

# Notice of meeting and agenda

## Regulatory Committee

**2.00 pm, Monday, 8 September 2014**

Dean of Guild Court Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend.

### Contact

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## **1. Order of business**

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

## **2. Declaration of interests**

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- 2.1 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. Deputations**

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- 3.1 If any.

## **4. Minutes**

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- 4.1 Regulatory Committee of 20 June 2013 (circulated – submitted for approval as a correct record).
- 4.2 Licensing Sub-Committees of 18, 20 June and 22, 23 July (2), 13 and 15 August 2014 (circulated – submitted for approval as correct records).

## **5. Work Plan and Rolling Actions Programme**

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- 5.1 Rolling Actions Programme (circulated)

## **6. Executive decisions**

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- 6.1 Licensing Policy Development – Street Trading - Castle Street – report by the Acting Director of Services for Communities (circulated).
- 6.2 Licensing Policy Development – Market Operators Fees – report by the Acting Director of Services for Communities (circulated).
- 6.3 Review Late Hours Catering Licensing – report by the Acting Director of Services for Communities (circulated).
- 6.4 Update on Licensing Refunds Policy – report by the Acting Director of Services for Communities (circulated).
- 6.5 Demand for Taxis: Six monthly update – report by the Acting Director of Services for Communities (circulated).
- 6.6 Transfer of the Taxi Examination Centre – report by the Acting Director of Services for Communities (circulated).
- 6.7 Period of Licences – report by the Acting Director of Services for Communities (circulated).

- 6.8 Consultation - Air Weapons and Licensing (Scotland) Bill – report by the Acting Director of Services for Communities (circulated).

## **7. Routine decisions**

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- 7.1 None

## **8. Motions**

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- 8.1 None

### **Carol Campbell**

Head of Legal, Risk and Compliance

### **Committee Members**

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Councillors Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Cairns, Gardner, Bill Henderson, Heslop and Redpath.

### **Information about the Regulatory Committee**

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The Regulatory Committee consists of 9 Councillors and is appointed by the City of Edinburgh Council. The Regulatory Committee usually meets every eight weeks.

The Regulatory Committee usually meets in the Dean of Guild Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

### **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Laura Millar, Committee Services, City of Edinburgh Council, Waverley Court, Business Centre 2.1, 4 East Market Street Edinburgh EH8 8BG, Tel 0131 529 4319, e-mail [laura.millar2@edinburgh.gov.uk](mailto:laura.millar2@edinburgh.gov.uk)

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

## Regulatory Committee

9.30 am, Friday 20 June 2014

### Present

Councillor Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Gardner, Heslop, Lunn (substituting for Councillor Cairns) and Redpath.

### 1. Minutes

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#### Decision

- 1) To approve the minute of the Regulatory Committee of 4 April 2014 as a correct record.
- 2) To approve the minutes of the Licensing Sub-Committees of 2 and 4 April and 16, 21, 23 May 2014 as correct records.

### 2 Rolling Actions Programme

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As part of a review of the Council's political management arrangements, the Council had approved a number of revisions to committee business processes, including the introduction of a Rolling Action Programme to Committees to track committee business.

The Regulatory Committee Rolling Actions Programme for 20 June 2014 was presented.

#### Decision

- 1) To note the first Rolling Actions programme for the Regulatory Committee.
- 2) To note that future actions agreed by the Committee calling for further reports or information would be added to Actions Programme.

(References – Act of Council No. 12 of 24 October 2013; Rolling Actions Programme – 20 June 2014, submitted.)

### 3. Work Plan Update

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The Regulatory Committee on 15 November 2013 agreed a Work Plan which included a review of key policies which were vital in ensuring the licensing system remained fit for purpose.

An update on progress with the current Regulatory Committee work plan outlined activity which would form the core of Committee business and addressed outstanding policy issues within the remit of the Committee.

Additionally, the work plan linked to the programme to modernise the licensing system to ensure that it would be customer focussed.

#### **Decision**

To note the Work Plan.

(Reference – Regulatory Committee 15 November 2013 (Item 3); report by the Acting Director of Services for Communities, submitted)

### 4. Appointment to Sub-Committees and Working Groups – 2014-15

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The Regulatory Committee is required to annually re-appoint the membership of its Sub-Committees and Working Groups.

#### **Decision**

- 1) To appoint the membership of the Licensing Policy Development: Member/Officer Working Group for 2014/15 as detailed in the appendix to the report by the Director of Corporate Governance.
- 2) To note the current membership of the Working Group which were considering the Street Trading Policy.
- 3) To note that the membership of the Policy Review Working group for elected members would require to be confirmed prior to the first meeting to consider the Late Hours Catering Policy.

(Reference –report by the Director of Corporate Governance, submitted)

### 5. Licensing Late Hours Catering – Review Update

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The Regulatory Committee, on 15 November 2013, adopted a Work Plan which included a review of policies to ensure the licensing system remained fit for purpose. Details were provided of progress made in respect of late hours catering.

The licensing of late hours catering was designed to provide an element of control over premises trading during what is considered to be unsocial hours.

Historically, the late hours catering policy had proved contentious and it was essential that the development of a new policy balanced the interests of local communities / residents with the needs of a vibrant economy.

## **Decision**

- 1) To note the content of the report, the progress made to date and agree further consultation.
- 2) To agree to receive a further update in six months.

(Reference – Regulatory Committee 15 November 2013 (Item 3); report by the Acting Director of Services for Communities, submitted.)

## **6. Street Trader Licensing – Pedicabs: Update on Outstanding issues**

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The Regulatory Committee, on 15 November 2013, adopted a Work Plan which included a review of policies to ensure the licensing system remained fit for purpose. Details were provided of progress made in respect of street trading licence conditions for pedicabs.

A number of issues regarding the management and operation of pedicabs was previously reported to committee and these formed the basis for the review, during the initial stages of the review a number of concerns regarding passenger safety had been identified.

A working group had been established by the Convention of Scottish Local Authorities (CoSLA) to consider national standards in line with the terms of the Better Regulation (Act) 2014.

### **Decision**

- 1) To note the content of the report, the progress made to date and agree further research was carried out in respect of passenger safety.
- 2) To note the ongoing passenger safety concerns that had been identified and await the outcome of the appeal lodged by Glasgow City Council.
- 3) To agree to receive a further update in six months.

(Reference – Regulatory Committees 27 January 2012 (item 1), 15 November 2013 (Item 3); report by the Acting Director of Services for Communities, submitted.)

## **7. Taxi and Private Hire Car Driver Licences: 12 Month Driving Experience**

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A report by the Acting Director of Service for Communities clarified the legal position with regard to Section 13(3) and (6) of the Civic Government (Scotland) Act 1982 and advised that this applied to applications for renewals and new applications for taxi driver and private hire driver licences.

This position would have a direct impact on any licence holder whose driving licence was revoked by DVLA or who was banned from driving by the courts.

## Decision

- 1) To note that in accordance with legal advice in relation to taxi and private hire driver licences, as a Licensing Authority the Council could not grant any new licence or renew any existing licence unless the applicant had held their driving licence continuously for the 12 months immediately preceding the date of application.
- 2) To note that there was no discretion under the legislation, and therefore any application which did not meet this requirement would be refused under existing delegated powers.

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

## 8. Update on Consultation on Forward-Facing Cameras in Taxis and Private Hire Cars

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At a meeting on 4 April 2014, the Regulatory Committee agreed the following:

1. In principle that safety cameras may be installed in taxis and PHCs on application, subject to the requirements set out in the attached Guidance Note in Appendix 1 to the report by the Director of Services for Communities.
2. To authorise the Director of Services for Communities to approve individual licence applications, in terms of paragraphs 260 and 261 of the Council's Licensing Conditions, to allow the installation of safety cameras within taxis and PHCs.
3. To agree that there should be an initial one off inspection fee of £50 per vehicle for each application to install CCTV.
4. To note that the approval to fit a camera system would include permission to display any appropriate warning stickers or signs which are required by the Data Protection Act 1998, provided such signs or stickers are of a reasonable size, do not obscure views through the windows, and do not contain advertising.
5. To agree that the display of appropriate warning notices and stickers will be a mandatory condition.
6. To note the information contained within the report relating to the potential use of CCTV within taxis and PHCs for driver safety purposes, and agree to consultation taking place on this.
7. To instruct the Director of Services for Communities to engage in further consultation with the trade and the public on this topic and to report back to Committee in six months.

Details of the outcome of the statutory consultation on the installation and use of forward-facing cameras in taxis and private hire cars was provided.

## **Decision**

- 1) To agree that forward facing cameras may be installed in taxis and private hire cars on application, subject to the requirements set out in the Guidance Note in Appendix 3 by the Acting Director of Services for Communities.
- 2) To authorise the Acting Director of Services for Communities to approve individual licence applications, in terms of paragraph 206 and 261 of the Council's licensing conditions, to allow the installation of forward facing cameras within taxis and private hire cars.
- 3) To agree a one-off inspection and administrative fee of £50 per vehicle for each application to install front facing cameras.
- 4) To agree to receive a report in 12 months detailing the number of applications received and any other pertinent issues.

(Reference –Regulatory Committees 15 November 2013 (item 5), 4 April 2014 (item 3), report by the Acting Director of Services for Communities, circulated)

## **9. Taxi Stances – Revocations, Variations and Appointment – Clifton Terrace and Dalry Road. Outcome of Consultation with the Taxi Trade and the General Public**

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The Regulatory Committee on 3 February 2014, authorised council officials to consult with the taxi trade (through the Taxi Stance Working Group) and the general public, on the consolidation of the nine taxi spaces which have been provided on a temporary basis in Clifton Terrace and Dalry Road, to be made permanent stances.

Details of the outcome of the consultation with the taxi trade and the general public was provided.

### **Decision**

To note the consultation, and

- 1) To agree to appoint the public taxi rank in Dalry Road as recommended in the report by the Acting Director of Services for Communities.
- 2) To note the concerns about the use of the taxi rank in Rosebery Crescent and therefore:
  - (i) defer a decision on the rank in Clifton Terrace.
  - (ii) instruct the Acting Director of Services for Communities to review the provision of taxi ranks in the vicinity of Haymarket Station, including the proposed rank in Clifton Terrace and the rank in Rosebery Crescent and report to the Regulatory Committee on 8 September 2014.

(Reference – Regulatory Committee 3 February 2014 (item 3), report by the Acting Director of Services for Communities, circulated)



## Licensing Sub-Committee of the Regulatory Committee

2.00 pm, Wednesday, 18 June 2014

### Present

Councillor Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Cairns, Gardner, Heslop and Redpath.

### 1. Resolution to Consider in Private

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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.

### 2. Application for Miscellaneous Licence – Civic Government (Scotland) Act 1982

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Details were provided of 7 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982.

### Decision

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

(Reference – application details, submitted.)

### 3. Request for Suspension of Private Hire Car Driver's Licence

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Details were provided of the action taken by the Acting Director of Services for Communities in consultation with the Convener of the Regulatory Committee in accordance with Committee Terms of Reference and Delegated Functions 3.1 to suspend a Private Hire Car Driver's Licence on 22 May 2014

The Sub-Committee was requested to consider whether or not to suspend the licence.

### Decision

1. To note the action by the Acting Director of Services for Communities in consultation with the Convener of the Regulatory Committee in accordance with Committee Terms of Reference and Delegated Functions 3.1 to suspend the Private Hire Car Driver's Licence on 22 May 2014
2. That the request be determined as detailed in the Confidential Schedule, signed by the Convener, with reference to this minute.

(Reference – Licensing Sub-Committee 21 May 2014 (item 1) report by the Head of Service, Community Safety, submitted.)

#### **4. Requests for Suspension of Private Hire Car Driver's and Private Hire Car Licence**

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Details were provided of the action taken by the Acting Director of Services for Communities in consultation with the Convener of the Regulatory Committee in accordance with Committee Terms of Reference and Delegated Functions 3.1 to suspend a Private Hire Car Driver's Licence on 30 May 2014

The Sub-Committee was requested to consider whether or not to suspend the Private Hire Car Driver's Licence and then Private Hire Car Licence.

The licence holder's representative was heard

##### **Decision**

3. To note the action by the Acting Director of Services for Communities in consultation with the Convener of the Regulatory Committee in accordance with Committee Terms of Reference and Delegated Functions 3.1 to suspend the private hire car driver's licence on 30 May 2014
4. That the request be determined as detailed in the Confidential Schedule, signed by the Convener, with reference to this minute.

(Reference – report by the Head of Service, Community Safety, submitted.)

#### **5. Police Comments and Requests for Suspension of Licences**

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The Head of Service, Community Safety, advised the Sub-Committee of letters of comment regarding licence holders and reports requesting suspension of Licences from the Chief Constable and the Head of Community Safety.

##### **Decision**

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

(Reference – report by the Head of Service, Community Safety, submitted.)

## Licensing Sub-Committee of the Regulatory Committee

10.00 am Friday 20 June 2014

### Present

Councillor Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Gardner, Bill Henderson, Heslop, Lunn (substituting for Councillor Cairns) and Redpath.

### 1. Request for Reduction of Fees – Public Entertainment Licence Jazz and Blues Festival Carnival

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Details were provided of a request for a reduction of the application fee for a Public Entertainment licence for the Jazz and Blues Festival Carnival which would be held on Saturday 20 July 2014.

#### Decision

To note the terms of the request and to agree an application fee reduction to £1000.  
(Reference – report by the Head of Service, Community Safety, submitted)

### 2. Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006

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Details were provided of 11 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006.

#### Decision

To determine the applications as detailed in Appendix 1 to this minute.  
(Reference – list of applications, submitted.)

### 3. Avatar Foil Limited - Variation of Street Trader Food – Temp Licence Application

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required at this meeting.

The Head of Service, Services for Communities, advised the Sub-Committee of an application for a variation of a street trader licence submitted by Avatar Foil Limited and Kenneth Scott to trade outside the Tron Church, 122 High Street, Edinburgh to extend the duration of the existing licence 21 – 31 July and 21 – 31 August 2014 for the hours 11 pm to 3 am.

### **Motion**

To grant the variation of licence to extend the duration of the existing licence to include 21 – 31 July and 21 – 31 August 2014 for the hours 11 pm to 3 am, subject to the council's standard conditions for this category of licence, and also subject to a condition that no trading to take place before 1 pm on Sunday 10 August 2014.

- moved by Councillor Barrie, seconded by Councillor Heslop.

### **Amendment**

To refuse the variation of licence.

- moved by Councillor Gardner, seconded by Councillor Aitken.

### **Voting**

For the motion	-	5 votes
For the amendment	-	4 votes

### **Decision**

To grant the variation of licence to extend the duration of the existing licence to include 21 – 31 July and 21 – 31 August 2014 for the hours 11 pm to 3 am, subject to the council's standard conditions for this category of licence, and also subject to a condition that no trading to take place before 1 pm on Sunday 10 August 2014.

(Reference – application, submitted.)

## **4. Edinburgh 2014 Limited - Variation of Street Trader Food – Temp Licence Application**

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required at this meeting.

The Head of Service, Services for Communities, advised the Sub-Committee of an application for a variation of a street trader licence submitted by Edinburgh 2014 Limited and Elaine Douglas to trade at stances 11 and 12 Hunter Square, Edinburgh to extend the duration of the existing licence for the hours 11 pm to 3 am.

### **Motion**

To grant the variation of licence to extend the duration of the existing licence for the hours 11 pm to 3 am, subject to the Council's Standard Conditions for this category of licence, and also subject to a condition that no trading to take place before 1 pm on Sunday 10 August 2014.

- moved by Councillor Barrie, seconded by Councillor Heslop.

## **Amendment**

To refuse the variation of licence

- moved by Councillor Redpath, seconded by Councillor Gardner.

## **Voting**

For the motion - 5 votes  
For the amendment - 4 votes

## **Decision**

To grant the variation of licence to extend the duration of the existing licence for the hours 11 pm to 3 am subject to the council's standard conditions for this category of licence, and also subject to a condition that no trading to take place before 1 pm on Sunday 10 August 2014.

(Reference – application, submitted.)

## **5. Avatar Foil Limited – Late Hours Catering Exemption Licence Application**

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required at this meeting.

The Head of Service, Services for Communities, advised the sub-committee of an application for a late hours catering exemption licence submitted by Avatar Foil Limited and Kenneth Scott to trade outside the Tron Church, 122 High Street, Edinburgh from 21 July - 31 August 2014 for the hours 11 pm to 3 am.

## **Decision**

To grant a late hours catering exemption licence submitted by Avatar Foil Limited and Kenneth Scott to trade outside the Tron Church, 122 High Street, Edinburgh to extend the duration of the existing licence 21 July - 31 August 2014 for the hours 11 pm to 3 am.

(Reference –application, submitted.)

## **6. Edinburgh 2014 Limited – Late Hours Catering Exemption Licence Application**

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required at this meeting.

