

Notice of Meeting and Agenda

Regulatory Committee

**Friday 20 April 2012 at 9.00 am
in the City Chambers, High Street, Edinburgh**

1 Order of Business

Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

2 Declaration of Interests

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3 Minutes (circulated – submitted for approval as correct records).

(1) Regulatory Committee of 9 March 2012.

(2) Licensing Sub-Committees of 7 and 9 March 2012.

Deputations

4 Deputation Requests (if any).

Public Entertainment

5 Public Entertainment Licensing– report by the Director of Services for Communities (to follow).

Civic Government Licensing

6 Civic Government Licensing – Standard Conditions - report by the Director of Services for Communities (circulated).

Motion

7 Commercial Dog Walking – Motion by Councillor Henderson – Submitted in terms of Standing Order 28

“Committee notes the steady increase in commercial dog walking in the city’s parks and open spaces.

Committee further notes that many commercial dog walking businesses that have been recently created are successful and well run.

Committee also notes a number of incidents where members of the public have been alarmed and in some cases attacked by dogs seemingly not under the control of their “walker” and agrees that there may be a need to consider licensing arrangements that would regulate this activity in the interests of good commercial dog walking businesses, dogs and their owners and the general public.

Such licensing arrangements may include the maximum number of dogs being walked by one person; training and insurance arrangements.

Therefore Committee requests a report looking at these issues and whether or not proposals to introduce a licensing regime for this business activity should be subject to consultation and possible implementation.”

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/cpol. 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

Public Entertainment Licensing – Public Consultation on Amendments to the Resolution

Regulatory Committee

20 April 2012

1 Purpose of report

1.1 The Regulatory Committee has considered the impact of amendments to the Civic Government (Scotland) Act 1982 on free to enter public entertainment events. At the meeting of 9 March 2012 the Committee agreed that a public consultation be carried out with a view to limiting the impact of changes on small free to enter events.

1.2 This report provides a summary of the public consultation responses and recommends that the City of Edinburgh Council Public Entertainment Resolution be amended. The report makes recommendations on interim fee levels for those events which are not excluded from the change to the legislation.

1.3 This report discharges the outstanding remit from the Committee on 9 March 2012:

‘To direct that the statutory procedure for making a variation to the City of Edinburgh Public Entertainment Resolution 1994 be commenced immediately with a view to the Committee considering any representations made about the proposed variation at its meeting on 20 April 2012.’

2 Main report

2.1 At its meeting of 9 March 2012, the Regulatory Committee noted the implications of forthcoming changes to the licensing of places of public entertainment. The Committee was concerned about the effect of the amendment to Section 41 of the Civic Government (Scotland) Act 1982 (“the 1982 Act”), whereby free to enter Public Entertainment events would require to be licensed with effect from 1 April 2012. In particular the Committee were concerned about the impact on small community or arts events.

2.2 The Regulatory Committee previously agreed a six month monitoring period for the amended licensing regime. On 9 March 2012 Regulatory Committee agreed to carry out a public consultation on proposals to amend the current Public Entertainment Resolution to exclude the following premises from the requirement to obtain a licence:

- 'places where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or moneys' worth and the capacity does not exceed 200 persons:-
- Premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
- Premises used for exhibitions of art work;
- Premises in which live music is 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; and;
- Premises used for oral recitals including poetry reading and story telling.

2.4 The categories of events currently requiring to be licensed are as set out in the Public Entertainment Resolution in Appendix 1. A copy of the draft Public Entertainment Resolution is included in Appendix 2.

3 Public consultation

3.1 To change the Public Entertainment Resolution the consultation required by the Act is a minimum of 28 days following the publication of the draft resolution in a local newspaper. The draft resolution was published in the Edinburgh Evening News on 16 March 2012. The consultation was also published on the Council website. The form which the public were invited to complete is attached at Appendix 3.

3.2 The consultation attracted a high level of response which is summarised below;

- 11,048 signatures to the Scrap the Public Entertainment Licence Petition
- 970 responses on the Council Consultation Web pages
- 5 letter or email responses

Of the 972 responses received to the consultation the main results are as follows:

- 93.3% agreed that the events listed in paragraph 2.2 above should be excluded from the requirement to obtain a licence
- 65.8% wanted other additional events excluded from the requirement to obtain a licence

The draft resolution suggests that any exempted event must take place in a premises with a capacity of no more than 200.

- 52.6% thought that the 200 person limit on capacity was too low
- 38.8% thought that the 200 person limit on capacity was about right
- 2.8% thought that the 200 person limit on capacity was too high

Types of Events

- 3.3 The public consultation has produced a broad consensus that the Committee should act to remove certain types of free to enter events from the requirement to obtain a public entertainment licence.
- 3.4 When asked what other events should be excluded from the requirement to obtain a licence four key themes were identified.

Type of Event	Number of responses
Music events (all types)	170
Theatre including Street Theatre or entertainment	52
Free Events	164
Charitable Events	142
Total responses to question 2	594

Capacity Limits

- 3.5 The draft resolution proposes that only premises which have a capacity of 200 people or less would be exempt from the requirement to obtain a licence. 967 respondents responded to this, with 507 indicating that the limit was too low. 295 respondents provided additional responses to this question but only 64 provided a suggestion as to capacity limits.

The most common response was that certain types of premises, irrespective of capacity, should be excluded from the requirement to obtain a licence these included churches and schools. Other responses proposed that different types of events such as grass roots arts or charity events should be excluded irrespective of capacity of the venue. Of those suggesting a capacity limit the average was a capacity of 455 with responses ranging from below 200 to over 1,000.

Suggested limit on capacity	Number of responses
0 to 200	1
200 to 300	4
300 to 400	12
400 to 499	22
500	22
501 to 1,000	0
Over 1,000	4

- 3.6 A common feature of response to the question of capacity limit is an assumption by the respondent that existing health and safety requirements and insurance requirements will be sufficient.
- 3.7 The public consultation also allowed general feedback. The following is a summary of the main issues raised which have been taken as expressing doubt as to whether free to enter events should be licensed.

Concern noted	Number of Responses
Detrimental to the arts	98
Impact on community events were listed as a concern having to cover additional costs which was felt to be unfair and unrealistic	75
Concerns over impact on all venues. Perception is that large venues will become unsuitable/costly, small venues will struggle with costs.	66
Concerns over impact on the festival/fringe	61
General negative impacts on culture	57
Charity/Charitable/Fund raising events would be severely impacted by having to pay additional costs	55
Grass Roots events cited as being impacted	51
Concerns over capacity limits. Churches in particular were specifically mentioned as a problem having a capacity larger than 200, but low attendance events. Other similar venues discussed included schools, community halls and libraries	29
Perceived unwanted and additional bureaucracy	25
Additional financial pressures	25
Perceived negative impact on live music, in particular for small scale events.	21
Should apply to commercial events only	19
Impact on youth projects	18
Existing Health & Safety regulations with appropriate risk assessments should be sufficient	12
Supporting Glasgow's response	12
Perceived link to funding of trams	8
Concerns over literary events, UNESCO City of literature mentioned.	7
Considered the proposals a form of censorship	8
Considered Public liability insurance should be enough, no further license should be required	5

3.8 Taking into account the feedback received from the public consultation there is broad support for the draft Public Entertainment Resolution. The issue of capacity of premises has been highlighted as a clear concern. In reaching a decision Committee should consider the risks of increasing the limit from 200 against the impact these events may have on the community. It is therefore not recommended that there be no limit and Committee is asked to consider the limit on capacity as being 500.

