to be subjected.

10.1.2 Exits

- 10.1.2.1 A **minimum** of 2 exits must be available from the premises. All exits must be independent of each other and must lead directly to a place of safety. Any stairways forming part of an exit should be separated from the rest of the building by a fire-resistant enclosure and must be so constructed as to ensure safe means of egress from the building. Scenery, gathered refuse, props or any combustibles will not be allowed in exit passages.
- 10.1.2.2 Exit widths should normally be a minimum of 1100 mm although a lesser width **may** be considered where very low occupant capacities can be shown to be impossible to exceed.
- 10.1.2.3 All exit doors must open outwards in the direction of travel, to a place of safety and must not be secured by anything except panic bolts. Stewards at doors do not satisfy these requirements and will not normally be considered.

10.1.3 Exits and Secondary Lighting (Emergency Lighting)

All exit doors must be indicated as such by an internally illuminated sign bearing the word “EXIT” in letters not less than 125 mm high, illuminated by a maintained lighting system from a separate power source. A separate lighting system must also illuminate the stage, auditorium and all passages and stairways or other parts of the building to which the public are admitted and these lighting systems must be kept lighted during the occupation of the premises by the public in such a manner as to afford easy access to a place of safety. System must comply with BS5266:Pt1:1988.

10.1.4 Electrical Installation

- 10.1.4.1 All switchgear, lighting fittings, amplifiers, etc. must be earthed and made inaccessible to the public. This also includes local light switches.
- 10.1.4.2 Only proper cable connectors may be used and only correctly rated cable may serve each piece of apparatus. This cable must be in serviceable condition.
- 10.1.4.3 No cables may cross passageways or exit routes at ground level.
- 10.1.4.4 No twin flex may be used except for sound equipment.
- 10.1.4.5 The minimum size of cable to be used for emergency lighting system is 1.5 mm.
- 10.1.4.6 Fuses of proper rating must be fitted to all systems.
- 10.1.4.7 Emergency lighting bulbs must be fitted with proper lampholders, i.e. bulbs shall not be soldered direct to cable ends.
- 10.1.4.8 Emergency lighting bulbs must be to a minimum of 4 watts.
- 10.1.4.9 An Earth leakage circuit breaker of 30 mAmp rating must be fitted to protect the circuits powering electrical equipment used on stage.
- 10.1.4.10 Any other matters will be discussed on site prior to opening date. This note is intended for your guidance only and must not be regarded as an exhaustive list of requirements.

10.1.5 General

The Property Management function of the City Development Department will gladly give advice on seating layouts, exits, temporary structures and electrical installation. They can be contacted during normal office hours on the telephone numbers listed at the front of these guidance notes.

As the validity of your licence is dependent on a satisfactory report ***it is essential that all requirements are completed at least 24 hours before opening date, so that a final inspection can be carried out.***

10.2 For the C.F.S.O

The C.F.S.O will give advice and assistance on fire requirements and fire prevention. At this stage you should make a careful note of the following matters:-

10.2.1 Use of Materials

Scenery — standard scenery made up of cloth stretched on a wooden frame must be treated with fire-retardant solution.

Cloths — hanging cloths, curtains and drapings are to be similarly treated. Where properly done, the treatment should remain effective for some time, but individual cases vary.

Gauzes — gauze or muslin cloth is particularly vulnerable to fire and usually requires fresh treatment for each show. Gauzes are always tested by the Fire Prevention Officer during his visit.

Paper — paper is **NOT** to be used for scenery or for decorative purposes and certain soft building boards are also forbidden.

Polystyrene — untreated polystyrene, or other combustible expanded materials, are **NOT** allowed in places of public entertainment. Polystyrene, expanded rubber, etc. require special fire-retardant solutions before they can be allowed on stage.

Synthetic Materials — there are now many types of synthetic textiles on the market; some are very combustible and the usual treatment is ineffective. All are viewed with suspicion by the Fire Prevention Officer.

Fire-Retardant Solution — There are several proprietary brands of fire-retardant solutions which you can buy to effectively treat scenery. The material may be dipped in the solution and squeezed out but must not be rinsed in water. Alternatively the solution can be sprayed or brushed on.

10.2.2 Inspection

Where a stage production is to take place in a Licensed Hall, a Fire Prevention Officer will visit the Hall to inspect the scenery and to test where necessary. This Officer has the authority to require the removal of any scenery or stage effects which are, in his opinion, sub-standard.

10.2.3 Hazardous Effects

Having ensured that the scenery and properties on the stage are fire-resistant, it remains to consider whether any action in the play requires the use of hazardous effects, such as real flame or explosions. There are recognised theatrical effects which can be safely used and these are dealt with briefly below. **IN ALL CASES** the proposed use must be discussed first with the Fire Prevention Officer.

Real Flame — the use of real flame in candles, torches, etc. is prohibited. Satisfactory electric substitutes can be made and these only should be used. Oil lamps may only be lit by electrical means.

Lasers — the use of lasers or similar devices is not allowed unless you obtain the permission of this Council. The Council will attach conditions to the use of lasers with which you must comply and the lasers must be safely installed and operated. You can apply for permission by separate letter when you apply for your licence.

10.2.4 General

The Fire Prevention Officer will gladly give advice and test samples of material. He can be reached by telephone during office hours.