The Head of Service, Services for Communities, advised the sub-committee of an application for a late hours catering exemption licence submitted by Edinburgh 2014 Limited and Elaine Douglas to trade at stances 11 and 12 Hunter Square, Edinburgh from 1 - 25 August 2014 for the hours 11 pm to 3 am.

## **Decision**

To grant a late hours catering exemption licence submitted by Edinburgh 2014 Limited and Elaine Douglas to trade at stances 11 and 12 Hunter Square, Edinburgh from 1 - 21 August 2014 for the hours 11 pm to 3 am.

(Reference – application, submitted.)

## **7. Nest Events Ltd – Market Operators 50 or Less Stalls 1 Year Licence Application**

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required at this meeting.

The Head of Service, Services for Communities, advised the Sub-Committee of an application for a market operators 50 or less stalls 1 year licence submitted by Nest Events Limited to trade at Festival Square with 17 Stalls in Summer 2014 opening from 10am until 8pm, and 31 Stalls in Winter 2014 opening from 10am until 8pm Sunday – Wednesday & 10 – 10 pm Thursday to Sunday.

### **Decision**

- 1) To note the application for the annual licence had been withdrawn.
- 2) To authorise the Acting Director of Services for Communities to grant any application for a temporary licence by the above company for this location when a determination is required prior to the sub-committee meeting in August, subject to conditions.

(Reference –application, submitted.)

## **8. Resolution to Consider in Private**

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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.

## **9. Application for Miscellaneous Licence – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006**

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Details were provided of 4 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 – application details, submitted.)

## 10. Council Request for Suspension of Taxi Driver Licence

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required. The Sub-Committee was requested to consider whether or not to suspend the taxi driver's licence

The licence holder's representative was heard

### **Decision**

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

(Reference – report by the Head of Service, Community Safety, submitted.)

## APPENDIX 1

### Applications for Miscellaneous Licences

Item No/Type of Licence/Applicant/Premises	Conditions applied for	Decision
Item 6.1.1 HMO (New) Nahid Akram 7 East Hermitage Terrace	5 Occupants	To repel the objections and grant the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.2 HMO (New) James and Jane Marsh 3F2 19 Church Hill Place	4 Occupants	To repel the objections and grant the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.3 HMO (New) Peter and Kim Herd 3MD Spittlefield Crescent	3 Occupants	To repel the objections and grant the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.4 HMO (New) Barony Housing 19 Upper Gray Street	5 Occupants	To repel the objections and grant the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.5 HMO (Renewal) Mark Antliff 3F2 58 Findhorn Place	5 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.6 HMO (Renewal) James Sellat and Marie-Claude Grumeau 2F 10 South College Street	4 Occupants	To accept the late objection  To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.7 HMO (Renewal) Jeffrey Gair 1F2 Hillside Street	3 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.
Item 6.1.8 HMO (Renewal) Magnus and Deborah Wake 15 Bedford Street	4 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.



<p>Item 6.1.9 Street Trader Non-Food Geraldine Joliffe Rose Street</p>	<p>Standard Conditions  3 days 22 – 24 August  (Arts and Crafts goods)</p>	<p>To continue consideration of the application to the meeting of the Sub-Committee on 23 July 2014 to allow the applicant to find an alternative stance.</p>
<p>Item 6.1.10 Street Trader (Non-Food) The Strange Brew Tea Company St Andrews Square</p>	<p>8am – 4pm daily</p>	<p>To grant the licence for the alternative site in George Square Lane subject to the Council's standard conditions for this category of licence.</p>
<p>item 6.1.11 Late Hours Catering- 1 Year License (New) Eatings Limited 172 Rose Street</p>		<p>To grant the licence Sunday to Thursday 11 pm to 1 am and Friday and Saturday 11 pm to 2 am subject to the Council's standard conditions for this category of licence.</p>
<p>Tabled Item: Avatar Foil Limited Variation of Street Trader Food – Temp Licence Application Outside the Tron Church (Front Door to Right)</p>		<p>To grant the variation of licence for the period 21 July to 31 August for the hours 11 pm to 3 am.  (On a division)</p>
<p>Tabled Item: Avatar Foil Limited Late Hours Catering Exemption Licence Application Outside the Tron Church (Front Door to Right)</p>		<p>To grant the Late Hours Catering Exemption 11 pm to 3 am from 1 – 25 August 2014.  (On a division)</p>
<p>Tabled Item: Edinburgh 2014 Ltd Late Hours Catering Exemption Licence Application Stances 11 &amp; 12 Hunter Square</p>		<p>To grant the variation of licence for the hours 11pm to 3 am.</p>
<p>Tabled Item: Avatar Foil Limited Late Hours Catering Exemption Licence Application Stances 11 &amp; 12 Hunter Square</p>		<p>To grant the Late Hours Catering Exemption 11 pm to 3 am from 1 – 25 August 2014.</p>

Tabled Item: Nest Events Limited Market Operators 50 or Less Stalls 1 Year Licence Application Festival Square		To note the application for the annual licence had been withdrawn.  To authorise the Acting Director of Services for Communities to grant the application for a temporary licence subject to standard conditions for this type of licence.

## Licensing Sub-Committee of the Regulatory Committee

2.00 pm Tuesday 22 July 2014

### Present

Councillor Barrie (Convener), Aitken, Gardner, Bill Henderson, Heslop, and Redpath.

### 1. Proposed Grand Orange Lodge of Scotland: Referendum Rally - 13 September 2014

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Details were provided of a proposed Referendum Rally by the Grand Orange Order of Scotland in Edinburgh on Saturday 13 September 2014.

A number of representations regarding the procession had been received which highlighted concerns about the impact the procession could have on public order, safety and disruption to the life of the community.

The organiser of the procession, the Chief Constable and the relevant council officers were heard.

### Motion

'To make an order to allow the Grand Orange Lodge of Scotland Referendum Rally on Saturday 13 September 2014 for the route specified in the amended Notice of Proposal and also subject to the conditions agreed by the Chief Constable and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.

In doing so I will add that I don't believe anyone on this committee thinks this parade adds any value whatsoever to the referendum debate and if anything detracts from the important issues that should be discussed. All the correspondence that I have received on this matter is about the negative impact it may have, but I recognise that the organisation have registered as a Campaigner in the Referendum on Independence and the Articles of the Convention of Human Rights gives them some protection from prohibition.

Additionally, whilst I will not seek to amend the conditions to be imposed at this time, I would ask that council officers and Police Scotland meet to ensure that as applied, they are competent to each parade or march that is considered by this committee. I don't believe they take account of changes in society, for instance in Condition 12 where places of worship are mentioned I believe this should cover anywhere where a religious or civil ceremony is taking place.

I move that an Order with the previously mentioned conditions be made.'

- moved by Councillor Barry, seconded by Councillor Gardner.

### **Amendment**

To make an order to prohibit the holding of the Grand Orange Lodge of Scotland Referendum Rally on Saturday 13 September 2014 for the reasons that it would be detrimental to public order and safety, and may cause undue disruption of the life of the community.

- moved by Councillor Redpath, seconded by Councillor Heslop.

### **Voting**

For the motion - 4 votes

For the amendment - 2 votes

### **Decision**

To make an order to allow the Grand Orange Lodge of Scotland Referendum Rally on Saturday 13 September 2014 for the route specified in the amended Notice of Proposal and also subject to the conditions agreed by the Chief Constable and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.

(Reference – report by the Head of Service, Community Safety, submitted)

## **2. Proposed Grand Orange Lodge of Scotland: 75<sup>th</sup> Anniversary Parade – 30 August 2014**

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Details were provided of a proposed 75<sup>th</sup> Anniversary parade by the Grand Orange Order of Scotland in Edinburgh on Saturday 30 August 2014.

A representative of the organiser of the procession, the Chief Constable and the relevant council officers were heard.

### **Decision**

1. To make an order to allow the Grand Orange Lodge of Scotland 75<sup>th</sup> Anniversary Parade on Saturday 30 August 2014 for the route specified in the amended Notice of Proposal and also subject to the conditions agreed by the Chief Constable and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.
2. To note that condition 12 had been amended with the applicants agreement to "No musical instruments to be played when the procession passes a place of worship or any other building where any religious, legal or cultural ceremony is taking place at that time."

(Reference – report by the Head of Service, Community Safety, submitted)

### **Dissent**

Councillor Redpath requested that her dissent be recorded in respect the above decision.

### **3. Proposed Grand Black Chapter Marches - 9 August 2014**

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Details were provided of two proposed marches by the Grand Black Chapter in Edinburgh on Saturday 9 August 2014.

A representative of the organiser of the procession, the Chief Constable and the relevant council officers were heard.

#### **Decision**

1. To make an order to allow the Grand Black Chapter Marches on Saturday 9 August 2014 for the routes specified in the amended Notices of Proposal and also subject to the conditions agreed by the Chief Constable and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.
2. To note that condition 12 had been amended with the applicant's agreement to "No musical instruments to be played when the procession passes a place of worship or any other building where any religious, legal or cultural ceremony is taking place at that time."

(Reference – report by the Head of Service, Community Safety, submitted)

#### **Dissent**

Councillors Heslop and Redpath requested that their dissent be recorded in respect the above decision.

### **4. Proposed Scottish Defence League March – 23 August 2014**

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Details were provided of a proposed procession by the Scottish Defence League in Edinburgh on Saturday 23 August 2014.

The Clerk advised that there were no representatives from the organisation present.

#### **Decision**

The Convener ruled in terms of Standing Order 8.1(b), that as the applicant was not in attendance, adjourned the meeting to 1.35 pm or the conclusion of the Licensing Sub-Committee called for 1.30 pm on 23 July 2014 and that the matter be considered at that time.

(Reference – report by the Head of Service, Community Safety, submitted)

## Licensing Sub-Committee of the Regulatory Committee

1.30 pm Wednesday 23 July 2014

### Present

Councillor Aitken (In the Chair), Gardner, Bill Henderson, Heslop, Lunn (substituting for Councillor Cairns) and Redpath.

### 1. Chair

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In the absence of the Convener (Councillor Barrie) and the Vice-Convener (Councillor Blacklock), nominations were sought from the members for the Chair.

#### Decision

To appoint Councillor Aitken as Convener.

### 2. Request for Reduction of Fees – Public Entertainment Licence - Forth Bridges Festival – Scotland Welcomes The World To Lunch

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Details were provided of a request for a reduction of the application fee for a Public Entertainment Licence for the Forth Bridges Festival, Scotland Welcomes The World To Lunch event on Saturday 6 September 2014.

#### Decision

- 1) To note the terms of the request.
- 2) To refuse the request for a fee reduction.

(Reference – report by the Head of Service, Community Safety, submitted)

### 3. Request for Reduction of Fees – Public Entertainment Licence - Edinburgh Riding of the Marches

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Details were provided of a request for a reduction of the application fee for a Public Entertainment licence for the Edinburgh Riding of the Marches event on Sunday 7 September 2014.

## **Decision**

- 1) To note the terms of the request and to agree an application fee reduction to £150.
- 2) To advise the applicant that this would not set a precedent for determining fees for this event in future years

(Reference – report by the Head of Service, Community Safety, submitted)

## **4. Request for Reduction of Fees – Theatre Licence - Edinburgh Fringe Show by Hewlett and Eaton**

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Details were provided of a request for a reduction of the application fee for theatre licences in respect of an Edinburgh Fringe Show by Hewlett and Eaton between the dates of 6 and 20 August 2014.

## **Decision**

- 1) To note the terms of the request.
- 2) To refuse the request for a fee reduction.

(Reference – report by the Head of Service, Community Safety, submitted)

## **5. Request for Reduction of Fees – Market Operator and Theatre Licences - Creative Social Enterprises**

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Details were provided of a request for a reduction of the application fees for a Market Operator and Theatre licences for the Creative Social Enterprise Festival to be held on 12 and 13 September 2014.

## **Decision**

- 1) To note the terms of the requests.
- 2) To refuse the request for a fee reduction for the Market Operator Licence.
- 3) To agree an application fee reduction to £1000 for the theatre licence subject to the maximum capacity being 2000.

(Reference – report by the Head of Service, Community Safety, submitted)

## **6. Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006**

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Details were provided of 4 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006.

### **Decision**

To determine the applications as detailed in Appendix 1 to this minute.

(Reference – list of applications, submitted.)

## **7. Resolution to Consider in Private**

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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.

## **8. Application for Miscellaneous Licence – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006**

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Details were provided of 8 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982.

### **Decision**

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

(Reference – application details, submitted.)



**APPENDIX 1**  
**Applications for Miscellaneous Licences**

Item No/Type of Licence/Applicant/Premises	Conditions applied for	Decision
Item No 6.1.1 - House in Multiple Occupation Licence (Renewal) 45(1f2) Thirlestane Road - Deborah De La Haye	4 Occupants	To continue consideration of the application to the meeting of the Sub-Committee on 15 August 2013 to allow the applicant to complete the installation of cushion flooring in the kitchen
Item No 6.1.2 - Application for a Temporary Street Trader Licence - George Street - Navida Galbraith	04.08.14 To 31.08.14  10 am – 6 pm Daily (Between Whitestuff and Jo Malones)	To grant the licence subject to the Council's standard conditions for this category of licence.
Item No 6.1.3 - Application for a Temporary Street Trader Licence - Rose Street - Geraldine Jolliffe	3 days  22 – 24 August 2014  Arts and Crafts	To repel the objections and grant the licence for the amended stance agreed with the Acting Director of Services for Communities subject to the Council's standard conditions for this category of licence.
Item 6.1.4 - Application for a Temporary Market Operator Licence - St Andrews Square - Hands Up Media and Tania Pramschufer	31 July 2014 To 14 August 2014  10am to 7pm Daily	To grant the licence subject to the Council's standard conditions for this category of licence.

## Licensing Sub-Committee of the Regulatory Committee

1.35 pm Wednesday 23 July 2014 (Adjourned Meeting)

### Present

Councillor Aitken (In the Chair), Gardner, Bill Henderson, Heslop, Lunn (substituting for Councillor Cairns) and Redpath.

### 1. Chair

---

In the absence of the Convener (Councillor Barrie) and the Vice-Convener (Councillor Blacklock), nominations were sought from the members present for the Chair.

#### Decision

To appoint Councillor Aitken as Convener.

### 2. Proposed Scottish Defence League March – 23 August 2014

---

Details were provided of a proposed procession by the Scottish Defence League in Edinburgh on Saturday 23 August 2014.

A representation objecting to the procession had been received from Police Scotland.

Graham Walker on behalf of the Scottish Defence League, the Chief Constable and the relevant council officers were heard.

#### Decision

- 1) To make an Order to prohibit the holding of the procession by the Scottish Defence League on Saturday 23 August 2014 for the reasons that it would be an increased risk to public order and may cause undue disruption of the life of the community.
- 2) To note that this decision did not set a precedent for considering any future notifications by this organisation.

(Reference – report by the Head of Service, Community Safety, submitted)

## Licensing Sub-Committee of the Regulatory Committee

2.00 pm, Wednesday, 13 August 2014

### Present

Councillor Barrie (Convener), Aitken, Booth (substituting for Councillor Burgess), Cairns, Gardner, Bill Henderson Heslop and Redpath.

### 1. 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.

### 2. Application for Miscellaneous Licence – Civic Government (Scotland) Act 1982

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Details were provided of 15 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982.

### Decision

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

(Reference – application details, submitted.)

### 3. Police Comments and Requests for Suspension of Licences

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The Head of Service, Community Safety, advised the Sub-Committee of letters of comment regarding licence holders and reports requesting suspension of Licences from the Chief Constable and the Head of Community Safety.

### Decision

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

(Reference – report by the Head of Service, Community Safety, submitted.)

#### **4. Application for Taxi Driver's Licence**

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The Convener ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency as a decision was required.

The Sub-Committee considered an application for a taxi driver's licence, and a report by the Chief Constable on the matter.

The Chief Constable, the applicant and their representative were heard.

##### **Decision**

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

## Licensing Sub-Committee of the Regulatory Committee

10.00 am Friday 15 August 2014

### Present

Councillor Barrie (Convener), Aitken, Cairns, Gardner, Bill Henderson, Heslop, Main (substituting for Councillor Burgess) and Redpath.

### 1. Request for Reduction of Fees – Public Entertainment Licence - Scottish Love in Action

---

Details were provided of a request for a reduction of the application fee for a public entertainment licence for a fireworks display event which would be held on Sunday 2 November 2014.

#### Decision

To note the terms of the request and to agree an application fee reduction to £1000. (Reference – report by the Head of Service, Community Safety, submitted)

#### Declaration of Interests

Councillor Aitken declared a non-financial interest in the above item as some of the members of the organisation were known to her, left the room and took no part in consideration of the item.

### 2. Applications for Miscellaneous Licences – Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006

---

Details were provided of 14 applications for miscellaneous licences under the Civic Government (Scotland) Act 1982 and Housing (Scotland) Act 2006.

#### Decision

To determine the applications as detailed in Appendix 1 to this minute. (Reference – list of applications, submitted.)