4 Interim fee proposals

- 4.1 Should the Committee approve an amended Public Entertainment Resolution an amended fee structure, for those free to enter events that remain and will now require a licence, will also require approval. The Committee previously set the fee at zero pending the outcome of the public consultation. The Committee had also previously decided that there would be a monitoring period of six months.
- 4.2 The Council is required to ensure that the total application fee it receives is sufficient to meet the expenses incurred in exercising its functions as licensing authority. Any special arrangements for charities have to be considered in that context.
- 4.3 Taking onboard feedback from the public consultation the following interim fee structure is proposed for those free to enter events that would require a licence. The Committee is reminded that notwithstanding any fee set an applicant may seek relief from the fee and that would be a matter to consider on an application by application basis.

Any free to enter event not excluded by the amendment to the resolution of 500 capacity or less	£30
As above with a capacity of 501-999	£75
1,000 or greater	£150

- 4.4 The period of any such licence should be restricted to the time period that the interim arrangements are intended to last and therefore should be limited to 6 months but not be granted beyond December 2012 pending review of the 6 month interim period. Additionally it would be prudent for the Committee to make clear that commercial events will be ineligible for this reduced fee.

5 Financial Implications

- 5.1 The extent to which application numbers and costs for relevant public authorities will increase over the next financial year cannot be quantified at this time. Any short term additional costs for the Council will be contained within existing budgets. These will then be assessed and recommendations reported to Committee after the initial six month period.
- 5.2 The increased cost to the Council of carrying out the necessary checks to ensure public safety is maintained will still require to be met.

6 Equalities Impact

- 6.1 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.

7 Environmental Impact

- 7.1 There is no 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.

8 Recommendations

- 8.1 It is recommended that the Committee
- a) agrees to vary the City of Edinburgh Council's Public Entertainment Resolution as set out in Appendix 4.
 - b) agree the interim fee structure for those remaining free to enter events which would require a public entertainment licence, as per any varied resolution as outlined in paragraphs 4.3 and 4.4.
 - c) agrees that the six month monitoring period previously agreed will run until the end of October 2012 and following this that a further report will be submitted to Committee.

Mark Turley
Director of Services for Communities

Appendices	1 Extract from Council licence application fees table (updated) 2 The City Of Edinburgh Public Entertainment Resolution 2012 - Draft 3 Consultation on Variation of Council's Public Entertainment Resolution 4 The City of Edinburgh Public Entertainment Resolution - Proposal
Contact/tel/Email	Andrew Mitchell, Community Safety Manager 0131 469 5822 andrew.mitchell@edinburgh.gov.uk 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	<p><u>Civic Government (Scotland) Act 1982</u></p> <p><u>Criminal Justice and Licensing (Scotland) Act 2010</u></p> <p><u>“Public Entertainment licensing – Amendments” – Report to Regulatory Committee dated 27th January 2012</u></p>

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APPENDIX 1

Civic Government (Scotland) Act 1982

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 bungee jumping and bungee 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

THE CITY OF EDINBURGH COUNCIL CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (“the Act”) DRAFT PUBLIC ENTERTAINMENT RESOLUTION

THE CITY OF EDINBURGH PUBLIC ENTERTAINMENT RESOLUTION 2012 - DRAFT

The City of Edinburgh Council, in exercise of its powers in terms of sections 9 and 41 of the Act, hereby makes the following resolution:-

- (1) Section 41 of the Act relating to Public Entertainment shall continue to have effect throughout the Council's area.
- (2) Subject to the terms of the Act, a Public Entertainment licence shall be required for the use of the premises specified in (3) below as places of Public Entertainment as from the 20th April 2012.
- (3) Subject to paragraph (4) below, the premises in the Council's area which require to be licensed under the Resolution are as follows:-
 - (a) Billiard, snooker and pool halls
 - (b) Premises used for circuses
 - (c) Premises used for 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 bungee jumping and bungee running equipment.
- (4) **BUT excluding the following places where (a) where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or money's worth and (b) the capacity does not exceed 200 persons:-**
 - (1) premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
 - (2) premises used for exhibitions of art work;
 - (3) premises in which live music is 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; and
 - (4) premises used for oral recitals including poetry reading and story telling

Acting Head of Legal and Administrative Services

Appendix 3

Consultation on Variation of Council's Public Entertainment Resolution

The variation as proposed seeks to exclude places where:- (a) members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or money's worth and (b) the capacity of the premises does not exceed 200 persons:-

1. premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
2. premises used for exhibitions of art work;
3. premises in which live music is 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; and
4. premises used for oral recitals including poetry reading and story telling

- (1) Do you agree the council should vary its Public Entertainment licence Resolution on the basis of the exclusions as detailed above?

YES/NO

- (2) Do you consider that the Council should make any additional exclusions?

YES/NO

If yes, please provide details:

- (3) Do you agree that the exclusion from licensing should be partly based on a capacity figure of 200?

YES/NO

If not, please detail your views:

- (4) Do you have any other comments to make?

APPENDIX 4

THE CITY OF EDINBURGH COUNCIL CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (“the Act”) PROPOSED PUBLIC ENTERTAINMENT RESOLUTION

THE CITY OF EDINBURGH PUBLIC ENTERTAINMENT RESOLUTION 2012 - DRAFT

The City of Edinburgh Council, in exercise of its powers in terms of sections 9 and 41 of the Act, hereby makes the following resolution:-

- (1) Section 41 of the Act relating to Public Entertainment shall continue to have effect throughout the Council's area.
- (2) Subject to the terms of the Act, a Public Entertainment licence shall be required for the use of the premises specified in (3) below as places of Public Entertainment as from the 20th April 2012.
- (3) Subject to paragraph (4) below, the premises in the Council's area which require to be licensed under the Resolution are as follows:-
 - (a) Billiard, snooker and pool halls
 - (b) Premises used for circuses
 - (c) Premises used for 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 bungee jumping and bungee running equipment.
- (4) **BUT excluding the following places where (a) where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or money's worth and (b) the capacity does not exceed 500 persons:-**
 - (5) premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
 - (6) premises used for exhibitions of art work;
 - (7) premises in which live music is 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; and
 - (8) premises used for oral recitals including poetry reading and story telling

Acting Head of Legal and Administrative Services

Dear Members of Regulatory Committee

We, the organisations listed below, welcome the opportunity to be part of the consultation process regarding public entertainment licensing.