10.3 For the Department of Environmental and Consumer Services

The Department of Environmental and Consumer Services will be seeking to ensure that you comply with Food Hygiene Regulations and to ensure that your use of the premises will not create a noise nuisance. If you have any doubt about either of these matters, you should contact the Department to discuss your particular problem.

Consultation on Civic Government (Scotland) Act 1982 (Metal Dealers' Exemption Warrants) Order 2012

Regulatory Committee

27 January 2012

Purpose of report

- 1 To seek the Committee's approval to the terms of a response to the consultation paper setting out the Scottish Government's proposals to amend the scope of the Licensing Scheme for Metal Dealers.
- 2 The proposed response is at Appendix 1 to this report. The deadline for responses is 29 February 2012.

Main report

- 3 On 29 November 2011, the Scottish Government issued a consultation paper detailing its proposals to amend the scope of the Licensing Scheme for Metal Dealers. Currently, the licensing of metal dealers is regulated by sections 28 to 37 of the Civic Government (Scotland) Act 1982 ("the 1982 Act"). Those metal dealers whose annual turnover exceeds £100,000 can apply to the licensing authority for an exemption warrant, in which case they do not require a licence to carry on business as a metal dealer.
- 4 The £100,000 financial limit has not been increased since the coming into force of the 1982 Act. The Scottish Government's current proposals seek to increase that financial limit, with a view to bringing a greater number of metal dealer businesses within the regulatory framework provided by the 1982 Act. It is anticipated that this increased regulation of metal dealers would assist in the tackling of metal thefts throughout Scotland by providing greater powers to control, and take action against outlets that buy stolen metal, or allow stolen metal to be sold into the legitimate scrap metal trade.
- 5 The consultation paper seeks views on the following questions:
 - a) Do you agree that turnover based exemption from licensing should be increased from its current level of £100,000?

- b) The Scottish Government has advanced £10 million as a suitable figure for an exemption. Do you agree that this figure is appropriate?
- c) Do you have any other comments on the attached draft order?

Financial Implications

- 6 Currently the City of Edinburgh Council has issued four metal dealers' licences, all of which expire in June 2012. Three further applications for metal dealers' licences are currently pending. The fee paid for such a licence is currently £475, annually. The City of Edinburgh Council has currently granted four metal dealer exemption warrants, which are due to expire in 2014. The fee paid for a 3 year exemption is £1427. It is anticipated that any increase in the turnover based exemption will require the Council to issue a larger number of annual metal dealers licences, at the expense of applications for exemption warrants. Given the small number of such licences and exemption warrants, any decrease in revenue received by the Council is likely to be negligible. Any increased staffing burden involved in regulation will also be small given the low number of such businesses currently operating within the City of Edinburgh.

Equalities Impact

- 7 There is no relationship between the public sector general equality duty and the matters described in this report and no direct equalities impact arising from it

Environmental Impact

- 8 As this report relates to a response to proposed legislative changes, it has no direct environmental impact.

Recommendations

- 9 To approve the terms of the response in the annexation to this report.

Mark Turley
Director of Services for Communities

Appendices	1. Suggested Response to Consultation.
Contact/tel/Email	Susan Leslie, Senior Solicitor (Licensing) / 0131 529 4185 / susan.leslie@edinburgh.gov.uk
Wards affected	Citywide
Single Outcome Agreement	Not applicable

Background
Papers

Consultation paper on Civic Government (Scotland) Act 1982 (Metal
Dealers' Exemption Warrants) Order 2012.

Draft Civic Government (Scotland) Act 1982 (Metal Dealers' Exemption
Warrants) Order 2012

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APPENDIX 1

SUGGESTED RESPONSE TO CONSULTATION

Introduction

The City of Edinburgh Council (“the Council”) welcomes the opportunity to comment on the draft Civic Government (Scotland) Act 1982 (Metal Dealers’ Exemption Warrants) Order 2012 as follows:-

Do you agree that turnover based exemption from licensing should be increased from its current level of £100,000?

Yes, on the basis that the current exemption level has never been increased, and having regard to recent significant increases in the value of scrap metal and the growing problem of metal theft throughout Scotland. It is however the Council’s opinion that there should be no exemption from the licensing of metal dealers.

Do you agree that a figure of £10 million is appropriate as an increased turnover based exemption?

No – as above, it is the Council’s opinion that there should be no exemption and that all metal dealer businesses should be brought within the regulatory system.

Any other comments on the attached draft order

There are a number of comments we would offer in relation to the draft order and metal dealing in general. These are listed below:

1. There should be no exemption from licensing regardless of turnover. Continuing this exemption creates an unregulated route for the potential disposal of stolen metal.
2. If exemption warrants are to continue, a right of entry and inspection in relation to this type of permission should be added to Section 5 of the Civic Government (Scotland) Act 1982.
3. The definitions of metal dealing contained within section 37 of the Civic Government (Scotland) Act 1982 requires amendment.

It is suggested that the definition be amended as follows:

“A person carries on business as a metal dealer if he carries on a business which involves **dealing** in scrap metal, other than a business in the course of which metal is not bought except as materials for the manufacture of other articles and is not sold except as a by-product of such manufacture or as surplus materials bought but not required for such manufacture.”

The term '**dealing**' may also need to be defined to ensure that where appropriate any business through which scrap metal passes can be regulated.

The purpose of this modification is to ensure that individuals who claim to have found or been given the metal but then sell it on are regulated.

The definition of itinerant metal dealer should be amended accordingly.

4. Businesses should be required to have CCTV in operation at all sites.

For further information please contact:-

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