### **3. Proposed Unite Against Fascism March – 23 August 2014**

---

The Convener ruled that the following item, notice of which had been given at the start of the meeting be considered as a matter of urgency as a decision was required.

The Head of Service, Services for Communities, advised the Sub-Committee of notification of a proposed march by Unite Against Fascism, to be held on 23 August 2014. A report by the Chief Constable on the proposal had also been submitted.

The notification had been received outside the statutory 28 day period. The Acting Director of Services for Communities, in consultation with the Convenor of the Licensing Sub Committee had agreed to waive the statutory notice period.

The Sub-Committee heard from a representative of Unite against Fascism, the Chief Constable and the Community Safety Manager.

#### **Motion**

1. To note the action taken by the Acting Director of Services for Communities in consultation with the Convenor of the Licensing Sub Committee in terms of committee terms of reference and delegated function 3.1 to waive the statutory 28 day notice period for the proposed march.
2. To make an order in respect of the Unite Against Fascism March on Saturday 23 August 2014 for the route: Chambers Street – Guthrie Street – Cowgate – Holyrood Road – to the Parliament site, and also subject to the conditions agreed by the Chief Constable with the deletion of condition 16 (no musical instruments to be played), and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.

- moved by Councillor Barrie, seconded by Councillor Bill Henderson.

#### **Amendment**

1. To note the action taken by the Acting Director of Services for Communities in consultation with the Convenor of the Licensing Sub Committee in terms of committee terms of reference and delegated function 3.1 to waive the statutory 28 day notice period for the proposed march.
2. Due to planned events already taking place in this area, to make an Order to prohibit the holding of the march on Saturday 23 August 2014, for the reason that it may cause undue disruption to the life of the community.
3. To note that this decision would not set a precedent for considering any future notifications by this organisation.

- moved by Councillor Aitken, seconded by Councillor Heslop.

#### **Voting**

For the motion	-	4 votes
For the amendment	-	2 votes

## **Decision**

1. To note the action taken by the Acting Director of Services for Communities in consultation with the Convenor of the Licensing Sub Committee in terms of committee terms of reference and delegated function 3.1 to waive the statutory 28 day notice period for the proposed march.
2. To make an order in respect of the Unite Against Fascism March on Saturday 23 August 2014 for the route: Chambers Street – Guthrie Street – Cowgate – Holyrood Road – to the Parliament site and also subject to the conditions agreed by the Chief Constable with the deletion of condition 16 (no musical instruments to be played) and the organiser's agreement to adhere to the recommendations of the Events Planning and Operations Group.

(Reference – reports by the Head of Service, Community Safety and the Chief Constable, submitted.)

## **Declaration of Interests**

Councillors Gardner declared a non-financial interest in and took no part in consideration of the above item as he actively supported the organisation and intended to participate in the march if it went ahead.

Councillors Redpath declared a non-financial interest and took no part in consideration of the above item as she actively supported the organisation and intended to participate in the march if it went ahead.

## APPENDIX 1

### Applications for Miscellaneous Licences

Item No/Type of Licence/Applicant/Premises	Conditions applied for	Decision
Item 6.1(1) - HMO Renewal - 45 Thirlestane Road, Edinburgh  Deborah De La Haye	4 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence, subject to monitoring.
Item 6.1(2) - HMO Renewal - 46 Ferry Road, Edinburgh  Khwaja Akbar Mir	25 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.
Item 6.1(3) - HMO Renewal - 41 Great King Street, Edinburgh  Michael Man	10 Occupants	<ol style="list-style-type: none"> <li>1. To accept the late objection submitted outwith the statutory period.</li> <li>2. To continue consideration of the application to the meeting of the Licensing Sub Committee on 5 September 2014 at the objectors request to allow his representative to attend and to note the agreement of the licence holder to this request.</li> </ol>
Item 6.1(4) - HMO Renewal - 90 Hamilton Place, Edinburgh  Michael Agnew	4 Occupants	<ol style="list-style-type: none"> <li>1. To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.</li> <li>2. To request that the agent treat this property as a sensitive let.</li> </ol>
Item 6.1(5) - HMO Renewal - 99 Montgomery Street, Edinburgh  John Kenneth Rodgers	3 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.
Item 6.1(6) - HMO Renewal - 17 Royal Crescent, Edinburgh  Angela Munro	4 Occupants	To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.



Item 6.1(7) - HMO Renewal - 16 Warrender Park Crescent, Edinburgh  Harry and Harriet Crump	5 Occupants	<ol style="list-style-type: none"> <li>1. To accept the late objection submitted outwith the statutory period.</li> <li>2. To repel the objections and renew the licence subject to the Council's standard conditions for this category of licence.</li> <li>3. The Acting Director of Services for Communities to monitor the tenancy management of the property and the managing agent's attempt at mediation with the objectors and report back to the committee on 14 November 2014.</li> </ol>
Item 6.1(8) - HMO Renewal - 6 Wolseley Crescent, Edinburgh  Derek Jamieson	4 Occupants	<ol style="list-style-type: none"> <li>1. To accept the late objection submitted outwith the statutory period.</li> <li>2. To continue consideration of the application to the meeting of the Licensing Sub Committee on 5 September 2014 to allow the applicant to attend.</li> </ol>
Item 6.1(9) - HMO New - 149 Warrender Park Road, Edinburgh  Nadim Saif	5 Occupants	To continue consideration of the application to the meeting of the Licensing Sub Committee on 14 November 2014 for a report by the Acting Director of SFC on the tenancy and property management and to include details of the property layout and compliance with the submitted plans and details of the current room usage.
Item 6.1(10) - HMO New - 24 West Relugas Road, Edinburgh  Kishwar Yusaf	5 Occupants	<ol style="list-style-type: none"> <li>1. To accept the late objection submitted outwith the statutory period.</li> <li>2. To repel the objections and grant the licence subject to the Council's standard conditions for this category of licence.</li> </ol>
Item 6.1(11) - Street Trader Food New - Hope Street/Princes Street  Lewis Sean MacKenzie	Standard Conditions	To refuse the application in terms of Paragraph 5(3)(c)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982.
Item 6.1(12) - Street Trader Food New  Mohammed Taha Nait Saidi	Standard Conditions	To continue consideration of the application to the meeting of the Licensing Sub Committee on 5 September 2014.

<p>Item 6.1(13) - Market Operators (Temp) New Continental Market Limited Angela Scott</p>	<p>Grassmarket pedestrianised Area</p>	<ol style="list-style-type: none"> <li>1. To grant the licence subject to standard conditions for this category of licence.</li> <li>2. The hours be restricted from 9.00 am to 8.30pm.</li> <li>3. All music and amplified vocals to be controlled to the satisfaction of the Acting Director of Services for Communities.</li> </ol>
<p>Item 6.1(14) - Market Operators (Temp) New Edinburgh Social Enterprise Network Lindsay Chalmers</p>	<p>St Andrew Square</p>	<ol style="list-style-type: none"> <li>1. To grant the licence subject to standard conditions for this category of licence.</li> <li>2. All music and amplified vocals to be controlled to the satisfaction of the Acting Director of Services for Communities.</li> </ol>

# Item 5.1 Rolling Actions Programme

## Regulatory Committee

3 May 2013 to 8 September 2014

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	03-05-13	<a href="#">Public Entertainment Licensing Public Consultation on Amendments to the Resolution</a>	To note that the Director of Services for Communities would report to a future meeting of the Committee on the fee issues raised by the deputation.	Acting Director of Services for Communities	June 2015		Would be in place for summer 2015

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
2	03-05-13	<a href="#">Survey of Demand for Taxis Within the City of Edinburgh</a>	<ol style="list-style-type: none"> <li>1) To agree further consultation with the taxi trade and other stakeholders on a simplified festive tariff.</li> <li>2) To agree further consultation on an enhanced tariff between 12 am and 5 am, specifically to examine whether this would increase the available number of taxi's at this time.</li> <li>3) In respect of the wording in the Fare Table For Taxis, to instruct the Director of Services for Communities: <ol style="list-style-type: none"> <li>a) To consider an alternative for the description of the airport drop-off zone.</li> <li>b) To further consult on consolidating the call out charge and the airport pick up charge to a single charge of 80p.</li> </ol> </li> <li>4) To note that a report would be submitted to the June meeting of the Regulatory Committee following the advertisement of the proposed fare increase.</li> </ol>	Acting Director of Services for Communities	<p>Nov 2014</p> <p>Nov 2014</p> <p>n/a</p> <p>Nov 2014</p> <p>June 2013</p>	<p>June 2013</p> <p>June 2013</p>	<p>Consultation underway</p> <p>Consultation underway</p> <p>Closed</p> <p>Ongoing</p> <p>Closed</p>
Regulatory Committee – 8 September 2014			1) 2)	Page 2 of 7			

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
3	24 - 07-13	<a href="#">Balfour Beatty Fee Structure for Holyrood Road</a>	To instruct the Director of Services for Communities to review the HMO university fee structure and report back to the committee within six months.	Acting Director of Services for Communities	January 2015		Ongoing
4	06 - 09 -13	<a href="#">Private Rented Sector Enforcement Policy</a>	The Director of Services for Communities to report annually to Committee, the details and statistics on the enforcement action taken by Private Rented Services.	Acting Director of Services for Communities	November 2014		Ongoing

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
5	06 - 09 -13	<a href="#">License Refund Policy Outcome of Consultation</a>	<ol style="list-style-type: none"> <li>1. To review the policy after 12 months</li> <li>2. To note that an annual report on refunds would be submitted to the Regulatory Committee</li> <li>3. To request the Director of Services for Communities to investigate the possibility of allowing organisations that may meet the criteria for discounted fees to submit applications without a fee, subject to this being considered by Committee.</li> </ol>	Acting Director of Services for Communities	<p>September 2014</p> <p>September 2014</p> <p>Nov 2014</p>		Update report submitted

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
6	03-02-14	<a href="#">Review of Public Entertainment Licensing</a>	To instruct the Director of Services for Communities to take all the steps necessary to implement the decision, including dealing with outstanding legal cases.	Acting Director of Services for Communities	Not Specified		All but one have been completed. Remaining case subject to 'Taxation' of expenses by Court .
7	04-04-14	<a href="#">Licensing Policy Development - Street Trading</a>	<p>1) To agree to receive a further report on Castle Street following this consultation process.</p> <p>2) To receive a further update on Street Trading in six months.</p>	Acting Director of Services for Communities	<p>July 2014</p> <p>November 2014</p>		<p>Update report submitted September cycle</p> <p>Ongoing</p>
8	04-04-14	<a href="#">Use of CCTV In Taxis and Private Hire Cars - Safety</a>	To instruct the Director of Services for Communities to engage in further consultation with the trade and the public on this topic and to report back to Committee in six months.	Acting Director of Services for Communities	November 2014		Ongoing

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
9	04-04-14	<a href="#">Future of Taxi Examination Centre</a>	To agree to receive an update report in 6 months.	Acting Director of Services for Communities	November 2014		Update report submitted September cycle
10	20-06-14	<a href="#">Late Hours Catering - Review</a>	To agree to receive an update report in 6 months.	Acting Director of Services for Communities	February 2015		Update report submitted September cycle
11	20-06-14	<a href="#">Street Tradern Licensing - Pedicabs Update On Outstanding Issues</a>	To agree to receive an update report in 6 months.	Acting Director of Services for Communities	February 2015		Update report agreed June 2014
12	20-06-14	<a href="#">Update on Consultation on Forward Facing Cameras in Taxis and Private Hire Cars</a>	To agree to receive a report in 12 months detailing the number of applications received and any other pertinent issues.	Acting Director of Services for Communities	June 2015		



No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
13	20-06-14	<a href="#">Taxi Stances - Revocations Variations and Appointment - Clifton Terrace and Dalry Road Outcome of Consulttion With the Taxi Trade and the General Public</a>	<p>1) To note the concerns about the use of the taxi rank in Rosebery Crescent and therefore:</p> <p>(i) defer a decision on the rank in Clifton Terrace.</p> <p>(ii) instruct the Acting Director of Services for Communities to review the provision of taxi ranks in the vicinity of Haymarket Station, including the proposed rank in Clifton Terrace and the rank in Rosebery Crescent and report to the Regulatory Committee on 8 September 2014.</p>	Acting Director of Services for Communities	September 2014.		Now expected November 2014

# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## **Licensing Policy Development – Street Trading - Castle Street**

<b>Item number</b>	6.1
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	11 - City Centre

### **Executive summary**

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This report provides an update on the consultation conducted with Castle Street businesses, residents and stakeholders.

The report identifies further measures to enable the use of the Castle Street space on a trial basis.

### **Links**

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<b>Coalition pledges</b>	P15 & P28
<b>Council outcomes</b>	CO8
<b>Single Outcome Agreement</b>	SO1

## Licensing Policy Development – Street Trading - Castle Street

### Recommendations

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It is recommended that the Committee:

- 1.1 notes the outcome of the Castle Street consultation;
- 1.2 agrees to permit a limited resumption of market trading operations for a six month period;
- 1.3 agrees to grant no new Street Trading licences during the trial period unless they relate to a specific event with a licence;
- 1.4 agrees the proposed operational and layout plan;
- 1.5 notifies the Licensing Board and request it to support this position;
- 1.6 agrees to receive a further report on completion of the wider Street Trading review; and
- 1.7 discharges the outstanding remit of the Licensing Sub-Committee of the Regulatory Committee meeting of 6 September 2013.

### Background

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- 2.1 The Regulatory Committee, on 15 November 2013, agreed a work plan which included a review of key policies that were vital to ensuring the licensing system remained fit for purpose.
- 2.2 At the meeting in November 2013, a Member Officer Working Group (MOWG) was established to oversee policy reviews. The group has met four times.
- 2.3 Work is ongoing to develop a policy framework for street trading which will also take into account the wider vision for the city centre in regards to economic impact and implications for events management. It is intended to develop a city wide policy framework with individual areas of high demand having specific operational plans.
- 2.4 As part of the review, Castle Street has been identified as a site of particular concern due to the frequency and duration of markets, their impact on local amenity and also retailers' fears that they were suffering loss of business.
- 2.5 The Licensing Sub-Committee of the Regulatory Committee, at its meeting on 6 September 2013, requested that an operational plan be prepared by the

appropriate Council Directorates, for the use of this site for markets and that any future applications submitted should be considered by the Licensing Committee until an operating plan had been agreed.

- 2.6 At the Regulatory Committee meeting on 4 April 2014, the Committee agreed to receive a further report on Castle Street, following a period of consultation, and that no further licenses were granted until the outcome of the consultation had been considered. As part of the consultation process local business, traders, local residents, relevant partners and agencies were asked to complete an online questionnaire during April 2014.

## Main report

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- 3.1 The Council has been licensing markets in the lower Castle Street area for a number of years (see appendix A). Essential Edinburgh previously held an annual licence for markets in Castle Street until December 2011. It did not renew its application in 2012 and other market operators are now applying on an ad-hoc basis for licences. These markets have grown in scale and frequency and in 2013 19 market applications were granted, covering a total of 193 trading days.
- 3.2 The Civic Government (Scotland) Act 1982 does not require the display of site notices for temporary licences. This means that businesses and residents are not normally consulted prior to the grant of these licences.
- 3.3 A number of service areas within the Council have received notice of concerns about markets within the Castle Street area, all of which were having an adverse affect on retailers and businesses. These include:
- lack of planning permission (including a threat of legal action);
  - access to and from existing premises;
  - positioning and layout of stalls and use of marquees;
  - smells from fast food stalls causing issues with local retail business when they are positioned directly in front of stores;
  - hours of operation; and
  - appearance of the market and stalls.
- 3.4 As a result of concerns about markets within the Castle Street area, the Licensing Sub-Committee requested that an operation plan be prepared by the appropriate Council Directorates for the use of this site for markets and that a consultation exercise be carried out.
- 3.5 The consultation highlighted that there was some support for markets and trading in Castle Street but general agreement that greater control was required. Areas of general agreement include:

- markets should only operate at certain times of the year;
- stalls should all be of a similar size and design;
- market should either be monthly or quarterly;
- markets should trade for a maximum of one to three days;
- markets should trade between 10:00 – 18:00hrs daily; and
- traders should pay an additional fee for the use of the public space.

3.6 Areas that did not reach a consensus included:

- whether or not markets should be allowed to prepare and sell food;
- which days the market should operate over i.e. Monday – Friday or Friday – Sunday; and
- the general concept of street trading i.e. whether or not, in addition to markets, individual traders should be allowed to operate stalls or pitches.

3.7 Attractive, well managed markets can add to the vibrancy of an area adding interest, character and function to shopping streets and other areas of the City. Destination markets can be a draw for tourists and can bring a wider variety of stalls, commodities and cultures.