We have met on 27th March 2012 and discussed the implications of the entertainment licensing proposals. All organisations are third sector organisations, most of them charities and thus rigorously regulated by Office of the Scottish Charity Regulator (OSCR).

Anxieties were raised, that the new legislation would become another stumbling block in the fundraising efforts of organisations already struggling financially in the present economic climate. In fact the very need for application or payment of fees will prohibit a great number of organisations from running fundraising events.

The group also expressed their concern of extra burden on the council administration staff, however small the licensing fee.

After a lively discussion, the group came up with a number of ideas and would like to share two of the most practical and non-prohibitive with you. You will notice that, as the licensing criteria is under your scrutiny, the group had introduced further items for your consideration. Please note that we have removed political organisations from the mix and concentrated on events within the third sector charity and community organisations.

1 No license required

Criteria: Charities, religious, youth, sports and community organisations.

Capacity/attendance: 0 – 1000 (compliant with Health and Safety)

Entry: Free public access with entrance fee not exceeding £... (at council's discretion)

2 Free On-line License registration

Criteria: Charities, religious, youth, sports and community organisations.

Capacity/attendance: 0 – 1000 (compliant with Health and Safety)

Entry: Free public access with entrance fee not exceeding £... (at council's discretion)

How: Register on line on a form which will direct organisations to License application website, if they exceed the criteria.

Edinburgh Voluntary Organisations' Council
North Edinburgh Childcare
Multiple Sclerosis Society Scotland
Tron Kirk Gilmerton & Moredun
Eric Liddell Centre
St Martin's Community Resource Centre
Liberton Kirk
Pilton Youth and Children's Project

Head of Legal & Administrative Services
City of Edinburgh Council
249 High Street
Edinburgh EH1 1PW
CITY OF EDINBURGH COUNCIL
LEGAL SERVICES DIVISION

Our Ref: LS/PEL/RC/Cons/12

Your Ref

Date: 16th April 2012

17 APR 2012

Dear Sir,

LICENSING (SCOTLAND) ACT 1982
**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
PUBLIC ENTERTAINMENT LICENSING
INTERIM FEE PROPOSALS/PUBLIC CONSULTATION
POLICE RESPONSE**

I refer to the above subject and wish to make the following observations.

The application process for Public Entertainment Licences allows for the arrangements and equipment to be used at relevant events to be properly assessed thereby ensuring public safety is not compromised.

The recent legislative changes, extending the requirement for a Public Entertainment Licence to free events to which the public are to be permitted access, will encompass many previously exempt events. Whilst the legislative changes were intended to deal with large scale free events, other smaller events will be similarly affected.

I note the proposal to amend the City of Edinburgh Public Entertainment Resolution to exclude specific categories of free events with a capacity not exceeding 200 persons. I am of the opinion that this proposal is appropriate but only for genuinely free small-scale events and accordingly, support the proposed 200 person cap for exemption.

I also note the proposal to adopt a minimal application fee or fee exemption. I am of the opinion that relevant applications should be considered on an individual basis and, whilst I do not oppose to the setting of a minimal fee or exemption, I believe the discretion afforded to the Committee to waive the fee or proportion of any fee should continue. Any changes to the fee system should encourage compliance with the requirements of the Act.

David JR Strang QPM BSc MSc Chief Constable

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LP/4 Edinburgh 15

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Textphone: +44 (0)131 311 3944
Email: enquiries@lbp.pnn.police.uk
Web: www.lbp.police.uk

Submitted for your consideration.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Mc...'. The signature is fluid and cursive.

Inspector,
Licensing Section



SUBMISSION TO CITY OF EDINBURGH COUNCIL PUBLIC CONSULTATION RE PROPOSED AMENDMENTS TO PUBLIC ENTERTAINMENT LICENSING REGULATION

Introduction

City of Edinburgh Council is to be applauded for taking note of the city's grassroots creative community regarding the potential effects of PELs, and the proposed amendment is a major step forward.

Some anomalies remain, however, and this consultation has opened up a golden opportunity for CEC to lead the way as a capital city, and reform the City's licensing policies across the board in order to make them fit for twenty-first century purpose at every level.

With this in mind, Section A of this submission outlines five observations.

This will be followed in Section B by three key questions.

Section C will then outline a proposal for CEC's response.

This will be followed in Section D by a conclusion and four major recommendations for how CEC should proceed.

SECTION A – OBSERVATIONS

1. The Justice Secretary's Guidelines

While the Justice Secretary's guidelines state that the change to PEL legislation was not intended to affect Scotland's thriving grassroots and community arts activities, they maintain that it is up to each local authority how they interpret the legislation.

This leaves a careless and potentially dangerous loophole that could easily be exploited by less enlightened administrations than the one currently in place.

That loophole can only be ironed out by a complete reform of the PELs laws as set down by the Scottish Government.

While it is clear that an enlightened CEC has listened to the concerns of their constituents regarding PELs, this may not always be the case.

2. Aberdeen Council's Response

With this in mind, we should perhaps look at Aberdeen Council.

As it stands, and despite what the Justice Secretary stated in his guidelines to local authorities, Aberdeen Council have agreed 'to offer a 75% reduction in the cost of public entertainment licence fees to community, charity, voluntary and religious groups in the city.'

As a positive spin on things, it is transparent only in that anyone can see through its confused logic.

Given that no fees for PELs previously existed, any proposal for 'reduced licensing fees' is a contradiction in terms.

You cannot reduce what wasn't there before.

If CEC adopts a similar stance, given the positive stance it has taken thus far, it will be a sleight of hand equally easy to see through, and is unlikely to be respected.

3. Profit and Loss

Galleries, libraries and other art-spaces, including the national galleries, do charge for events sometimes.

The National Museum of Scotland's monthly late night events are a prime example of this.

Smaller institutions such as Stills, the Collective, Edinburgh Printmakers and the National Library of Scotland also charge entrance fees for readings, screenings and discussion groups.

This isn't to make a profit, but to cover costs for artists, space hire fees, etc.

Under CEC's current legislation, despite it being none of CEC's concern, all of the above is technically illegal.

These aren't commercial ventures.

They are examples of people expressing themselves freely, and should not be penalised or be made to see it as a privilege, but as a basic human right.

4. Exemptions and Licenses

All the talk thus far has been of what events will be exempted from PELs.

This has created a set of lists that potentially generates a negative image of CEC's response.

With this in mind, might it not be more positive to note what will be licensed rather than what is not?

This will make any definitions of activities beyond CEC's remit un-necessary.

It will also ease the administrative burden on all involved.

5. April 1st.

On April 1st, the day the new Scottish Government amendments to PELs were made law, at least fifteen events took place across Edinburgh

which were effectively illegal.

A succession of low-key live music, live art, film screenings, performances, literary readings, lectures and workshops took place in an array of cafes, art spaces, beaches, fields, galleries and other unlicensed spaces.