3.8 It is, therefore, proposed to permit markets in Castle Street on a trial basis with a number of restrictions:

- markets will be restricted to one per calendar month for a maximum of three days;
- the layout of the market will be in the centre of Castle Street with units facing outwards towards the existing buildings. Access corridors will be created throughout the market to allow free flow of pedestrians from east to west and vice versa;
- the number of stalls shall be restricted to a maximum of 20;
- the stalls shall all be of a standard size and appearance (see appendix C);
- there shall be no preparation and sale of hot food products; and
- additional licence conditions, detailed in Appendix B, are attached to licences.

3.9 Given the demand for the use of Castle Street, traders would be given an opportunity to make an application for the use of the site. Proposed dates would be identified in advance and where more than one operator makes application for a given date they would then be allocated on a ballot basis. This will allow a range of operators to bid to use the site. It would also give operators the opportunity to demonstrate an ability to properly manage it going forward.

3.10 Outwith the period allocated to markets the area will be available for other public entertainment activities. It is proposed that all applications for Public

Entertainment Licences are considered by the Licensing Sub Committee during the trial period.

- 3.11 During the trial period no other applications for street trading licences would be accepted, unless they relate to a specific event which is licensed.
- 3.12 There is currently no planning permission in place for the use of Castle Street as a market and planning consent would be required. This previously was one of the main complaints by local retailers. Whilst it is not grounds to refuse a Market Operators Licence, it is proposed that a trader is strongly encouraged to make application for the relevant permission and will be given appropriate guidance.
- 3.13 Steps will be taken to communicate this position, if agreed, with other committees, i.e. Planning and the Licensing Board, to seek their support.
- 3.14 The pilot will be used to inform the wider Street Trading review.

## Measures of success

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- 4.1 That the City's licensing function is modernised to ensure that it meets the needs of customers.

Specifically this report seeks to address concerns about the licensing of markets in the Castle Street area.

The proposals in this report will deliver the following improvements within that location;

- safe, clean and well managed markets;
- a more attractive environment for those living in, working and visiting the city;
- markets that promote and protect the economic well being of the City;
- a reduction in complaints from local businesses about licensing activity in that street.

## Financial impact

---

- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2014. Any costs from implementing policy changes will be contained within the current ring-fenced income generated from licensing fees. There are no costs to the Council's revenue budget.

## **Risk, policy, compliance and governance impact**

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- 6.1 The development of policy in respect of licensing of Street Traders is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the Street Trading Policy is consistent with these.

## **Equalities impact**

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- 7.1 There is no adverse impact on the public sector equalities duty. There would, accordingly, be no direct equalities impact arising from the contents of this report.

## **Sustainability impact**

---

- 8.1 There is no environmental impact arising from the contents of this report.

## **Consultation and engagement**

---

- 9.1 A number of stakeholder meetings were conducted with Essential Edinburgh, local retail businesses and traders in Castle Street.
- 9.2 Council officers have also held a number of one to one meetings with relevant parties, including licence holders and retailers in the area.
- 9.3 In line with statutory requirements, the consultation process was expanded to include the wider business and residential community, relevant partners and agencies. This took the form of an online questionnaire, which was also published on the Council Website.
- 9.4 Details of the consultation are contained within the attached link.
- 9.5 The consultation was designed to assess the understanding of the impacts of the approach on different user groups to allow an informed decision on suitable changes to be made.
- 9.6 Wider changes to Street Trading policy will require detailed consultation with both the public and affected businesses. Any consultation will, at a minimum, meet any statutory requirements and in most instances will exceed these requirements.

## Background reading / external references

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[Central Local Development Committee – Wednesday 7 January 2004 – Item 4. Review of Street Trading Policy Report 2004](#)

[6 September – Licensing Sub Response – Castle Street](#)

[Regulatory Committee - Friday 4 April 2014 - Item 7.1 Licensing Policy Development Street Trading Report](#)

[15 November Work Plan Response – Regulatory Committee](#)

[Castle Street consultation summary](#)

### John Bury

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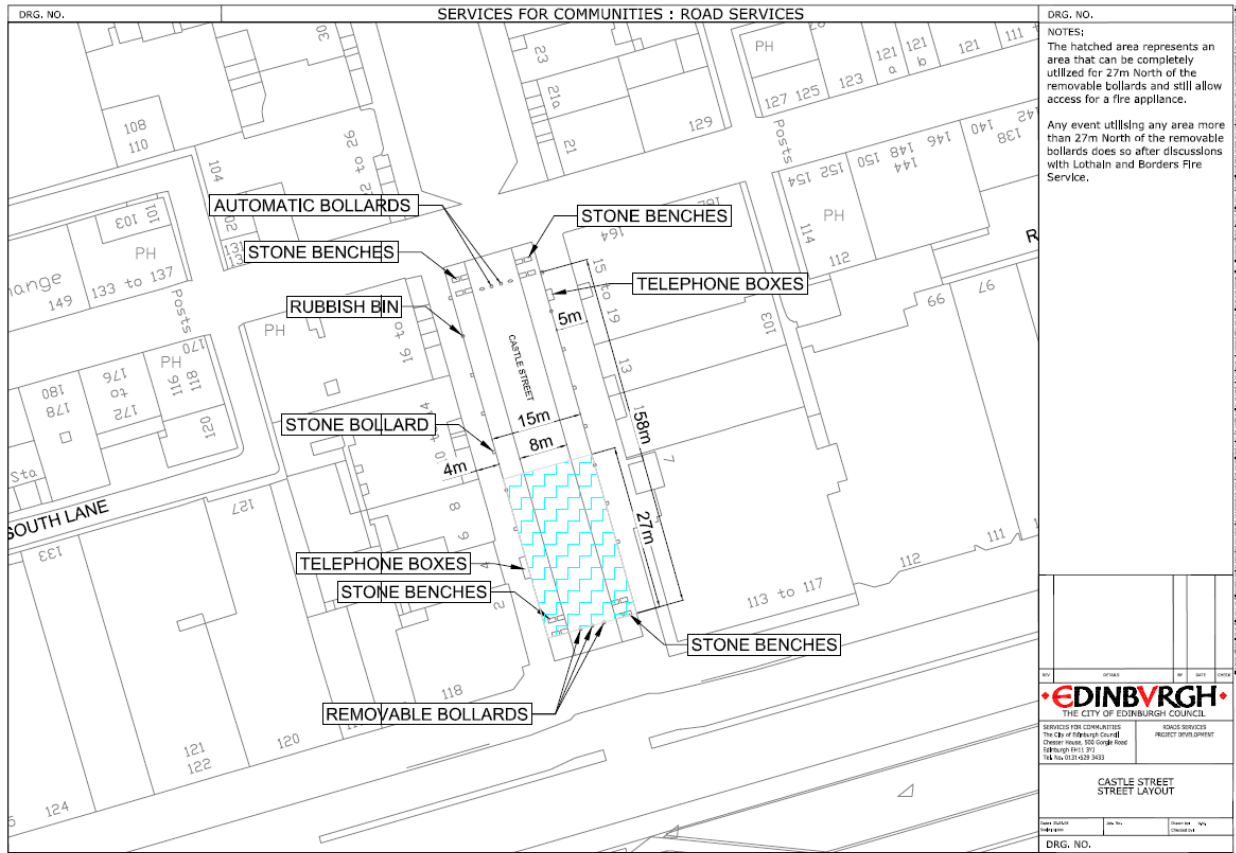
## Links

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<b>Coalition pledges</b>	P15 - Work with public organisations, the private sector and social enterprises to promote Edinburgh to investors. P28 - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.
<b>Council outcomes</b>	CO8 - Edinburgh's economy creates and sustains job opportunities.
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	Appendix A - Map of Castle Street / Photograph proposed trading area in Castle Street Appendix B - Draft conditions for grant of a licence Appendix C - Proposed market stall



# Appendix A - Map of Castle Street / Photograph proposed trading area in Castle Street



## Appendix B - Additional Conditions

Market operators will supply an Events Management plan and Risk Assessment when they make an application.

Market operators should have Market Operator / Public Liability insurance with a minimum value of £5 million in any one claim.

Market operators will not sub let the use of the site to a third party.

Market operators will appoint a day to day manager who will be on site when the market is in operation.

Markets will be restricted to one per calendar month for a maximum of three days.

Markets can only operate between the hours of 10:00 – 20:00hrs daily.

The layout of the market will be in the centre of Castle Street with units facing outwards towards the existing buildings. Access corridors will be created throughout the market to allow free flow of pedestrians from east to west and vice versa.

The number of stalls shall be restricted to a maximum of 20.

These shall be arranged in a configuration of 4:2:4 stalls with pedestrian access provided for and maintained between each group of stalls.

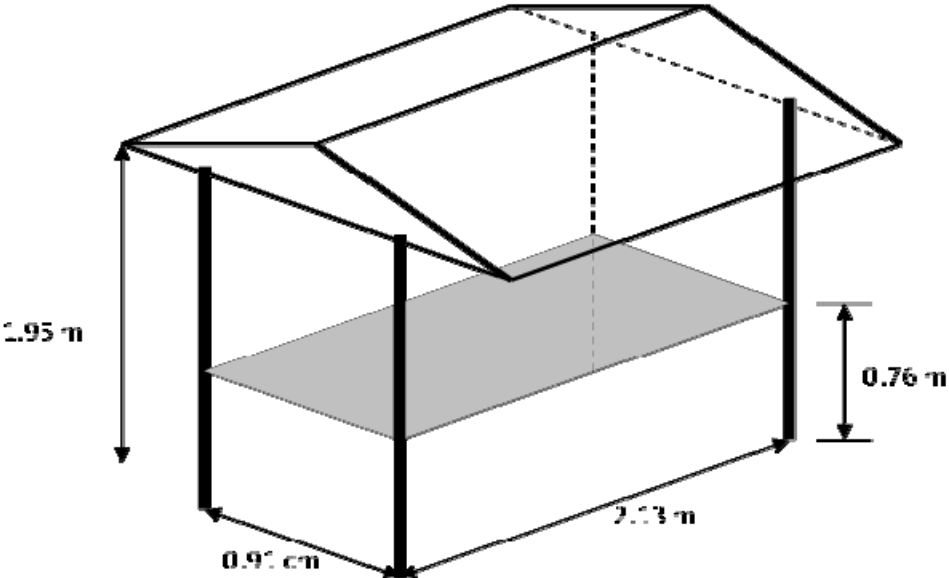
The stalls shall all be of a stand size and appearance (see appendix C).

There shall be no preparation and sale of hot food products.

The operator will provide details of all individual stallholders, including equipment, scope of business and type of product to the **Licensing Manager**, at least one week before the event.

No motorised vehicles shall be permitted in the area used for the market area during the hours of operation.

Appendix C - Proposed market stall



# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## **Licensing Policy Development – Market Operators Fees**

**Item number**

**Report number**

**Executive/routine**

**Wards**

Executive

City wide

### **Executive summary**

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A review of the Licensing Service fee structure has commenced as outlined in the Committee Action Plan.

The current fee structure in respect of Market Operators Licences has created a number of inconsistencies and has been the subject of complaints.

Demand for Market Operator Licences, especially in city centre locations, is significant.

It is proposed to vary the fees charged for Market Operators Licences from the existing fee structure (Appendix A) to the interim structure proposed (Appendix B).

### **Links**

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**Coalition pledges** P15 & P28

**Council outcomes** CO8

**Single Outcome Agreement** SO1

## Licensing Policy Development – Market Operator Fees

### Recommendations

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It is recommended that the Committee:

- 1.1 agrees the interim fee structure detailed at Appendix B, pending a full fees review; and
- 1.2 requests a further report in six months on completion of the fees review.

### Background

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- 2.1 The Council acts as Licensing Authority for a range of legislation including the Civic Government (Scotland) Act 1982. There is an agreed structure of fees which is designed to cover the costs of operating the licensing functions of the Council.
- 2.2 The Council's scale of fees for licensing applications was approved with effect from 1 April 2014.
- 2.3 The Licensing Service routinely receives requests for reductions in the licence application fees applicable, typically in respect of community groups, charitable organisations and indoor city centre markets.
- 2.4 The demand for both annual and temporary indoor and outdoor Market Operator Licences, especially in city centre locations, is significant.
- 2.5 The increase in demand has created a number of inconsistencies brought about by the interpretation of the fee structure for temporary markets as detailed in Appendix A.

### Main report

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- 3.1 The Council grants, on average, 110 Market Operator Licences each year.
- 3.2 A number of city centre locations have been redeveloped to improve the quality of the public space. The quality of the improvements has led to competing demands for the use of the public space and a significant increase in the volume of licence applications for Market Operator Licences.
- 3.3 There has also been an increase in the number of indoor markets throughout the City, but mainly in city centre locations.

- 3.4 The fee structure for temporary markets in the city centre, which is defined as Ward 11, currently does not distinguish between indoor and outdoor markets i.e. £69 per pitch / stall.
- 3.5 Indoor markets traditionally have significantly more pitches, stalls and traders operating. It is not unusual for an indoor market to have in excess of 100 pitches with a fee of £69 per pitch / stall. The total fee can be well in excess of £6,900. It is difficult to justify this level of fee for an indoor market because the additional burdens on the Council are often reduced, for example with less use of temporary structures or less impact on the daily activity in the area.
- 3.6 The cost of applying for an annual city centre market (£539 - £1572) can be significantly less than that of a series of temporary markets (£69 per pitch / stall). Market operators which apply for an annual licence could potentially prevent other operators from trading from the same locations. An annual market fee should only be considered in cases where operators trade at a frequency of at least once per calendar month and those dates should be identified on the licence.
- 3.7 Enforcement activity has identified that both indoor and outdoor city centre markets regularly operate with more pitches / stalls than they actually applied for. This can cause problems for residents and surrounding businesses. It is also unlawful as the increased number is not licensed.
- 3.8 This creates difficulties for Council officers in terms of inspection regimes i.e. public safety, electrical engineers and environmental health and increases the need for compliance, enforcement and monitoring.
- 3.9 In order to improve customer service, a draft interim fee structure, attached at Appendix B has been developed to provide greater clarity and transparency in approach.

It proposes:

- that the annual market licence and fee is only available to markets that operate with a frequency of at least once per calendar month;
  - a temporary fee for markets outwith the city centre;
  - a temporary fee for markets within the city centre (Ward 11);
  - a definition of an indoor market i.e. “Wholly or substantially contained within a building or other permanent structure. This does not apply to the exterior grounds of a building, any area temporarily fenced off or restricted area or any temporary structure i.e. marquee”; and
  - a fee for community markets or registered charities provided there is no commercial element, which is increased to a maximum of 20 stalls.
- 3.10 If Committee agree the interim fee structure the Licensing Service will write to all known market operators, who currently trade within the Edinburgh area, to notify them of the change in fee structure.

## Measures of success

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- 4.1 A wide ranging and clear consultation and engagement process that demonstrates customer focus and commitment to listening to all stakeholders.
- 4.2 Customers of the Licensing Service are able to refer to a clear fee structure.
- 4.3 The number of applications for fee reductions considered by Committee is reduced.

## Financial impact

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- 5.1 Potentially there will be some loss of income from community groups and charities. However, it is anticipated that this would be offset against a more consistent and transparent fee structure. The current fee structure encourages community groups and charities to make an application for a fee reduction. The new structure should remove any ambiguity and provide clarity at the point of application. It is projected that these changes will therefore have a neutral effect on income.
- 5.2 The Council's scale of fees for licensing applications was approved with effect from 1 April 2014. Any costs from implementing policy changes will be contained within the current ring-fenced income generated from licensing fees. There are no costs to the Councils revenue budget.

## Risk, policy, compliance and governance impact

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- 6.1 The development of policy in respect of licensing fees is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the fee structure is consistent with these.
- 6.2 City centre space is at a premium and the increase in markets can have an adverse effect on local retailers and could impact business opportunity.

## Equalities impact

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- 7.1 There is no adverse impact on the public sector equalities duty. There would accordingly be no direct equalities impact arising from the contents of this report.

## Sustainability impact

---

- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

---

- 9.1 Discussion has taken place with Council officers in Legal Services, the City Centre and Leith Neighbourhood team and Economic Development.
- 9.2 Wider changes to the fee structure will require detailed consultation with community groups, charitable organisations and affected businesses. Any consultation will, at a minimum, meet any statutory requirements and in most instances will exceed these requirements.

## Background reading / external references

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### John Bury

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## Links

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<b>Coalition pledges</b>	P15 - Work with public organisations, the private sector and social enterprises to promote Edinburgh to investors. P28 - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.
<b>Council outcomes</b>	CO8 - Edinburgh's economy creates and sustains job opportunities.
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	Appendix A - Extract from Current Fees List Appendix B - Proposed Interim Fee Structure for Market Operators



## Appendix A – Extract from Current Fees List

<b>Market Operators (including Car boot sales)</b>		
- over 300 Stalls	1 Year	£1,572
- 50 to 300 Stalls	1 Year	£1,065
- under 50 Stalls	1 Year	£539
- over 300 Stalls - temporary	6 Weeks	£396
- 50 to 300 Stalls - temporary	6 Weeks	£287
- under 50 Stalls - temporary	6 Weeks	£178
- Charitable / Community Organisation - 10 Stalls maximum		£111
- Temporary - City Centre (per pitch)	6 Weeks	£69

## Appendix B – Proposed Interim Fee Structure for Market Operators

<b>Market Operators (including Car boot sales)</b>		
The Annual Market fee is only available to markets that operate with a frequency of at least once per calendar month		
- over 300 Stalls	1 Year	£1,572
- 50 to 300 Stalls	1 Year	£1,065
- under 50 Stalls	1 Year	£539
Temporary Fee for Markets out with City Centre		
- over 300 Stalls - temporary	6 Weeks	£396
- 50 to 300 Stalls - temporary	6 Weeks	£287
- under 50 Stalls - temporary	6 Weeks	£178
Temporary Fee for Indoor Markets within City Centre (Ward 11) 'Indoor market is considered to be wholly or substantially contained within a building or other permanent structure. This does not apply to the exterior grounds of a building, any area temporarily fenced off or restricted area or any temporary structure i.e. marquee'		
£69 (per pitch)	6 Weeks	£69 (per pitch) subject to a maximum fee of £1000
Temporary Fee for Outdoor Markets within City Centre (Ward 11)		
£69 (per pitch)	6 Weeks	£69 (per pitch) subject to a maximum fee of £5000
Community Markets or Registered Charities provided there is no commercial element i.e. where 100% of the profit is given over to charity or community group.		
City Wide 20 Stalls maximum (n/b thereafter normal fees will apply)	Per / week or part of a week	£111

# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## Review Late Hours Catering Licensing

<b>Item number</b>	6.3
<b>Report number</b>	
<b>Executive</b>	Executive
<b>Wards</b>	All

### Executive summary

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This report updates Committee that the planned evidence sessions for licence holders and community groups took place on 20 August 2014.

It asks Committee to widen the function of the Member Officer Working Group for street trading to include dealing with the review of late hours catering.

### Links

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<b>Coalition pledges</b>	<a href="#">P28</a>
<b>Council outcomes</b>	<a href="#">CO8</a>
<b>Single Outcome Agreement</b>	<a href="#">SO1</a>

## Late Hours Catering

### Recommendations

---

It is recommended that Committee:

- 1.1 notes this update; and
- 1.2 agrees to extend the remit of the Member Officer Working Group.

### Background

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- 2.1 The Council acts as Licensing Authority for a range of legislation including Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982.
- 2.2 The Civic Government (Scotland) Act 1982 regulates street trading and late hours catering.
- 2.3 Decisions on late hours catering licences are made by the Licensing Sub-Committee.

### Main report

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- 3.1 Two evidence sessions have been held for community groups and licence holders. A further session is planned for licensing agents and lawyers. These sessions offered stakeholders the opportunity to give feedback on the current system of licensing late hours catering. The output will be used to inform the development of the revised policy and this approach is being trialled to test whether it delivers more robust consultation.
- 3.2 A Member Officer Working Group was previously created to consider issues relating to street trading. This report seeks to obtain Committee approval to extend the remit of that group to include late hours catering issues. The proposed revised terms of reference are detailed in Appendix 1.
- 3.3 The work of the Member Officer Working Group will come back to Committee for consideration and any proposed policy will still require further statutory consultation.

## Measures of success

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- 4.1 The review of late hours catering is evidence led as part of a wide ranging and robust consultation process.
- 4.2 The revised late hours catering policy is suitable for the needs of the city and addresses concerns raised with the Council.

## Financial impact

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- 5.1 There are no financial implications arising from the content of this report.

## Risk, policy, compliance and governance impact

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- 6.1 Matters raised in this report present no risks. The report proposes development of policy which will then be consulted upon. There is a statutory process to amending the policy and this approach goes further than the statutory requirement.

## Equalities impact

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- 7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

---

- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 As detailed above any agreed proposal for a change in policy will be consulted on.

## Background reading / external references

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[Licensing Policy Development – Member Officer Working Group – June 2013 report to Regulatory Committee](#)

[Update for Late Hours Catering - June 2014 report to Regulatory Committee](#)

## John Bury

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## Links

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<b>Coalition pledges</b>	<b>P28</b> - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.
<b>Council outcomes</b>	<b>CO8</b> - Edinburgh's economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1: Member Officer Working Group – Draft Terms of Reference

## Appendix 1

# TERMS OF REFERENCE CITY OF EDINBURGH COUNCIL - OFFICER AND MEMBER WORKING GROUP ON REGULATORY COMMITTEE POLICIES

### 1. Remit

- 1.1 To drive forward and discuss reviews of Regulatory Committee Policy to assist the Committee in providing Edinburgh with a Licensing System etc that is fit for purpose, protects citizens and promotes economic growth.
- 1.2 The remit specifically links to outcomes 1 and 4 of the Single Outcome Agreement. It supports Capital Coalition Pledges 15 and 28 on 'Providing for Edinburgh's Prosperity'. It also contributes to Capital Coalition Pledges 33 and 34 on 'Supporting our Communities and keeping them safe'.
- 1.3 Consider and discuss progress on the Regulatory Committee workplan including:  
A review of street trading policy,  
A review of late hours catering policy.
- 1.4 Receive and discuss briefing papers and presentations on proposed improvements to the Regulatory Committee Functions to promote best practice.

### 2. Membership

- 2.1 The membership of the Officer and Member Working Group on Regulatory Committee Policy will be drawn from all members of the Council:
  - 2.1.1 Convener and Vice Convener of the Regulatory Committee (Convener)
  - 2.1.2 1 Labour
  - 2.1.3 1 Conservative
  - 2.1.4 1 SNP
  - 2.1.5 1 SLD
  - 2.1.6 1 Green
  - 2.1.7 Council Officers – Head of Community Safety, Community Safety Manager, Principal Solicitor Licensing, others may be invited as required.
  - 2.1.8 1 representative from both Police Scotland and Scottish Fire and Rescue Service.
  - 2.1.9 A Ex-officio member of the Licensing Board for any item which may impact the work of that body

### 2.2 Substitutes

- 2.2.1 Substitutes are permitted.

### 3. Meetings

- 3.1 Support Arrangements: Administrative, clerical and policy / strategy

support will be provided by the Services for Communities Department and relevant sections of Corporate Governance.

3.2 The group will meet monthly or as agreed by the Group.

3.3 A request for agenda items will be circulated during the period of 14 days before the meeting.



# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## Update on Licensing Refunds Policy

<b>Item number</b>	6.4
<b>Report number</b>	
<b>Executive</b>	Executive
<b>Wards</b>	All

### Executive summary

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This report provides an update on the functioning of the Licensing Refunds Policy which Committee agreed in September 2013, and addresses the outstanding remit from that Committee.

### Links

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<b>Coalition pledges</b>	N/A
<b>Council outcomes</b>	N/A
<b>Single Outcome Agreement</b>	N/A

## Update on Licensing Refunds Policy

### Recommendations

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It is recommended that Committee:

- 1.1 notes this report; and
- 1.2 discharges the outstanding remit from the Committee meeting of September 2013 to provide an update report on the refund of licences fees in 12 months.

### Background

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- 2.1 The Council acts as Licensing Authority for a range of legislation including Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982. There is an agreed structure of fees which is designed to cover the costs of operating the licensing functions of the Council.
- 2.2 In order to improve customer service, a draft policy was developed outlining the Council's approach to dealing with requests for refund of licence applications fees. The policy was agreed by Regulatory Committee on 6 September 2013, with a direction that an update report would be submitted 12 months later. The policy is copied at Appendix 1.

### Main report

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- 3.1 The Licensing team routinely receives requests for reductions in the licence application fees, typically where the circumstances of the applicant have changed. These may include instances where an offer of employment has fallen through, such as a prospective employee of a licensed street trader, or where a Houses of Multiple Occupation (HMO) property is being sold.
- 3.2 The Council received complaints from customers raising concerns about the lack of consistency in the manner in which cases were dealt with.
- 3.3 As a result the Licensing Refunds Policy was introduced in 2013. It was anticipated that the introduction of a clear policy would manage client expectations and enable a consistent approach to the issue of refunds.
- 3.4 Previous user consultation on the policy had indicated mixed service user views. The Committee therefore decided to review the policy after 12 months and asked the Director of Service for Communities to provide an update report.

3.5 The total value of refunds issued in 2013/2014 was £21,153.

3.6 This can be broken down as follows:

	2013/2014	2012/2013
Taxi/Private Hire Car:	£819	£234
HMO:	£6,870	£4,130
Civic:	£13,464	£22,137.50

3.7 'Civic' refunds included licence fees for public entertainment, skin piercing/tattooing, street trading and market operators. These refunds relate to refunding clients who have mistakenly overpaid fees or have been subsequently granted a fee reduction by Committee. No refunds have been given under the exceptional circumstances section of the policy.

3.8 In 2013/2014 three frontline (stage 1) complaints were received in relation to refunds. In 2012/2013, before the introduction of the policy, there were two investigation (stage 2) complaints and two further requests for refunds which were sent to Committee for determination. This suggests that the policy is assisting in resolving any complaints at the initial stages.

3.9 Information on the operation of this policy will in future be included within the performance framework which will be reported to committee.

## Measures of success

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4.1 That the Council deals with any licence application according to the relevant statutory provisions.

## Financial impact

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5.1 The Council's scale of fees for licensing applications were approved with effect from 1 April 2014. Any refunds are required to be absorbed by the Civic Government (Scotland) Act 1982 licensing budget for the relevant financial year.

## Risk, policy, compliance and governance impact

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6.1 This policy is covered by the scheme of delegation and is intended to increase transparency. The policy also seeks to reduce the number of complaints received.

## Equalities impact

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7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

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8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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9.1 A user consultation on the policy was carried out prior to its implementation in September 2013.

## Background reading / external references

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[City of Edinburgh Council licence application fees list](#)

[Report to Regulatory Committee: 'Licensing Refund Policy: outcome of consultation', 6 September 2013](#)

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## Links

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<b>Coalition pledges</b>	N/A
<b>Council outcomes</b>	N/A
<b>Single Outcome Agreement</b>	N/A
<b>Appendices</b>	Appendix 1: 'Requests for refund of licence application fee' Policy – September 2013

## REQUESTS FOR REFUND OF LICENCE APPLICATION FEES

September 2013

The purpose of this policy is to guide applicants and officers of the City of Edinburgh Council ('the Council') in relation to requests for the refund or reduction of licence application fees.

Applicants should note that the fee is paid to cover the cost of the application process, not for the licence itself.

The policy will apply to all requests for refunds or reduction of licence application fees.

The Council acts as a Licensing Authority as required by a number of statutes, and this currently involves processing and issuing approximately 25,000 licence applications or renewals each year. This policy seeks to ensure fairness and consistency for all applicants.

The Council's Licensing Authority functions are funded directly by the income collected from fees. The Council's charging structure is considered and approved by the Council or Regulatory Committee.

A considerable amount of work is required to lodge, process, administer and consider an application, including engaging with relevant consultees. The cost for this work is reflected in the application fee.

Legislation requires that the total fees payable for any period are equivalent to the expenses incurred by the Council in administering the licensing function during that period.

Prior to making an application, applicants should consider seeking independent legal advice.

**An applicant must be ready, willing and able to complete the process before lodging an application. If this is not the case the applicant is recommended to delay applying.**

**ALL FEES ARE PAYABLE AT THE TIME OF LODGING THE APPLICATION AND ARE NON-REFUNDABLE EXCEPT AS OUTLINED BELOW.**

- I. All fees are payable at the time of lodging and are non-refundable except in exceptional circumstances.
- II. While exceptional circumstances are not defined, they would include events such as a bereavement or serious illness etc. which has an impact upon the application.
- III. The applicant may be called upon to provide documents or other information in support of their request.

- IV. 'Exceptional circumstances' will not be taken to include withdrawal by the applicant due to a change of business plan or circumstances, nor an applicant's inability to secure or obtain any relevant or essential permissions, consents, leases or vehicles etc. Nor will it include circumstances where an application has been refused or conditions have been attached to a licence granted.
- V. No policy can be fully comprehensive or inclusive, and it is recognised that rules should be enforced in a fair and consistent manner. It is essential, however, that each case is treated on its merits and that decisions are reasonable in the circumstances.
- VI. It is the intention of the Council that, in applying this policy, due consideration will be given to an applicant's personal and domestic circumstances etc.
- VII. Where a request for a refund or reduction of fees is made it will be considered by the Director of Services for Communities or their nominated officer, who will determine the response to the request based on the facts and circumstances.
- VIII. Where a request for a refund or reduction is refused the applicant will be given written reasons for the decision.
- IX. The decision will be final and there is no right of appeal or review of that decision.
- X. This policy does not affect any right to raise a complaint under the Council's Complaints procedure. Any request for a refund based on dissatisfaction with the service will be dealt with using the Council's Complaints Procedure.

# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## **Demand for Taxis: Six monthly update**

<b>Item number</b>	6.5
<b>Report number</b>	
<b>Executive</b>	
<b>Wards</b>	All

### **Executive summary**

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This report provides the requested six monthly update on analysis of demand for taxis in the city. The report provides the Committee with the most recent analysis of demand, carried out by Count On Us in May and June 2014.

### **Links**

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<b>Coalition pledges</b>	<a href="#">P15</a>
<b>Council outcomes</b>	<a href="#">CO8</a>
<b>Single Outcome Agreement</b>	<a href="#">SO1</a>

## Demand for Taxis: Six monthly update

### Recommendations

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It is recommended that Committee:

- 1.1 notes this report and;
- 1.2 agrees that there is currently no evidence of unmet demand; and
- 1.3 agrees to use this survey as the basis for determining demand in any future application for a taxi licence.

### Background

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- 2.1 The Council has a policy of limiting the number of taxi licences issued within the city, utilising the powers available to it under Section 10 (3) of the Civic Government (Scotland) Act 1982. This power can only be used if the Council is satisfied that there is no unmet 'significant demand' for taxis. The Council is required to keep this position under regular review.
- 2.2 At its meeting on 3 May 2013 the Regulatory Committee agreed to the conclusions of a full demand survey carried out by Halcrow Ltd. Additionally Committee agreed to commission consultants to review the provision of taxis within the city at regular intervals, and specifically to identify whether there is any 'significant unmet demand' for taxis.
- 2.3 Count on Us Ltd was commissioned to undertake this work and the research took place in May and June 2014. Attached at Appendix 2 is a summary analysis of the Count on Us Ltd report.

### Main report

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- 3.1 The Council acts as a Licensing Authority for the purpose of licensing taxis within the city. The Council has adopted a policy of limiting the number of taxi licences issued where there is no evidence of significant unmet demand. At present, there are 1316 licences for taxis within the city. All applications for taxi licences are currently referred to the Licensing Sub-Committee for a hearing and decision.
- 3.2 The policy of restricting the number of taxi licences within the city attracts considerable debate. One view generally held by taxi licence holders is strongly in favour of retaining the restriction on licence numbers, on the grounds that overprovision would harm the viability of the trade. There are other groups



which strongly argue that the policy is a restraint on trade, and seek the removal of the restriction. Typically those applicants are people who do not currently have a taxi licence, but wish to obtain one, or licensed taxi drivers who wish to operate their own taxi as opposed to driving shifts in taxis licensed by others.

- 3.3 The restriction policy has regularly been challenged by legal action. This takes the form of appeals to the Sheriff against decisions of the Licensing Sub-Committee to refuse applications for taxi licences. These decisions have made it clear that in order to maintain a restriction, the Council must regularly inform itself on provision, and specifically on whether there is any unmet demand.
- 3.4 The Scottish Government has also issued guidance for licensing authorities which operate a limitation policy. The guidance clearly indicates that the level of unmet demand must be kept under regular review.
- 3.5 The Count on Us Ltd research provides Committee with an up to date review of the level of demand for taxis in the city. If accepted, this will form the basis on which individual licences would be considered. Research to update the position with regard to unmet demand will continue to be carried out every six months.
- 3.6 Members are asked to note that the survey has been altered to increase the percentage of time which monitors periods of peak demand, e.g. after 12.00am and, in particular, Friday and Saturday evenings. The Count on Us Ltd report shows that overall there is no evidence of significant unmet demand.
- 3.7 Officers have requested booking office data from the major taxi companies which would show how long, on average, a customer waits for a taxi to arrive if they make a telephone booking. This will be tabled, if received, before the Committee meeting, but it would not be appropriate to delay consideration of the survey meantime.
- 3.8 There are currently 922 Private Hire Cars (PHC) licensed in the city. The number of PHC licences has remained stable for the past three years although it varies to approximately 900. This suggests that there is no 'hidden' taxi demand which is being met by significant increases in the number of PHCs. There are no powers to limit the number of PHCs and the number of these is largely driven by market conditions.
- 3.9 The Council has received one complaint about the availability of taxis within the city since Committee last considered this issue (Appendix 3). No complaints about the number of taxis have been raised with the Council by the hospitality or business community.

## Measures of success

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- 4.1 That the city has sufficient taxis to meet the customer demand placed upon the fleet.