Overall, a conservative estimate would suggest that over the course of the day, several hundred people took part in or attended these events, that took place.

To the best of knowledge, no-one was hurt during the course of the day.

Nor was anyone arrested for putting on such illegal events.

Yet, for all CEC appear to be adopting an enlightened response, and for all the Scottish Government, whose national legislation this is, has issued guidelines to all local authorities in Scotland, events such as those described remain illegal.

In a civilised, democratic society, free assembly and free expression are a basic human right, and any potential infringement of those human rights is to be taken very seriously indeed.

If PELs and/or fees are imposed on artists and community groups in Edinburgh or anywhere else, it will potentially impinge free expression, and should be opposed at every level.

To illustrate, here are several questions concerning how PELs might be implemented if a less enlightened committee were in place.

SECTION B - QUESTIONS

1. Doors Open Day

How will Doors Open Day be licensed?

The array of venues included in the annual Doors Open Day sees thousands of people pass through buildings of huge social and historical significance.

Many of these buildings might also be considered works of art, in which they effectively double up as exhibition spaces.

Under current legislation, as with all public exhibition spaces, these buildings which are also art spaces will come under the jurisdiction of PELs.

If such spaces are made exempt under the proposed amendment, this is all well and good as long as no more than 200 people pass through them.

Doors Open Day, however, attracts an audience of thousands.

Will licenses and fees be required by those hosting Doors Open Day?

If not, why not, as under the current legislation it will clearly be breaking the law?

If Doors Open Day will be subject to PELs, will each venue be liable, or will CEC be required to charge itself?

If that is the case, it will be bureaucracy gone mad.

It will also be even sillier than Highlands and Islands Council's attempting to charge a community group a three-figure sum to host an easter egg rolling competition and bonnet-making competition.

The latter actually happened.

It was, in political parlance, an 'unintended consequence' of the PELs legislation.

It could happen again.

Unless the law is reformed, unintended consequences always do.

See again the Aberdeen Council response.

2. Public Art

How will public art be affected by the current PELs legislation?

As highlighted in a previous deputation, one of the most striking, and indeed freshest examples of public art in Edinburgh is Martin Creed's steps.

These are a beautified, version of the Scotsman steps, beholden as they are with umpteen shades of exotic marble a mere stone's throw from the CEC offices.

As has also been noted, Martin Creed's steps are a work of art.

Yet they are also a public thoroughfare, allowing access to hundreds of pedestrians from one part of the city to another every day.

As with Doors Open Day, Martin Creed's steps, a piece of public art that is effectively an exhibition space which under current guidelines is defined as a place of public entertainment, sees considerably more than 200 hundred people pass through it.

Again, as Martin Creed's steps are currently in breach of the law as it stands, how is this licensed, and who is liable?

As the Fruitmarket Gallery, Creative Scotland and indeed CEC are all stakeholders in the initiative, if the current threshold of 200 people passing through Martin Creed's steps each day isn't adhered to under the current law, are we likely to see the staff of all these

institutions fined or jailed?

This is the logical conclusion of the law as it stands.

3. Definition of 'Art' and 'Entertainment' – The Scream Example

Why are exhibitions and artistic activity included under the same legislation as tanning salons and bungee jumping?

While this is not a value judgement, these three activities are nevertheless very different things.

Yet, under existing legislation, all are defined as places of public entertainment.

While art and entertainment aren't always mutually exclusive, neither do such definitions always serve each other easily.

To illustrate this, one might look to the exhibition of work by Edvard Munch currently running at the National Galleries of Scotland.

One of the main attractions of the exhibition is Munch's painting, *The Scream*.

This is a harrowing portrait of inner anguish that could hardly be defined as popular entertainment.

Yet *The Scream* has become an iconic and easily recognisable image, not just in the art world where one might expect such recognition, but also among the mainstream audiences currently packing the gallery to get a glimpse of Munch's harrowing vision.

In Oslo, where *The Scream* is housed as part of the City's permanent collection, the gallery where it is hung is frequently packed with coach parties of camera-clad tourists all snapping away as if it was the shiny, happy stuff of picture postcards to send home.

In the room beyond the gallery, the souvenir shop does a roaring trade with posters, coasters and stationary, all bearing *The Scream's* image.

Something about *The Scream*, then, must be hugely entertaining, yet it is also a major work of art.

While *The Scream's* current tenure at the National Gallery of Scotland will no doubt be covered by that venue's own licensing regime – although it would be useful for CEC to clarify what licensing laws are in place in the larger institutions - how would it be defined by PELs if it were hung in a smaller, unlicensed space?

Should Munch's painting be lumped in with bungee jumping and tanning salons as a place of public entertainment?

Arguably the expressions on people's faces as they're launched into the air on the giant piece of elastic that is essential to bungee jumping resembles the terror captured by Munch?

And what if The Scream were shown in a tanning salon which was used as an exhibition space, which, under the same licensing laws, it effectively could be?

Might the figure in the painting's ghost-like demeanour be rendered a far more worrying orange hue?

SECTION C - CEC'S Response

Given the situation CEC now finds itself in regarding a law not of its making, how should it respond?

Perhaps, in the spirit of enlightenment CEC has demonstrated thus far regarding PELs, it could take things further, and actually enable Edinburgh's grassroots creative community to thrive even more than it already does.

The current economic downturn has left many CEC-owned buildings empty.

In the spirit of supporting and encouraging creative activity which has already proven to feed Edinburgh's many arts festivals and beyond, perhaps, as with Doors Open Day, these spaces too should be opened up to the community.

Not just for one day as with Doors Open Day, but perhaps indefinitely, or at least until the economy gets better.

Why not allow artists and community groups of all kinds access to these empty CEC-owned buildings currently going to wrack and ruin, charge a peppercorn rent for each and put them in charge of their own space?

This would be the reverse of what the existing PELs imply in terms of charging them for the privilege to create.

By effectively creating a brand new network of grassroots not-for-profit studios, art-spaces and community centres overnight, it would instead give the city's creative community the perfect license to make things happen, on their own terms and at minimal cost, both to them and the City.

As with April 1st, it is unlikely that any artists will be hurt in such undertakings.

Quite the reverse, in fact.

Chances are they will thrive.

SECTION D – CONCLUSION AND RECOMMENDATIONS

1. CONCLUSION.

There was talk several years ago of creating something called a

'cultural quarter' in Edinburgh.

This was to be on the site of the old New Street bus depot, which was the original home of the Bongo Club, one of the city's most crucial independent spaces.

The Bongo was demolished, but before a cultural quarter could be built on its ruins, the money ran out.

Where once upon a time a real live cultural quarter stood, a gap site remains to this day.

Cheap studio, exhibition and performance space in Edinburgh is so hard to come by that this too might be said to be a gap site.

So by all means, pass the amendment to the current legislation wholeheartedly and without any hesitation.

But let's go further.