## Financial impact

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- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2014.
- 5.2 The cost of the survey was contained within the Civic Government (Scotland) Act 1982 licensing budget.

## Risk, policy, compliance and governance impact

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- 6.1 This regular monitoring is necessary to allow the Committee the option to maintain its policy.
- 6.2 There is a risk that individual applications for taxi licences which are unsuccessful may be appealed to the sheriff. It also reduces the risk to the Council from a challenge to the current limitation policy.

## Equalities impact

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- 7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Not relevant

## Background reading / external references

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[Report to Regulatory Committee 19 February 2014](#)

### John Bury

Acting Director of Services for Communities

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## Links

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<b>Coalition pledges</b>	<b>P28</b> - Work with public organisations, the private sector and social enterprise to promote Edinburgh to investors
<b>Council outcomes</b>	<b>CO8</b> - Edinburgh's economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1: Count on Us Ltd Edinburgh taxi rank observations (May/June 2014) Appendix 2: Summary analysis of Count On Us data (May/June 2014) Appendix 3: Complaint dated 15 July 2014

# Appendix 1

Edinburgh Taxi Rank Observations May-June 2014

SITE NUMBER	STREET	HOURS OF APPOINTMENT	LOCATION	Period	WEEKDAY	DATE	SURVEY HOURS	Total Taxis	Average Taxi wait time	Total Peds	Average Ped Waiting Time
1	Leith Walk	24 hrs	Omni Centre	1	Thursday	29-May-14	00:00-02:00	64	00:11:32	50	00:00:00
				2	Friday	30-May-14	01:00-04:00	96	00:06:52	76	00:00:03
				3	Saturday	31-May-14	01:00-04:00	222	00:02:15	197	00:00:44
				4	Thursday	19-Jun-14	24:00-02:00	105	00:07:48	86	00:00:01
<b>TOTAL</b>								<b>487</b>	<b>00:07:37</b>	<b>411</b>	<b>00:00:12</b>
2	Haymarket Terr	24 hrs	Outside Tune Hotel	1	Thursday	29-May-14	14:00-16:00	81	00:06:31	67	00:00:00
				2	Saturday	31-May-14	12:00-14:00	98	00:04:12	79	00:00:03
<b>TOTAL</b>								<b>179</b>	<b>00:04:52</b>	<b>146</b>	<b>00:00:02</b>
4	George Street	24 hrs	Outside the Dome	1	Friday	30-May-14	01:00-04:00	35	00:10:17	25	00:00:00
				2	Saturday	31-May-14	01:00-04:00	128	00:03:20	108	00:00:00
<b>TOTAL</b>								<b>163</b>	<b>00:06:49</b>	<b>133</b>	<b>00:00:00</b>
5	Castle Street	24 hrs	W side - S of George Street	1	Thursday	29-May-14	12:00-14:00	28	00:16:04	16	00:00:00
				2	Saturday	31-May-14	12:00-14:00	25	00:12:45	11	00:00:00
<b>TOTAL</b>								<b>53</b>	<b>00:15:25</b>	<b>27</b>	<b>00:00:00</b>
8	Cluny Avenue	24 hrs	S side - W end	1	Thursday	29-May-14	16:00-18:00	0	00:00:00	0	00:00:00
				2	Saturday	31-May-14	16:00-18:00	2	00:09:39	0	00:00:00
<b>TOTAL</b>								<b>2</b>	<b>00:04:49</b>	<b>0</b>	<b>00:00:00</b>
13	Dundas Street	24 hrs	E Side - S of Eyre Place	1	Thursday	29-May-14	12:00-14:00	54	00:27:39	26	00:00:00
				2	Friday	30-May-14	16:00-18:00	71	00:06:30	44	00:00:01
				3	Saturday	31-May-14	12:00-14:00	26	00:05:55	15	00:00:17
				4	Saturday	31-May-14	16:00-18:00	33	00:06:23	15	00:00:04
				5	Saturday	21-Jun-14	12:00-14:00	30	00:04:02	16	00:00:33
				6	Saturday	21-Jun-14	16:00-18:00	27	00:11:22	15	00:00:21
<b>TOTAL</b>								<b>241</b>	<b>00:10:18</b>	<b>131</b>	<b>00:00:13</b>
27	Grassmarket	24 hrs	Outside The Apex International Hotel	1	Tuesday	10-Jun-14	12:00-14:00	10	00:05:57	5	00:00:00
				2	Saturday	31-May-14	24:00-02:00	17	00:02:01	10	00:00:19
<b>TOTAL</b>								<b>27</b>	<b>00:03:59</b>	<b>15</b>	<b>00:00:10</b>
29	Grosvenor Street	24 hrs	E side - Haymarket end	1	Wednesday	28-May-14	12:00-14:00	49	00:06:21	9	00:00:00
<b>TOTAL</b>								<b>49</b>	<b>00:06:21</b>	<b>9</b>	<b>00:00:00</b>
31	Hanover Street	24 hrs	W side - Princes Street end	1	Friday	30-May-14	16:00-18:00	53	00:04:36	50	00:00:06
				2	Saturday	31-May-14	12:00-14:00	32	00:17:01	26	00:00:00
<b>TOTAL</b>								<b>85</b>	<b>00:10:49</b>	<b>76</b>	<b>00:00:03</b>
32	High Street	24 hrs	S side - Radisson Hotel	1	Monday	02-Jun-14	16:00-18:00	50	00:10:53	32	00:00:04
				2	Tuesday	27-May-14	16:00-18:00	46	00:10:26	31	00:00:00
				3	Wednesday	28-May-14	12:00-14:00	47	00:10:50	34	00:00:01
				4	Friday	30-May-14	01:00-04:00	147	00:06:45	115	00:00:23
				5	Saturday	31-May-14	16:00-18:00	56	00:10:52	38	00:00:00
				6	Saturday	31-May-14	02:00-04:00	134	00:01:55	109	00:01:13
<b>TOTAL</b>								<b>480</b>	<b>00:08:37</b>	<b>359</b>	<b>00:00:16</b>
33	Holyrood Road	24 hrs	W side - outside The Scotsman building	1	Wednesday	28-May-14	12:00-14:00	17	00:06:26	9	00:00:00
<b>TOTAL</b>								<b>17</b>	<b>00:06:26</b>	<b>9</b>	<b>00:00:00</b>

Edinburgh Taxi Rank Observations May-June 2014

SITE NUMBER	STREET	HOURS OF APPOINTMENT	LOCATION	Period	WEEKDAY	DATE	SURVEY HOURS	Total Taxis	Average Taxi wait time	Total Peds	Average Ped Waiting Time
48	Little France Crescent	24 hrs	50m SE of Main Entrance to New RI	1	Wednesday	04-Jun-14	12:00 - 14:00	35	00:11:40	19	00:03:38
				2	Saturday	21-Jun-14	16:00 - 18:00	28	00:06:15	16	00:00:00
<b>TOTAL</b>								<b>63</b>	<b>00:09:58</b>	<b>37</b>	<b>00:01:49</b>
51	Lothian Road	24 hrs	W side - at Festival Square	1	Tuesday	03-Apr-14	03:00 - 05:00	3	00:01:50	2	00:00:00
				2	Wednesday	28-May-14	12:00 - 14:00	49	00:16:50	35	00:00:00
				3	Friday	30-May-14	00:00-02:00	53	00:11:50	51	00:00:00
				4	Saturday	31-May-14	02:00 - 04:00	134	00:02:07	92	00:00:00
				5	Saturday	31-May-14	03:00 - 05:00	76	00:01:20	45	00:00:00
<b>TOTAL</b>								<b>305</b>	<b>00:06:47</b>	<b>225</b>	<b>00:00:00</b>
54	Memingside Road	24 hrs	W side in lay-by opposite Street's Place	1	Wednesday	28-May-14	12:00 - 14:00	17	00:10:30	6	00:00:00
<b>TOTAL</b>								<b>17</b>	<b>00:10:30</b>	<b>6</b>	<b>00:00:00</b>
55	Morrison Street	24 hrs	N side - at EICC	1	Saturday	31-May-14	24:00 - 02:00	2	00:00:22	2	00:00:24
<b>TOTAL</b>								<b>2</b>	<b>00:00:22</b>	<b>2</b>	<b>00:00:24</b>
58	Nicolson Square	24 hrs	N side of square opposite from Jumb	1	Saturday	31-May-14	24:00 - 02:00	0	00:00:00	0	00:00:00
<b>TOTAL</b>								<b>0</b>	<b>00:00:00</b>	<b>0</b>	<b>00:00:00</b>
68	Rutland Street	24 hrs	N side - opposite Caledonian Hotel	1	Monday	02-Jun-14	16:00 - 18:00	4	00:05:39	1	00:02:31
				2	Tuesday	03-Jun-14	16:00 - 18:00	5	00:02:24	5	00:00:00
				3	Saturday	31-May-14	02:00 - 04:00	20	00:03:40	9	00:00:33
				4	Saturday	31-May-14	12:00 - 14:00	14	00:03:38	5	00:00:00
<b>TOTAL</b>								<b>43</b>	<b>00:03:50</b>	<b>20</b>	<b>00:00:46</b>
74	Waverley Bridge	24 hrs	W side	1	Monday	02-Jun-14	16:00 - 18:00	107	00:04:58	94	00:00:02
				2	Friday	30-May-14	16:00 - 18:00	137	00:04:30	106	00:00:00
				3	Saturday	31-May-14	21:00 - 23:00	63	00:13:43	52	00:00:00
				4	Saturday	31-May-14	03:00 - 05:00	11	00:01:50	9	00:01:52
<b>TOTAL</b>								<b>318</b>	<b>00:06:15</b>	<b>261</b>	<b>00:00:24</b>
76	Wester Hailes Centre (B)	24 hrs	NE side - Murrayburn Gate	1	Tuesday	03-Jun-14	16:00 - 18:00	13	00:02:42	8	00:04:02
				2	Saturday	31-May-14	16:00 - 18:00	11	00:16:08	8	00:00:00
				3	Saturday	31-May-14	12:00 - 14:00	11	00:04:31	8	00:01:07
<b>TOTAL</b>								<b>35</b>	<b>00:14:16</b>	<b>24</b>	<b>00:00:03</b>

**Total Average Peds**    **00:00:14**

## **Appendix 2**

### **TAXI MONITORING REPORT ANALYSIS**

#### **Assessment of Current Demand for Taxi Services in Edinburgh - June 2014**

This report has been prepared on behalf of the Director of Services for Communities to assist members of the Licensing Sub-Committee in relation to applications for new taxi licences which may be considered at their meeting on or after 8 September 2014.

Stance observations indicate that there is no significant unmet demand for taxi services at this time.

#### **Background**

1. In April 2013, Halcrow Group Limited, transportation consultants, were commissioned to carry out surveys on the demand for taxi services in the city. Halcrow reported on rank observations and interviews and surveys conducted between February and March 2013. Halcrow concluded there was no unmet demand at that time.
2. The conclusions of the Halcrow report were accepted by the Council's Regulatory Committee on 3 May 2013. Large scale surveys by consultants such as Halcrow are obtained every three years.
3. To provide demand information between the large scale surveys, smaller rank observations surveys are carried out by Count on Us Ltd. The foregoing results are collated onto Taxi Monitoring Reports including other information such as complaints from the public as to lack of taxis.

#### **Stance Observation Survey**

4. Count on Us Ltd provided the results of stance surveys carried out at least twice at each location in May and June 2014. A selection of representative ranks was observed on different days and at different times. The ranks selected for observation for both periods are broken down into 16 located within or immediately around the city centre, and three being located outwith the city centre. A total of 1925 passengers were observed from the 19 ranks monitored. The ranks observed had 2051 taxi hires over the observation period.
5. There are currently 82 taxi stances located throughout the city with a combined capacity for 293 waiting taxis. The stances observed make up 22% of the overall stances within the city.

6. The latest Count on Us Ltd stance observations indicate average pedestrian waiting times at a low of 0 seconds and a high of 1 minute 49 seconds. The average waiting time overall was 14 seconds.

Period of Observation	Number of Passengers	Total Number of Taxi Hires	Percentage Passengers to Taxi Hires
May/June 2014	1282	2051	63%

Period of Observation	Number of Passengers	Total average time of recorded waits	Average Passenger Wait Time	Longest Wait Time Observed
May/June 2014	1282	00:05:15	00:00:14	00:01:49

### Additional Information

7. In the last year, one complaint about a lack of taxis in the city was received by the Licensing Team.

### Conclusions

8. The stance observations indicate that most passengers at ranks were able to obtain a taxi immediately. The average time a passenger had to wait was 14 seconds.
9. Passengers obtaining taxis at the ranks observed could generally do so in less than a minute during the daytime. The only recorded exception was at Little France Crescent, where observations showed an average waiting time of 3 minutes 38 seconds.
10. On a Monday evening an average wait time of 2 minutes 31 seconds was recorded at Rutland Street. At Wester Hailes Centre on a Tuesday evening an average wait time of 4 minutes 2 seconds was recorded.
11. No notable delays were recorded at weekends. The longest waiting time during these hours was observed as being 1 minute 32 seconds at Waverley Bridge (observation hours 03:00 – 05:00).

12. Councils are permitted to take a broad view of the demand for taxis over the week. From the information provided by Count on Us Ltd from the ranks observed, there is no significant unmet demand for taxi services at this time.



Tues 15<sup>th</sup> July 2014

To Edinburgh City Council Public Entertainment Licence Committee  
re Royal Military Tattoo 2014

I would like to object to the public entertainment license application by the Royal Military Tattoo for the Castle Parade and Lawnmarket for the duration of August 2014. In particular I object to the lack of transport provided by the RMT and Edinburgh City Council on the Saturday nights after the 2<sup>nd</sup> performance and so leaving thousands of extra people left in the city centre trying to catch a taxi as it is the available motorised transport home. I feel most sorry for elderly tourists who have been directed to the nearest taxi rank on George IV bridge and find themselves standing there for up to 2 hours sometimes in the rain in the middle of the night. I feel they have been let down by the organisers and their health may be put in danger by the lack of transport home and doesn't give a good impression of the city. The solution to this problem is that the city council should lay on a better bus service at those hours to cater for the extra people. I notice that something similar was done this last winter when there was some late night event on.

I would liked to have registered this objection earlier, in order to give the council time to try and organise an adequate bus service to try and cater for extra people in the early hours of the Sunday mornings, but you can only object once an application has been made even though the Tattoo organisation have already sold out the tickets for these events. In fact City council website is not working properly and as of today only shows the public entertainment licence applications up until the end of April 2014.

My name is Nigel Trevor and I am a licensed Hackney taxi driver who drives the black cab plate 1058 and have been driving on Saturday nights for the past 7 years. Saturday nights after midnight is always busy and organising an event for so many to go home at that time in the city centre without arranging extra transport is thoughtless at best and negligent at worst and elderly tourists, who are most vulnerable, suffer the most. How many of them do you think have suffered health problems after not being able to get back to their hotels, after attending the Tattoo, until 2.30 am in wet weather (which actually happened a couple times during a wet summer) when demand for taxis is at its greatest?

Personally I like the extra business the second performance generates during the day but after when the demand on taxis is excessive I dislike it because customers have been waiting in queues for a long time and it becomes stressful. As a result I decided to go home on those Saturdays last year soon after midnight rather than working in a stressful situation and later I heard that people had trouble getting home that night.

Maybe the RMT should put warnings on their website that people may have trouble getting transport to take them home or to hotels after the 2<sup>nd</sup> performance on the Saturday nights if there is wet weather.

Yours Sincerely

Nigel Trevor  
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EH39 4NE



THE CITY OF EDINBURGH COUNCIL  
SERVICES FOR COMMUNITIES  
16 JUL 2014  
LICENSING

# Regulatory Committee

**2.00pm, Monday, 8 September 2014**

## **Transfer of the Taxi Examination Centre**

<b>Item number</b>	6.6
<b>Report number</b>	
<b>Executive</b>	Executive
<b>Wards</b>	All

### **Executive summary**

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This report updates Committee on the planned transfer of the Taxi Examination Centre, currently managed by Police Scotland, to Fleet Services within Services for Communities.

### **Links**

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<b>Coalition pledges</b>	<a href="#">P15</a>
<b>Council outcomes</b>	<a href="#">CO8</a>
<b>Single Outcome Agreement</b>	<a href="#">SO1</a>

## Taxi Examination Centre

### Recommendations

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It is recommended that Committee:

- 1.1 notes this update; and
- 1.2 agrees to receive a further update once the transfer process is complete.