The last thing the City needs is a big glossy cultural quarter imposed on it with values more beneficial to property developers and breweries than grassroots artists, artspaces and community groups.

It needs something looser, and perhaps messier and harder to define than that, where people can explore their creativity without the pressures of being part of some ill-defined 'centre of excellence'.

With a little bit of vision, CEC can confirm what grassroots arts and community groups already know; that, as long as they're not harming anyone or putting anyone's life in danger, the freedom of the city is theirs, and always has been.

Without it, there would be no Doors Open Day, no Munch, and no Martin Creed's steps.

And without them, and without all the grassroots artistic and community activity that PELs are effectively penalising for no reason other than because they can, Edinburgh will have lost its heart.

2. Recommendations

With this in mind, CEC should be mandated to do three things.

i) Pass CEC's proposed amendment.

All proposed fees and PELs should be abolished as outlined in the amendment.

It should, however, outline what is subject to license, rather than what isn't, which is none of CEC's concern.

ii) Extend capacities in the amendment from 200 to 500.

More than 500 people pass through Martin Creed's steps every day

unharmful, and considerably more visit Doors Open Day every year.

We do not need more legislation where people gather.

If anything, we need less.

iii) Open up a major review of CEC's complete licensing procedure.

This should include a full dialogue with the city's creative stakeholders that exist in the City beyond the major festivals and institutions which couldn't exist without the grassroots endeavours that feed them.

Small-scale artspace, groups and individuals are the lifeblood of the City's creative infrastructure, and should be recognised and respected as such.

iv) Open up the city's empty and derelict spaces.

This should be done with a view to enabling artists and community groups to utilise them on a par with other European capital cities.

The result of such vision will enable Edinburgh not just to continue its status as one of the most enlightened and creative cities in the world.

It will also demonstrate that Edinburgh is a pioneer of artistic activity from the ground up, and which feeds into the city's creative infrastructure at local, national and international level.

This won't just be for the Scottish Government's Year of Creative Scotland.

It will last a lifetime.

Steering Group
Reform Public Entertainment Licenses Campaign Edinburgh

April 13th 2012

Committee Minutes

Regulatory Committee

Edinburgh, 9 March 2012

Present:- Councillors Munn (Convener), Lang (Vice-Convener), Cairns, Dundas, Henderson, Kate MacKenzie, Mowat, Perry and Snowden.

1 Minutes

Decision

- 1) To approve the minutes of the Regulatory Committee of 6 and 16 December 2011 and 27 January 2012 as correct records.
- 2) To approve the minutes of the Licensing Sub-Committee of 14 and 16 December 2011, 25 and 27 January and 24 February 2012 as correct records.

2 HMO Licensing – New Legislation and Guidance

Details were provided of the new legislative and statutory provisions relating to HMO licensing.

Decision

To note the report.

(Reference – report by the Director of Services for Communities, submitted.)

3 HMO Licensing – Proposed Amendments to Property Standards and Licensing Conditions

Details were provided of proposed amendments to take account of new HMO licensing statutory Guidance issued by the Scottish Government.

Decision

To approve:

- 1) The revised property standards as detailed in Appendix A of the report by the Director of Services for Communities.
- 2) The revised licensing conditions as detailed in Appendix B of the report by the Director of Services for Communities.

(Reference – report by the Director of Services for Communities, submitted.)

4 Public Entertainment Licensing – Interim Fee Proposals

a) Deputation – Edinburgh Stop PEL Changes Campaign

Neil Cooper of the Edinburgh Stop PEL Changes Campaign advised that since the initial publishing of the legislation there had been constructive dialogue with elected members on the matter and that it had also been the subject of discussion at First Ministers question time in the Scottish Parliament.

Edinburgh had a diverse artistic community which ranged from the large festivals to the loose knit network of free admission shows, photography and art exhibitions. There was a long history of smaller events in the city which allowed new artists to exhibit their works without the need to go through the licensing process.

The potential of the new legislation was to effectively end the staging of small scale events; it would also have an effect on parts of the major festivals in the city. Edinburgh had a history of supporting artists with many going on to receive national acclaim, most recently FOUND winning a BAFTA and gaining their first Creative Scotland commission.

In conclusion he asked that the existing situation be maintained and that art in the city be allowed to flourish.

Regulatory Committee
9 March 2012

b) Report by the Director of Services for Communities

At its meeting on 27 January 2012 the Committee had considered the implications of forthcoming changes to the licensing of places of public entertainment and agreed amongst other things that the Director of Services for Communities report either through the budget process or to the meeting of the Regulatory Committee on 9 March 2012 on proposals for an interim fee during a six month monitoring period for existing events that will now be required to apply for a licence.

Details were provided of three possible fee options, a minimal fee or fee exemption, introduction of additional tiers to the existing fee structure, and to split the payment arrangements for application fees in relation to certain categories of event/applicant.

Decision

- 1) To adopt option a) as set out in paragraphs 2.6 to 2.8 of the report by the Director of Services for Communities with the proviso that the minimum fee detailed in paragraph 2.7 is to be nil.
- 2) To determine subject to statutory consultation to vary the City of Edinburgh Public Entertainment Resolution 1994 to exclude from the scope of the Resolution, the following places where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation without payment of money or moneys' worth and the capacity does not exceed 200 persons:-

Premises used for functions held by charitable, religious, youth, sporting, community, political or similar organisations;
Premises used for exhibitions of art work;
Premises in which live music is 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; and;
Premises used for oral recitals including poetry reading and story telling.

- 3) To direct that the statutory procedure for making a variation to the City of Edinburgh Public Entertainment Resolution 1994 be commenced immediately with a view to the Committee considering any representations made about the proposed variation at its meeting on 20 April 2012.
- 4) To note that in the interim period the Council will prioritise licensing of those free to enter events which are large scale.

Regulatory Committee
9 March 2012

- 5) To discharge the outstanding remit relating to the impact of changes to legislation governing public entertainment licensing following the meeting on 27 January 2012.

(References – Regulatory Committee 27 January 2012 (item 2); report by the Director of Services for Communities, submitted.)

5 Second Hand Dealing in Clothing and Textiles

On 16 December 2011 the licensing Sub-Committee in response to an application for a second hand dealer licence, requested that the Director of Services for Communities and the Chief Constable review and propose amendments to the standard conditions of licence.

Details were provided of a change in the standard conditions of licence with regard to second hand dealing in clothing and textiles.

Decision

- 1) To note the contents of the report.
- 2) To approve the Standard Licence Conditions for Second Hand Dealers – Clothing etc as detailed in appendix 1 of the report.
- 3) To approve a wider review of licensing conditions in relation to the sale of second hand goods be carried out and a report be brought to a future committee.

(References – Licensing Sub-Committee 16 December 2011 (item 1); report by the Director of Services for Communities, submitted.)

Committee Minutes

Licensing Sub-Committee of the Regulatory Committee

Edinburgh, 7 March 2012

Present:- Councillors Munn (Convener), Cairns, Kate MacKenzie, Mowat, Perry and Snowden.

1 Wheelchair Accessible Taxis – Fitness of Taxi Drivers

The Director of Services for Communities provided details of twelve requests from taxi drivers for exemptions from compliance with Condition 129 of the Council's Standard Licensing Conditions for Taxis, Private Hire Cars, Taxi Drivers and Private Hire Car Drivers on the basis of a medical condition.

The Council's Medical Adviser had recommended that the exemptions be granted as detailed in the Appendix to the report by the Director of Services for Communities.

Decision

To grant the exemptions as detailed in the Appendix to the report by the Director of Services for Communities.

(Reference – report by the Director of Services for Communities, submitted.)

2 Resolution to Consider in Private

The Sub-Committee, under Section 50(A)(4) of the Local Government (Scotland) Act 1973, excluded the public from the meeting for the following items of business on the grounds that they involved the disclosure of exempt information as defined in Paragraphs 3, 12 and 14 of Part 1 of Schedule 7(A) of the Act.

Licensing Sub-Committee of the
Regulatory Committee
7 March 2012

3 Chair

The Convener vacated the chair and Councillor Cairns was appointed as chair for consideration of the following item.

4 Public Entertainment Licence – Suspension

The Director of Services for Communities advised the committee of a complaint received from the Council's Food Health and Safety Manager in connection with the holder of a Public Entertainment Licence.

The licence holders were heard.

Decision

1. To note the action taken by the director of Services for Communities in consultation with the Convener of the Regulatory Committee in terms of Standing Order 63 to suspend the licence with immediate effect on 3/2/2012 until 7/3/2012.
2. To note that renewal of the licence is due for consideration and to take no further action..

Declaration of interest

Councillor Munn declared a non-financial interest in the item as he had previous discussion with the licence holders and left the room during consideration of the matter.

(Reference – report by the Director of Services for Communities, submitted).

5 Chair

Councillor Cairns vacated the chair, and the Convener resumed the chair.

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Regulatory Committee
7 March 2012

6 Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982

The Director of Corporate Governance provided details of 19 applications for Miscellaneous Licences under the Civic Government (Scotland) Act 1982.

The Committee agreed, in the interests of public safety, to hear objections to applications submitted outwith the 28 day period in terms of Paragraph 3(i) of Schedule 1 of the Civic Government (Scotland) Act 1982.

Decision

That the applications be determined as detailed in the Confidential Schedule, signed by the Convener, with reference to this minute.

Dissent

Councillor Mowat asked that her dissent be recorded in relation to Item B2.17 of the foregoing item.

Chair

The Convener vacated the chair and Councillor Cairns was appointed to the chair for items B2.18 and B2.19.

(References – list of applications, submitted.)

7 Taxi Driver's Licence – Police Comment (Agenda Item B3)

The Director of Services for Communities advised the committee of a comment from the Chief Constable in respect of a complaint from a member of the public regarding the holder of a Taxi Driver's Licence.

The licence holder was heard.

Decision

To note the report and to take no action on the matter.

(Reference – report by the Director of Services for Communities, submitted)

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8 Private Hire Car Driver's Licence - Renewal – (Agenda Item B4)

At its meeting on 25 January 2012, the Sub Committee continued consideration of the renewal application for further information, to include a judgement relating to this case by Edinburgh Sheriff Court on 7.12.11.

The licence holder's representative was heard.

Decision

To grant the renewal licence subject to the Council's standard licensing conditions for this licence.

(Reference – report by the Director of Services for Communities, submitted, Minute of the Licensing Sub-Committees 8 September 2010, 6 October 2010, 10 November 2010, 8 December 2010 and 25 January 2012)

9 Private Hire Car Driver's Licence – Suspension (Agenda Item B5)

The Director of Services for Communities provided details of a complaint received by the Chief Constable against the holder of a Private Hire Car Driver's Licence.

Decision

To suspend the licence, with immediate effect until determination of any application for renewal of licence.

(Reference – report by the Director of Services of Communities, submitted.)

10 Taxi Driver's Licence – Suspension (Medical) (Agenda Item B6)

The Director of Services for Communities advised the Committee of the terms of a medical report.

The licence holder and his representative was heard.

Decision

To continue the matter to the meeting of the 18 April 2012, to allow the applicant to obtain further medical information/report from his neurologist.

(Reference – report by the Director of Services for Communities, submitted)

Committee Minutes

Licensing Sub-Committee of the Regulatory Committee

Edinburgh, 9 March 2012

Present:- Councillors Munn (Convener), Lang (Vice-Convener), Cairns, Dundas, Kate MacKenzie, Mowat, and Snowden.

1 Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006

Details were provided of applications for miscellaneous licences under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006.

Decision

To determine the applications as detailed in the Appendix to this minute.

Chair

The Convener (Councillor Munn) vacated the chair and the Vice-Convener (Councillor Lang) assumed to the chair for agenda items 3.11 to 3.15.

(Reference – list of applications, submitted.)

2 Civic Government (Scotland) Act 1982 – Notification of Procession – Scottish Defence League

Details were provided of notification of a public procession in the city centre by the Scottish Defence League (SDL) to be held on Saturday 26 May 2012.

The Organiser of the SDL procession, the Chief Constable and the relevant Council Officers were heard.

Licensing Sub-Committee
of the Regulatory Committee
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Decision

To continue consideration of the matter to the meeting of the Licensing Sub-Committee on 20 April 2012 for further discussions with the applicant on the proposed route

(Reference – report by the Acting Director of Corporate Services, submitted.)

3 Resolution to Consider in Private

The Sub-Committee, under Section 50(A)(4) of the Local Government (Scotland) Act 1973, excluded the public from the meeting for the following items of business on the grounds that they involved the disclosure of exempt information as defined in Paragraphs 3, 12 and 14 of Part 1 of Schedule 7(A) of the Act.

4 Second Hand Dealer's Licences – (1) Suspension Requests, (2) Objections to Variations and (3) Objections to New Applications

On 16 December 2012 the Sub-Committee considered of a report by the Director of Corporate Governance providing details of correspondence received from the Chief Constable, requesting the suspension of four Second Hand Dealer Licences, objecting to requests to vary four Second Hand Dealer Licences and objections to two applications for new Second Hand Dealer Licences for various addresses throughout the city.

The Sub-Committee agreed:-

- 1) To continue the suspension request for a report to the Regulatory Committee on 9 March 2012, reviewing the condition requiring the recording of items bought and sold.
- 2) To vary the licenses to 9 March 2012 to allow each bag of clothes to be treated as one item, all records be kept in a bound book as detailed in the standard licensing conditions for this category of licence.
- 3) To continue consideration of the new applications to 9 March 2012 for the outcome of the report reviewing the condition requiring the recording of items bought and sold.

The Director of Corporate Governance advised of the decision taken by the Regulatory Committee to approve new standard conditions for second hand dealers, and requested the Committee to reconsider the submissions by the Chief Constable taking into account the Regulatory Committee's decision

Licensing Sub-Committee
of the Regulatory Committee
9 March 2012

The Chief Constable was heard.