### Background

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- 2.1 The Council, as Licensing Authority under the Civic Government (Scotland) Act 1982, has a duty to ensure that taxis and private hire cars (PHCs) are safe, roadworthy and fit for purpose. Both taxis and PHCs are required to be inspected when new licences, or renewal of existing licenses, are applied for. New vehicles, intended to replace an existing licensed vehicle, will also require to be checked. Licensed vehicles may also be subject to spot checks, or called in for ad hoc inspections, as required by police officers or council staff.
- 2.2 In Edinburgh, the testing of taxis and PHCs is carried out by Police Scotland on behalf of the Council. This arrangement is now unique to Edinburgh with all similar type arrangements in Scotland having been replaced previously. This facility is located at the Taxi Examination Centre (TEC) within the Council's Murrayburn Road depot. The depot is owned by the Council, and also accommodates other council services, e.g. Edinburgh Building Services.
- 2.3 The TEC is a fully equipped MOT centre. There are currently 13 members of staff – a Police Inspector, a Senior Vehicle Examiner, a Deputy Senior Vehicle Examiner, seven Vehicle Examiners and three support staff, all of whom are Police Scotland employees.
- 2.4 The Police Inspector is a Police Scotland serving officer who manages the TEC. The Police Inspector has four main roles:
  - Acting on behalf of Police Scotland in all matters relating to taxi and private hire car licensing within the city.
  - Management of the TEC.
  - Discharging the functions of the Council's Cab Inspector.
  - Organising on-street enforcement with TEC staff and other police officers.

- 2.5 The TEC also carries out similar examination and enforcement functions for both West Lothian and Midlothian Councils.

## Main report

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- 3.1 The Regulatory Committee approved the recommendations set out in previous reports (September 2013 and April 2014) and agreed that the management of the TEC would transfer from Police Scotland to the Council. A group has been set up to facilitate this work. This group is currently drafting Service Level Agreements (SLAs) to cover all aspects of the TEC's operation and the Council's relationship with each stakeholder.
- 3.2 These SLAs are being consulted upon with the various partners and should be complete by 1 October 2014. Committee is asked to note that the signing of these SLAs will be undertaken by the Director of Services for Communities, in consultation with the Convener. A copy of the SLAs will be provided for noting in a subsequent report.
- 3.3 Police Scotland has begun consultation with affected staff members. Staff from the Council's Organisational Development team and Police Scotland Human Resources are coordinating this piece of work. Arrangements are being put in place to ensure business continuity and support temporary management structures pending the appropriate process being taken to adjust the structure in Fleet Services who will manage the facility. Eleven posts will TUPE transfer into the Council from Police Scotland.
- 3.4 It is intended to include the TEC at Murrayburn within the wider review of depots the Council has across the city.
- 3.5 Midlothian and West Lothian Councils have agreed to continue using the TEC in principle, subject to draft SLAs being approved. It is anticipated that the TEC will continue to provide services for these councils on an ongoing basis. The finalised SLAs will specify an agreed level of service, and will also specify agreed frameworks for dispute resolution and cost recovery from the other authorities.

## Measures of success

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- 4.1 That the Council deals with any licence application according to the relevant statutory provisions.
- 4.2 The TEC transfers to the Council with minimal service disruption for users of the facility.

## Financial impact

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- 5.1 The Council currently operates the TEC in partnership with Police Scotland. West Lothian and Midlothian Councils both utilise the TEC for the purpose of discharging their statutory duties in respect of the hire fleets in their areas. The annual cost of operating the TEC is between £400k and £420k per annum. This includes all property, equipment and staffing costs.
- 5.2 The cost is thereafter split pro rata between the three councils depending on the number of vehicles tested. The share of costs to the City of Edinburgh Council from its use of the facility is approximately £330k each year and is recharged to income from licence fees. There is therefore no direct cost to the Council's revenue accounts.

By taking the testing function in-house Fleet Services can make better use of the available physical space and the capacity of the workforce.

## Risk, policy, compliance and governance impact

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- 6.1 As previously reported the current operation of the TEC presented a risk of challenge under procurement legislation. This transfer is being undertaken to remove that risk of legal challenge.

## Equalities impact

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- 7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Ongoing discussions are taking place with officials of West Lothian and Midlothian Councils.
- Continuing consultation with those councils and Police Scotland will be required.
- It is intended to facilitate a dialogue with the taxi and private hire trade on the operation of the new facility.

## Background reading / external references

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Reports to Regulatory Committee in September 2013 and April 2014

## John Bury

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## Links

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<b>Coalition pledges</b>	<b>P28</b> - Work with public organisations, the private sector and social enterprise to promote Edinburgh to investors
<b>Council outcomes</b>	<b>CO8</b> - Edinburgh's economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	N/A

# Regulatory Committee

2.00pm, Monday, 8 September 2014

## Period of Licence: Civic Government (Scotland) Act 1982

Item number	6.7
Report number	
Executive	
Wards	All

### Executive summary

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This report seeks authority to amend the Council's current policy and practice when determining the duration of licences issued under Civic Government (Scotland) Act 1982.

### Links

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Coalition pledges	<a href="#">P15</a>
Council outcomes	<a href="#">CO8</a>
Single Outcome Agreement	<a href="#">SO1</a>

## Period of Licence: Civic Government (Scotland) Act 1982

### Recommendations

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It is recommended that Committee:

- 1.1 agrees the proposed policy; and
- 1.2 agrees that a communications strategy should be developed and put in place.

### Background

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- 2.1 The Council acts as Licensing Authority for a range of legislation including Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982.
- 2.2 The Civic Government (Scotland) Act 1982 provides that licences will normally have a duration or 'period' of three years, or for such shorter period as the licensing authority may decide when granting or renewing a licence.

### Main report

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- 3.1 Currently, with the exception of taxi and private hire car licences, all new grants of licences under the Civic Government (Scotland) Act 1982 are restricted to a period of a maximum of one year and are given a renewal date of 30 June. In practice, this means that new licences are, in effect, for between six months and a year, depending on which month they are determined.
- 3.2 Thereafter, any renewal of these licences will be due on 30 June each subsequent year.
- 3.3 The rationale underpinning this process was that each type of licence had a standard renewal date, which was easy to track. This practice dates back to processes which did not have the advantages of ICT systems.
- 3.4 This practice is outdated and is no longer required. It also results in the condensing of the Licensing team's workload, since the majority of licences fall to be renewed during the same short time period. Renewals typically arrive between May and June each year, with six months thereafter to determine.
- 3.5 Since the practice was introduced, the city has grown and developed economically. In particular an unintended consequence is that the renewals now



coincide with the peak demand period for licences for the August festivals. It also means that additional temporary staff are required for the duration of that period.

- 3.6 It is, therefore, proposed that:
- a) Any new licence granted will be for a period of 12 months from the date of grant of the application, as opposed to being granted with an expiry date of 30 June; and
  - b) Any renewal application will be granted with a renewal date, to be determined by the date the renewal application is granted.
- 3.7 For example, a licence with a renewal date of 30 June 2014 is granted on 30 Sept 2014. Therefore, the renewal date will be 30 Sept 2015 and the period of licence will be 15 months.
- 3.8 The proposed policy would improve customer service and spread the workload over a six month period.
- 3.9 It is proposed that point (b) at 3.6 above should be trialled for 12 months. If it proves to have been successful in spreading the workload more evenly throughout the year there will be no need to continue the practice beyond that. The renewal dates would then continue to fall every 12 months thereafter.

## Measures of success

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- 4.1 That Council deals with any licence application according to the relevant statutory provisions.
- 4.2 Improved customer service due to a more even spread of workload. The processing times for applications are expected to reduce with a more even distribution. There is also expected to be an increased level of customer satisfaction, specifically speed and efficiency of the service.

## Financial impact

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- 5.1 The Council's scale of fees for license applications were approved with effect from 1 April 2014.
- 5.2 Some small loss in income may be created by extending the period of some licences. This would be offset by a reduction in overtime and use of agency staff, which are historically required each year to deal with the peak in applications and festivals in June and July.

## Risk, policy, compliance and governance impact

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- 6.1 The proposed policy reduces the operational risk of deadlines not being met and legal challenge to the current policy.

## Equalities impact

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- 7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Not applicable.

## Background reading / external references

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City of Edinburgh Council licence application fees list

### John Bury

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## Links

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<b>Coalition pledges</b>	<b>P28</b> - Work with public organisations, the private sector and social enterprise to promote Edinburgh to investors
<b>Council outcomes</b>	<b>CO8</b> - Edinburgh's economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1: Number and type of civic licences in force (1/8/14)

## Appendix 1: Number and type of licences in force 1/8/14 (civic)

<b>Licence Type</b>	<b>Number</b>
Indoor Sports	12
Knife Dealer	19
Late Hours Catering	181
Market Operator	38
Metal Dealers	27
Public Charitable Collection	53
Public Entertainment	111
Second Hand Dealer	338
Sex Shop	4
Skin Piercing/Tattooing	238
Street Trader	440
Street Trader Employee	587
Sunbed	13
Window Cleaner	193
<b>Grand Total</b>	<b>2454</b>

# Regulatory Committee

2.00pm, Monday, 8 September 2014

## Consultation - Air Weapons and Licensing (Scotland) Bill

Item number	6.8
Report number	
Executive	Executive
Wards	All

### Executive summary

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This report sets out the main points covered in the Air Weapons and Licensing (Scotland) Bill and asks the Committee to agree the response to consultation on this Bill.

### Links

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Coalition pledges	N/A
Council outcomes	N/A
Single Outcome Agreement	N/A

## Consultation - Air Weapons and Licensing (Scotland) Bill

### Recommendations

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It is recommended that Committee:

- 1.1 notes this report; and
- 1.2 agrees the consultation responses.

### Background

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- 2.1 The Council acts as Licensing Authority for a range of legislation including the Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982.
- 2.2 The Air Weapons and Licensing (Scotland) Bill is currently at stage 1 in the legislative process and is being considered by the Scottish Parliament's Local Government and Regeneration Committee. It is therefore possible that amendments will be made to the Bill before it receives Royal Assent.
- 2.3 The current provisions in the Bill have implications for the Council's Licensing function and, as a result, may have a significant impact on the work plan of the Committee.
- 2.4 A draft response to the Local Government and Regeneration Committee's consultation is provided at Appendix 2.

### Main report

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3.1 The following sections of this report set out the main provisions in the Bill. Other parts of the Bill will give the Police the power to licence air weapons and amend the powers of Licensing Boards in respect of the sale of alcohol. Appendix 1 provides further information and some implications for the Council's licensing functions.

#### 3.2 **Sexual entertainment venues**

The Bill creates a new discretionary licensing regime for sexual entertainment venues. Provisions will include:

- The definition of sexual entertainment venues;

- The power for local authorities to license sexual entertainment venues according to the existing structure set out in Schedule 2 to the 1982 Act – in other words the same rules as those which currently apply to sex shops; and
- The power for local authorities to determine a limit on the number of sexual entertainment venues in their area.

### 3.3 **Metal dealers**

Metal Dealer provisions will strengthen the existing licensing regime. Specific provision will be made to:

- Remove the exemption warrants system that allowed a metal dealer with a larger turnover to be exempt from the licensing and regulation of metal dealers;
- Limit payment for metal by metal dealers or itinerant metal dealers to prescribed methods i.e. bank transfer or cheque;
- Improve standards for identification of customers and record keeping;
- Remove the mandatory requirement that metal dealers should not process metal for 48 hours after receiving it.

### 3.4 **Taxis and private hire cars**

The provisions in the Bill are part of a larger body of work which aims to create greater consistency with the current licensing systems. As well as widening and tightening the existing licensing regimes. Specific provisions include:

- The power to refuse to grant private hire car licences on grounds of overprovision;
- The extension of taxi driver testing to include private hire car drivers;
- Removal of the contract exemptions to the licensing and regulation of taxis and private hire cars, bringing hire cars used on contracts into the regime.

### 3.5 **Public entertainment venues**

The Bill will abolish ‘theatre licences’, as currently required under the Theatres Act 1968, and instead will allow local authorities to licence ‘theatres’ through the existing public entertainment licensing regime provided for in the 1982 Act. The Council would need to amend its Public Entertainment Resolution as appropriate.

### 3.6 **Miscellaneous and general**

The Bill will also include a number of provisions aimed at improving the operation of all civic government licensing regimes and clarifying compliance with the EU Services Directive. Specific provisions include:

- Power for the Scottish Ministers to make provision for the procedure to be followed at or in connection with hearings;

- Introduce a new role, Civic Licensing Standards Officer, with broadly the same powers and duties as an ‘authorised officer’ within the 1982 Act but with specific functions in relation to providing information and guidance, checking compliance, providing mediation and taking appropriate action on perceived breaches of conditions to a licence provided under the 1982 Act;
  - Where it has not already been provided, the deemed grant of a licence where the Local Authority has not either decided on an application or sought an extension from the sheriff within a set period. As with the similar provision in relation to alcohol this provides clear compliance with the EU Services Directive.
- 3.7 Committee is asked to agree the draft response to the Local Government and Regeneration Committee’s consultation (Appendix 2) and to approve that draft for submission.

### **Measures of success**

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- 4.1 That the licensing function is fit for its purpose and any licence application is dealt with according to the relevant statutory provisions.

### **Financial impact**

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- 5.1 Any additional costs will be required to be offset against new or increased fees.

### **Risk, policy, compliance and governance impact**

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- 6.1 This Bill will have an impact on the Committee’s work programme and may require subsequent changes to policy.
- 6.2 The Committee will want to be aware that issues relating to ‘sexual entertainment’ may be similar to those dealt with in respect of the licensing of saunas in 2013. The decision whether or not to adopt a ‘sexual entertainment venue’ licensing regime is likely to be a high profile one, with the potential to attract strong views.

### **Equalities impact**

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- 7.1 There is no equalities impact arising from the contents of this report.

### **Sustainability impact**

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Please see Appendix 2 for a draft response to the Local Government and Regeneration Committee's consultation

## Background reading / external references

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Copy of questionnaire from Local Government and Regeneration Committee.

[Air Weapons and Licensing \(Scotland\) Bill](#)

[Air Weapons and Licensing \(Scotland\) Bill - call for evidence](#)

### John Bury

Acting Director of Services for Communities

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## Links

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<b>Coalition pledges</b>	N/A
<b>Council outcomes</b>	N/A
<b>Single Outcome Agreement</b>	N/A
<b>Appendices</b>	Appendix 1: Summary of current provisions of Air Weapons and Licensing (Scotland) Bill Appendix 2: Draft response to the Local Government & Regeneration Committee's consultation



## **Appendix 1**

### **Sections 1 – 40: Air Weapons**

These sections create a new police certification scheme for the use, possession, purchase or acquisition of an air weapon. It will be a criminal offence to use, possess, purchase or acquire a weapon without a certificate.

Applications will be made to the Chief Constable and applicants will have to provide 'good reason' for possession or acquisition of air weapons.

Creates police permits with mandatory conditions and permits covering visitors and events where air weapons are to be used; introduces system for approving air weapons clubs.

The scheme will be operated and managed by Police Scotland.

### **Sections 41 – 59: Alcohol Licensing**

Licensing objective of protecting children from harm is extended to include young persons.

Introduce flexibility in timescales for Statements of Policy – statements are to have effect for the "licensing policy period" rather than three years.

Introduce a new 'fit and proper' test in premises licence applications, applications for transfer of premises licence, grounds for review of premises licence, personal licence applications and revocation of personal licences. The Chief Constable may provide information which he considers relevant to consideration of the application about a transferee or personal licence applicant to the Board.

New offences of buying alcohol for a child or young person to consume in a public place are created.

In considering overprovision the whole of a Board's area may be a locality and consideration of number and capacity of licensed premises in the locality becomes discretionary rather than mandatory.

A requirement for Boards to produce annual financial reports is introduced; these must include a statement of the income received and expenditure during the financial year.

The period of notice that must be given in relation to the expiry of a personal licence is increased from three months to nine months. Applicants also have a longer time period within which they can apply to renew their licences – increased from two months beginning three months prior to expiry, to nine months beginning 12 months prior to expiry.

### **Sections 60 – 62: Taxis and Private Hire Cars**

Introduces discretion to refuse an application for a Private Hire Car (PHC) licence on the grounds of overprovision (having regard to the number of PHCs operating and the demand for PHCs in 'the locality')

Introduces a discretionary provision to extend knowledge tests to PHC drivers. If introduced, the Council will have discretion to determine the type of tests to be applied

– these can be the same or different from the tests currently undertaken by taxi driver applicants.

The exemption from licensing provisions for vehicles carrying passengers under contracts for exclusive hire is removed so that vehicles used for these purposes will need to be licensed.

Implications:

- Policy will need to be prepared and approved if overprovision provisions are to be introduced and 'locality' will have to be identified and defined. There will be new costs incurred in carrying out PHC demand surveys which will need to be met from application fees.
- PHC plates may attract a 'value' in the same way as taxi plates if numbers are limited which may lead to an increase in complaints and queries where applications are refused or licences are not renewed in time.
- Policy will need to be prepared and approved if testing for PHC drivers is to be introduced.
- Costs will be incurred in creating and accrediting training course if these are to be different from existing taxi driver courses.
- Additional resources would be required to administer the examination of PHC driver applicants and the application procedure would have to be amended to take account of this new requirement. Any associated costs will have to be met from application fees.
- Removal of the contract hire exemption will bring additional vehicles within the remit of the licensing provisions which will result in additional applications to be processed.