Decision

- 1) To suspend the 4 licences as detailed in the Confidential Schedule, signed by the Convener with immediate effect until expiry.
- 2) To refuse the variation requests as detailed in the Confidential Schedule, signed by the Convener.
- 3) To refuse the licence applications for the premises as detailed in the Confidential Schedule signed by the Convener in terms of paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982.

(References – Licensing Sub-Committees of the Regulatory Committee 2 November 2011 (minute item 1.9), 16 December 2011 (minute item 3; report by the Director of Corporate Governance, submitted.)

5 Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006

Details were provided of applications for miscellaneous licences under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006.

Decision

To determine the applications as detailed in the Confidential Schedule, signed by the Convener, with reference to this minute.

(Reference – list of applications, submitted.)

6 Window Cleaners Licence – Suspension

The Director of Services for Communities provided details of a complaint by the Chief Constable against the holder of a Window Cleaners Licence advising that they were no longer a fit and proper person to hold such a licence. The Sub-Committee was invited to consider whether or not to suspend the licence, with or without immediate effect.

Decision

To suspend the licence with immediate effect until expiry

(Reference- report by the Director of Services for Communities, submitted)

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7 Late Hours Catering Licence – Suspension

The Director of Services for Communities provided details of a complaint by the Chief Constable against the holder of a Late Hours Catering Licence advising that they were no longer a fit and proper person to hold such a licence. The Sub-Committee was invited to consider whether or not to suspend the licence, with or without immediate effect.

The licence holder was heard

Decision

To suspend the licence with immediate effect until expiry

(Reference- report by the Director of Services for Communities, submitted.)

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APPENDIX

(As referred to in item 1 of the foregoing Minute)

Applications for Miscellaneous Licences

Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
Item 3.1 - Application for Public Entertainment Licence - Raymond Inverarity - 278 Bonnington Road	Sauna/ Massage/ Sun Bed/ Escort 1 Year Licence Monday – Sunday 1000 – 0100 (New Application)	15.06.12	To grant the licence subject to the council's standard licensing conditions for this category of licence and the hours of operation being 10 am to 10 pm daily (On a division) See Note Below
Item 3.2 - Application for Street Trader Licence with employee - Fishwives Causeway - Robert Balloch	Hot and cold snacks, tea coffee and soft drinks (New Application)	10.04.12	To note that this application had been withdrawn from the agenda
Item 3.3 - Application for Second Hand Dealer Licence - 136 Nicolson Street - The Clothing Bank Limited	Buying used textiles from the public, selling vintage clothing Mon – Sun 0800 -2030 hrs (New Application)	23.03.12	To grant the licence subject to the Council's Standard Conditions for this category of licence.

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Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
Item 3.4 - Application for Second Hand Dealer Licence Variation - 136 Nicholson Street - The Clothing Bank Limited	To use computerised records in place of a transaction book	23.03.12	To grant a variation of licence to allow the use of computerised records in place of transaction book
Item 3.5 - Application for House in Multiple Occupation Licence - 26(3F2) Dundas Street - Crawford G Gordon	4 Occupants (Renewal Application)	28.05.12	Continued to meeting of 20 April 2012 for:- 1) The submission of the correspondence between the managing agent and the objector Mr Cathro 2) The applicant to obtain a building warrant for the new shower in the property
Item 3.6 - Application for House in Multiple Occupation Licence - 11 London Street - Catherine Loudon	6 Occupants (Renewal Application)	07.05.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence.
Item 3.7 - Application for House in Multiple Occupation Licence - 7(1F) St Vincent Street - Lister City Holding Limited	5 Occupants (Renewal Application)	28.05.12	To refuse the application in terms of paragraph 5(3) (c)(i) of Schedule 1 of the Civic Government (Scotland) Act 1982.

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Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
Item 3.8 - Application for House in Multiple Occupation Licence - 22A & 24A Windsor Street - Arvan and Aran Handa	4 & 5 Occupants (New Application)	21.08.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation.
Item 3.9 - Application for House in Multiple Occupation Licence - 9(2F1) Montague Street - Latha Kulasuriya	Occupants 3 (Renewal Application)	12.03.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence.
Item 3.10 - Application for House in Multiple Occupation Licence - 13(3F2) Annandale Street - Fenner Austin	Occupants 5 (New Application)	07.05.12	To repel the objections and grant the licence subject to – 1. the Council's Standard Conditions for this category of licence; 2. The number of tenants to be reduced to 4 on the completion of the current tenancy 3. An Edinburgh based managing agent to be appointed; and 4. The managing agent to discuss with the Director of Services for Communities the concerns raised regarding communication with the tenants on fire prevention issues

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Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
<p>Item 3.11 - Application for a Second Hand Dealer Licence - 144 Newhaven Road - Manmohan Singh</p>	<p>Sale of motor vehicles on premises for occasional visitors to peruse. No repairs, valeting, cleaning etc to take place on the premises. By appointment only Monday – Sunday 10 am – 7 pm</p> <p>(New Application)</p>	<p>17.07.12</p>	<p>To note the application had been withdrawn</p>
<p>Item 3.12 - Application for a Second Hand Dealer Licence - 25(Flat 1) Springfield Street - Wojciech Mikolajczyk</p>	<p>24 hr Sale of cars advertised on the internet</p>	<p>18.04.12</p>	<p>1. To invite the applicant to withdraw the application</p> <p>2. To authorise the Director of Services for Communities to refuse the application in terms of paragraph 5(3)(c)(i) and (d) of Schedule 1 of the Civic Government (Scotland) Act 1982 if it has not been withdrawn by 16 April 2012</p>
<p>Item 3.13 - Application for a Market Operator Licence - Pedestrian Area, South Section of Castle Street - Continental Market Ltd</p>	<p>1 Year</p> <p>9 am – 6 pm</p> <p>(New Application)</p>	<p>16.06.12</p>	<p>To note the application had been withdrawn</p>

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Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
Item 3.14 - Application for House in Multiple Occupation Licence - 2(2F1) Barony Street - The JWR Seligman Settlement Trust	3 Occupants (New Application)	09.09.12	1) To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation. 2) The installation of carpets with good quality underlay in the lounge.
Item 3.15 - Application for House in Multiple Occupation Licence - 16(2F1) Warrender Park Crescent - Fergus R G Craig	3 Occupants (New Application)	18.09.12	Continued to meeting of 20 April 2012 to allow the applicant to attend
Item 3.16 - Application for House in Multiple Occupation Licence - 51(Flat 25) Caledonian Crescent - William I J D Wheeler	3 Occupants (New Application)	19.09.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation.

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Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
<p>Item 3.17 - Application for House in Multiple Occupation Licence - 51(Flat 15) Caledonian Crescent - William I J D Wheeler</p>	<p>3 Occupants (New Application)</p>	<p>19.09.12</p>	<p>To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation.</p>
<p>Item 3.18 - Application for House in Multiple Occupation Licence - 13(3F1) Rochester Terrace - Alan Thomson</p>	<p>5 Occupants (New Application)</p>	<p>08.10.12</p>	<p>Continued to meeting of 20 April 2012 to allow the Director of Services for Communities to investigate outstanding matters</p>
<p>Item 3.19 - Application for House in Multiple Occupation Licence - 1 Muireston Crescent Lane - Shastra Property and Development Limited</p>	<p>4 Occupants (New Application)</p>	<p>31.10.12</p>	<p>To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence</p>
<p>Item 3.20 - Application for House in Multiple Occupation Licence - 3 Muireston Crescent Lane - Shastra Property and Development Limited</p>	<p>4 Occupants (New Application)</p>	<p>31.10.12</p>	<p>To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation.</p>

Licensing Sub-Committee
of the Regulatory Committee
9 March 2012

Agenda Item No/Type of Licence Applicant/ Premises	Conditions applied for	Determination Date	Decision
Item 3.21 - Application for House in Multiple Occupation Licence - 4 Muireston Crescent Lane - Shastra Property and Development Limited)	4 Occupants (New Application)	31.10.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence
Item 3.22 - Application for House in Multiple Occupation Licence - 7 Muireston Crescent Lane - Shastra Property and Development Limited	4 Occupants (New Application)	31.10.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence
Item 3.23 - Application for House in Multiple Occupation Licence - 5 (Flat 18) Saunders Street - Stephen and Victoria Dodds	3 Occupants (New Application)	19.12.12	To repel the objections and grant the licence subject to the Council's Standard Conditions for this category of licence and also that the licence shall not come into effect until a date agreed by the Council's Joint Inspection Team where there has been full compliance of the Council's Standards for Houses in Multiple Occupation.

Note

Item 3.1 – Public Entertainment Licence – Raymond Inverarity – 278 Bonnington Road

Motion

To refuse the application in terms of paragraph 5(3) (c)(i) of Schedule 1 of the Civic Government (Scotland) Act 1982.

- moved by Councillor Lang, seconded by Councillor Cairns.

Amendment

To grant the licence subject to the council's standard licensing conditions.

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- moved by Councillor Munn, seconded by Councillor Mowat.

Voting

For the motion	3 votes
For the amendment	3 votes

There being an equal number of votes for the motion and the amendment, the Convener used his casting vote in favour of the amendment.

Decision

- 1) To grant the licence subject to the council's standard licensing conditions for this category of licence.
- 2) To agree the hours of operation be from 10 am to 10 pm daily.

Civic Government licensing – Standard Conditions

Regulatory Committee

20 April 2012

1 Purpose of report

- 1.1 To advise the Committee of the impact of amendments to the Civic Government (Scotland) Act 1982 affecting the conditions attached to licences granted and renewed by the Council as licensing authority.
- 1.2 To ask the Committee to note these amendments and to approve changes to the standard conditions of licence as referred to in this report.

2 Main report

- 2.1 The Committee will be aware of a number of changes to the Civic Government (Scotland) Act 1982, by means of the Criminal Justice and Licensing (Scotland) Act 2010. The 2010 Act introduces the concepts of “mandatory” and “standard” licence conditions within the 1982 Act licensing regime. Mandatory conditions are those which the Scottish Ministers may make by statutory instrument from time to time.
- 2.2 The licensing authority may determine its own sets of conditions to which licences granted (and renewed) by the authority are to be subject. These conditions are to be referred to as “standard conditions”. The amendments to the 1982 Act specify that standard conditions have no effect – (a) unless they are published, and (b) so far as they are inconsistent with any mandatory conditions.
- 2.3 The Scottish Ministers have not yet issued any mandatory conditions therefore at this time only the publication requirement as per point (a) above must be met to ensure that the standard conditions in place have due effect.
- 2.4 The conditions of licence used by the Council in considering the grant of licences in terms of the 1982 Act are accessible on the Council’s website and in each case are identified on the website as being “standard conditions”. The relevant, affected licence categories are as follows:-

- Taxi Driver
- Private Hire Car Driver
- Taxi Vehicle

- Private Hire Car vehicle
- Second-hand Dealer
- Knife Dealer
- Metal Dealer
- Itinerant Metal Dealer
- Boat Hire
- Street Trader
- Market Operator
- Public Entertainment
- Indoor Sports Entertainment
- Late Hours Catering
- Window Cleaner
- Sex Shop
- Skin Piercing and Tattooing
- Hire Car Booking Office

- 2.5 It is noted however that there are some inconsistencies in the labelling of the individual sets of conditions. In order to ensure that the amendments to the 1982 Act do not strike out the conditions used by the Council, it is proposed that each set of conditions should be clearly labelled as being "Standard Conditions". It is suggested that the availability, and identification, of the standard conditions on the website will provide adequate means of publication.
- 2.6 In due course, in the event of the Scottish Ministers issuing sets of mandatory conditions which impact upon the Council's duly identified standard conditions, the latter will require to be reviewed to ensure that there is no inconsistency with the mandatory conditions. No action is required at this stage, however the situation will be monitored and any future review of conditions will be reported to Committee.
- 2.7 The relevance of "standard conditions" becomes clearer when considering the amendment made to paragraph 5 of schedule 1 to the 1982 Act. Previously in considering an application for licence the Council was required to:-
- (a) grant or renew unconditionally;
 - (b) grant or renew subject to conditions; or
 - (c) refuse to grant or renew.

The Act now requires that where an application for licence is made, the Council shall:-

- (a) grant or renew;
- (b) refuse to grant or renew

and in granting or renewing the Council may (a) disapply or vary any standard conditions which apply to the licence and/or (b) impose conditions in addition to mandatory or standard conditions to which the licence is subject.

In other words, the standard (and any mandatory) conditions will apply in the event of grant of licence unless the Council expressly chooses otherwise.

2.8 Amended sets of "standard conditions" will be prepared in advance of the committee meeting and will be available in member group rooms.

3 Financial Implications

3.1 The publication requirement for confirming standard conditions already being met by means of identification on the Council's website, the cost involved is minimal. The existing sets of conditions can be appropriately labelled and will be made available online.

4 Equalities Impact

4.1 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 There is no environmental impact arising from the matters outlined in this report.

6 Recommendations

6.1 It is recommended that the Committee

- a) Notes the terms of the amendments to the Civic Government (Scotland) Act 1982 with regard to standard conditions; and
- b) Approves the arrangements proposed to ensure the preservation of the Council's existing sets of standard conditions.

Mark Turley
Director of Services for Communities

Appendices

Contact/tel/Email Andrew Mitchell, Community Safety Manager
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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 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”

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”

Background Papers

[Civic Government \(Scotland\) Act 1982](#)
[Criminal Justice and Licensing \(Scotland\) Act 2010](#)