### **S.63: Metal Dealers**

The exemption from licensing for higher value businesses is removed so that the licensing requirement applies to all metal dealers irrespective of the level of trading income.

Introduces new payment requirements (cheques or electronic transfer only) and makes it a criminal offence to use other methods of payment.

Also introduces new record-keeping requirements and removes the requirement to hold metal for 48 hours before selling on.

Implications:

- All metal dealers will require a licence so additional applications will need to be processed.

### **S. 67: Licensing of Theatres**

Licensing of theatres is effectively moved from a mandatory theatre licence regime to the discretionary public entertainment licence regime. Licensing requirements under the Theatres Act are repealed and the Civic Government (Sc) Act is amended to bring theatres under the definition of a 'place of public entertainment'.

The distinction between ‘entertainment’ and ‘theatre’ (which involves the ‘playing of a role’) is removed so that any type of entertainment may be licensed through public entertainment licensing.

Implications:

- Premises licensed to sell alcohol do not require a Public Entertainment Licence (PEL), but do currently require a theatre licence if plays are to be performed. A theatre or venue which is also licensed premises will therefore no longer need an additional licence for the ‘entertainment’ activities. There may therefore be a reduction in licence applications and a corresponding reduction in licence application fee income.
- Venues covered by a premises licence do not need to provide any details about how entertainment or theatre will be operated in the venue, the only requirement is that this is listed as an activity in the operating plan. This is currently an issue in licensed premises providing entertainment. With the extension of Public Entertainment (PE) licensing to theatres, licensed premises which also provide theatrical entertainment will no longer be subject to annual safety inspections as they would be under the theatre licensing regime.
- The Council’s PE resolution will need to be revised if it is determined that premises used for the performance of a play are to require a PE licence. (The resolution currently includes premises used for “theatrical performances” although this should not currently be applied to premises used for the performance of plays as these are covered by the Theatres Act 1968.)
- Current standard conditions of licence for PE licence and theatre licences are broadly similar although the theatre conditions 11, 12, 16, 19, 23 and 28 do not currently have similar counterparts in the PE conditions (these relate to use of naked flames on stage, provision of fire-proof screens, provision of an electric fire alarm bell, attendant numbers when the majority of the audience is aged under 16, secondary lighting and notification of the individual responsible for controlling noise levels). If theatres are to be licensed under PELs then the PEL standard conditions should be amended to include these provisions. This would also provide an opportunity to review and modernise all of the standard PEL conditions.

### **Section 68: Sexual Entertainment Venues**

This creates a new discretionary category of licence through amendment of the current legislative provisions relating to the licensing of sex shops. Venues providing sexual entertainment are specifically excluded from the categories of entertainment covered by public entertainment licences. The application, notification, objections, etc processes for sex shops as set out in Schedule 2 of the Civic Government (Scotland) Act are extended to apply to sexual entertainment venues.

A definition of ‘sexual entertainment venue’ is provided. The entertainment must take place in front of a live audience which can include an audience of one. Premises are excluded from the definition if sexual entertainment is not provided on more than three

occasions within a 12 month period prior to sexual entertainment being provided on a particular occasion.

Premises which are already licensed as sex shops will not require this new type of licence unless they start to put on live shows.

Local authorities must determine the appropriate number of sexual entertainment venues for the local authority area or the relevant locality (this may be none) and publicise this determination.

Implications:

- The Council will need to draft and adopt a new Sexual Entertainment resolution if it intends to introduce this licensing requirement. The resolution cannot come into force before the expiry of one year from the date it was passed.
- New application forms, standard licence conditions and fee scale will need to be developed.
- Existing licensed premises which provide sexual entertainment through inclusion of 'adult entertainment' in their operating plans will need to apply for this new type of licence if adopted. If a (liquor) licensed premises already provide this type of entertainment and is then refused a sexual entertainment licence then there is the possibility of legal challenge if it has been operating without problems prior to the new licensing requirement. Income from new applications from such premises may not be sufficient to meet the costs of defending such a legal challenge.

### **Sections 69 – 71 Deemed grant, procedure for hearings and mandatory conditions**

Clarifies the existing timescales for consideration and final determination of an application; clarifies the provisions in relation to deemed grants and applies these to temporary licence applications and variation applications.

Provides that Regulations may be made setting out the procedure to be followed at any hearing held by a licensing authority such as rules of evidence to be applied, times by which a step in the procedure must be taken and liability for expenses.

Orders may be made introducing mandatory licence conditions for different licence types or for different circumstances.

Standard conditions of licence used by a licensing authority must be published and will have no effect if inconsistent with any mandatory conditions

Implications –

- Any Regulations or Orders made under these provisions will have to be assessed if and when they are made. The suggestion that Regulations relating to the procedure at hearings may include provisions about the liability for expenses raises the prospect that authorities could have to meet expenses incurred by applicants attending meetings.

## **S. 72: Civic licensing standards officers**

This section creates ‘civic licensing standards officers’ (CLSOs) modelled on the LSOs in liquor licensing; appointment of one or more such officers is mandatory.

General functions of a CLSO are detailed and include the provision of guidance and advice on civic licensing to “any interested person”, supervising compliance with licence conditions and legislative requirements under parts I, II and III of the 1982 Act and provision of mediation services between licence holders and “any other person”.

The CLSOs’ remit does not include HMOs, alcohol licensing, tables and chairs permits, animal boarding licences or zoo licensing.

Implications:

- There will be costs involved in amending job descriptions and/or creating new posts and training newly appointed CLSOs.
- A review of current roles and responsibilities of current licensing enforcement officers may be required.
- The Scheme of Delegation should be reviewed to ensure that CLSOs are granted the required authority to carry out their statutory functions.

## **S. 73: Electronic Communications**

Permits licensing authorities to determine to accept applications and objections/representations by electronic communication and to determine to allow communications relating to giving of notices or reasons to be by means of electronic communication.

Licensing authority must specify form, address and any authentication required in addition to an electronic signature for any electronic communication.

Implications:

- The Council will need to clarify its procedures in relation to electronic communication setting out the circumstances in which this can be used and details of the form, authentication, etc that must be used.

# Air Weapons and Licensing (Scotland) Bill: Introductory Questions



The Scottish Parliament  
Pàrlamaid na h-Alba

Thank you for responding to the Local Government and Regeneration Committee's Call for Evidence on the Air Weapons and Licensing (Scotland) Bill. All submissions will be examined and considered as part of the Committee's scrutiny of the Bill.

Please be aware that questions marked with an asterisk (\*) require an answer before you can submit the form.

Follow the Local Government and Regeneration Committee's Twitter feed - all Committee tweets on this Bill will have the hashtag #aw&lbill.

**\*1. Please supply your name and contact details:**

Name:	Andrew Mitchell
Organisation:	City of Edinburgh Council
Address 1:	City Chambers
Address 2:	High Street
City/Town:	Edinburgh
Postcode:	EH1
Country:	
	<a href="mailto:andrew.mitchell@edinburgh.gov.uk">andrew.mitchell@edinburgh.gov.uk</a>

Email address (if no email leave blank):

Phone Number:

**\* 2. Please confirm that you have read and understood the Scottish Parliaments [“Policy on the treatment of written evidence by subject and mandatory committees”](#):**

Yes

**\* 3 Please confirm whether you are content for your name to be published with your submission:**

Yes

No

**\* 4. Which of the three categories below best describes your interest in the Bill (please tick only one)?**

Personal

Professional

Commercial

**\* 5. Do you wish your email to be added to the Committee’s distribution list for updates on progress of the Bill:**

Yes

No

**\* 6. Invitations to give oral evidence to the Committee on the Bill will be based on the submissions received. If you wish your submission to be included amongst those considered for possible invitation to give oral evidence, please indicate here.**

Yes

No

**\* 7. You may answer questions on the entire Bill, or on any part of the Bill. Please indicate which parts of the Bill you are responding to? (You may select as many options that apply).**

All of the Bill

Equalities, climate change and other Scottish Government objectives

Air Weapons

General licensing issues

Alcohol licensing

Civic licensing – taxi/private hire car licensing

Civic licensing – scrap metal dealers

Civic licensing – theatre licensing

Civic licensing – sexual entertainment venues



**Name/Organisation:**

City of Edinburgh Council

**1. Equalities, Climate Change and other Scottish Government objectives**

You may respond to all the questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

**8. Do you consider that the Bill has any implications for meeting Scotland's climate change commitments? Please explain.**

The bill has some impact on climate change commitments with reference to those sections which deal with possible controls on the number of private hire vehicles.

**9. Do you consider that the Bill has any implications for meeting Scotland's equality and/or human rights commitments? Please explain.**

No responses

**10. Do you consider that the Bill has any implications for preventative spending and/ or public services reform? Please explain.**

Several aspects of the bill will increase the costs of the licensing systems and therefore the fees recovered from applicants and licence holders.

**11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.**

No response

**12. Do you have any other comments on the impact of the proposals contained in the Bill relation to Scottish Government objectives?**

No response

Name/Organisation:

City of Edinburgh Council

## 2. Air Weapons Licensing

You may respond to all the questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

**13. In what ways will the creation of an air weapons licensing system in Scotland contribute to preserving public order and safety, reducing crime and advancing public health policy?**

**14. Is there sufficient provision, or sufficient capacity to provide, suitable numbers of air weapons clubs across all areas of Scotland for use by registered air weapons owners/ users?**

**15. How will the air weapons licensing system affect those using air weapons for personal/recreational use?**

**16. How will the air weapons licensing system affect those aged 14 to 17 who use air weapons?**

**17. How will the air weapons licensing system affect those using air weapons for commercial/professional reasons (for example: for pest control; as part of the tourist/hunting season; as part of fairs, paintballing centre, entertainment sector etc.)?**

**18. How will the air weapons licensing system affect those using air weapons for competitive sporting purposes?**

**19. Is it equitable for those applying for an air weapons certificate to pay a fee which cannot be refundable irrespective of whether a certificate is granted or not?**

**20. Will the air weapons licensing system have a positive or negative impact on other areas of the public sector in Scotland (eg. The work of local government, public agencies etc.)?**

**21. What, if any, might the unintended consequences of introducing an air weapons licensing system in Scotland be?**

**22. Do you have any other comments to make on air weapons licensing aspects of the Bill?**

Name/Organisation:

City of Edinburgh Council

### 3. General Licensing Issues

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

#### **23. Is the current Scottish licensing regime, as set out in the Civic Government (Scotland) Act 1982 and the Licensing (Scotland) Act 2005, fit for purpose?**

The Civic Government (Scotland) Act 1982 is a useful tool which has served its purposes well. There are a number of features which are out of date and the Council's view is that continued piecemeal amendments of the Act is not helpful.

There is a growing gap between the 1982 Act and the Licensing (Scotland) Act 2005 and the relevant Licensing Provisions of the Housing (Scotland) Act 2006. This variance makes it more difficult for the public to understand the licensing systems.

For example the difference in determination periods for each type of licence, different language for temporary or occasional licences or different methods of considering fitness of an applicant to hold a licence.

The 1982 Act is deficient in that a Licensing Authority cannot revoke a licence and may only 'suspend' a licence for its duration.

The Licensing (Scotland) Act 2005 has broad support but it needs to be clear to what extent parliament intends a liquor licence issued under the 2005 Act to cover activity normally licensed under the 1982 Act.

For example a common practice is to use an occasional liquor licence, a statutory fee of £10, to licence what are major events which would otherwise be subject to the Public Entertainment Licence provisions of the 1982 Act. The 2005 Act was not intended to regulate this type of activity and is ill suited to doing so.

#### **24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. 'city space' etc.)?**

The Council believes the licensing system should seek to address both. There are normally two concerns for a licensing authority to address themselves to:

- a) Is the Licence holder appropriate, usually referred to as fit and proper and
- b) Will the premises which is licensed be fit for purpose **and** will the activity have an adverse impact on the community or its environment.

The system needs to address both concerns.

**25. In what way should the licensing system in Scotland interact with the support the land use planning system, community planning and regeneration?**

There is a complex relationship between each of these aspects. Frequently concerns raised by a prospective applicant will be very similar to those raised in objections to a planning application. Each system is independent of the other and the decisions can sometimes vary.

The licensing system struggles to deal with regeneration issues with license applications requiring to be considered often being many months or years from the concept and project starting.

Clarity in legislation about how these aspects should be considered in the licensing decision making process would be helpful.

**26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?**

The licensing system is ill suited to these aspects as economic impact is not a relevant ground with which a licensing decision could be made. It is also the case that again a licence is applied for many months or years after a development has commenced.

**27. In what way does the licensing system in Scotland support health and planning, addressing health inequalities and public health wellbeing outcomes?**

No response

Name/Organisation:

City of Edinburgh Council

#### 4. Alcohol Licensing

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

**28. In what ways will the Bill's provisions on alcohol licensing allow for reductions in crime and the preservation of public order?**

The Council welcomes and supports the reintroduction of the 'fit and proper' test to the liquor licensing system.

Similarly the broadening of the objectives to include 'protecting young people from harm' is necessary to remove that apparent gap.

**29. Are there any other measures which should be taken to assist in the reduction of crime and the preservation of public order?**

The Council would welcome consideration of whether the costs of policing the sale of alcohol could be recovered by means of a levy on relevant license holders. This would include costs for managing the night time economy which disproportionately impacts the City and other similar authorities in Scotland.

**30. In what ways will the provisions in the Bill enhance the licensing objectives set out in the Licensing (Scotland) Act 2005?**

The Council supports the broaden of the 'protecting of children' to include 'young people'

**31. In what ways will the re-introduction of the "fit and proper person" test assist with the implementation of the licensing objectives set out in the 2005 act?**

The Council believes this will address public concern that these types of issue should be considered in addition to the licensing objectives when deciding whether or not to grant a relevant licence. It will enhance public confidence in the decision making process.

**32. Have there been any unintended consequences arising from the 2005 Act, for example, in rural areas or the economic regeneration of areas?**

The Council expresses concern that 'occasional liquor licences' are increasingly being used to licence events which would otherwise be licensed under the 1982 Act. This problem should be addressed in the bill.

For example large music events operating on a £10 occasional licence. The Council accepts that dual licensing is inappropriate but contends that this system is unsustainable for the following reasons

- a) It involves the Licensing Board in regulating issues beyond the sale of alcohol at events for which the 1982 Act already exists;
- b) There is a difference in how an event may be licensed depending on which Act is used and this inconsistency is confusing;
- c) The council would strongly argue that operating two regimes for licensing different large scale events is unhelpful and the 2005 Act is not suitable to be used as such;
- d) Large commercial events are benefitting from absurdly low licensing fees leaving local authorities to pay for managing these events from general budgets.

**33. Which, if any, types of spent relevant offences should be required to be disclosed and what do you think the benefits of disclosure will be?**

Generally any conviction disclosing violence or dishonesty should be disclosed. Any breach of licensing law should be disclosed.

It is important that public confidence in the system is maintained. If you apply for a Taxi or Private Hire Car Drivers Licences all convictions must be disclosed spent or otherwise and this type of inconsistency between licence types is not helpful.

**34. Do you have any other comments to make on the alcohol licensing aspects of the Bill?**

The Council agrees with the introduction of a determination period and the requirement to certify an application is complete, it notes however that these will increase costs for the Board.

The Council agrees that bringing the timescales for the statement of local licensing policy in line with local government elections is sensible.

The Council has no concerns about the introduction of financial reports as a statutory requirement.



Name/Organisation:

City of Edinburgh Council

## 5. Taxi and Private Hire Car Licensing

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

### 35. What benefits should the licensing of taxis and private hire cars deliver for customers?

The Council strongly supports the continued licensing of these vehicles in order to prevent crime and protect public safety. The Council notes that most other forms of public transport have a licensing or regulatory oversight, e.g. passenger carrying vehicles.

### 36. In what ways do customers, providers of taxi/private hire car services and local authorities benefit from the two-tier licensing regime for taxis and private hire cars?

The Council notes that the separate arrangements appear to work relatively well and does not seek a change to the current system.

### 37. The Government states that a radical overhaul of the current two-tier licensing regime would “clearly require a very high level of resource and would cause significant disruption for the trade, local authorities, the police and ultimately the travelling public”. What are your views on this and would the potential costs and disruptions outweigh any potential benefits of a unified system?

Such a change would require the Council to implement changes to bring its existing licensing system for both types of vehicle into line with the legislation. There are significant differences in types of vehicles, training of drivers, conditions and controls over numbers which would require significant work to harmonise. The Council would be concerned that such a change would require new and substantial resources to implement over a timescale of a number of years. The Council is not clear what the potential benefits are from such a unified system.

**38. Do the changes made by sections 60 (overprovision of private hire car licences) and 61 (testing of private hire car drivers) of the Bill strike the right balance in terms of introducing greater consistency while maintaining justifiable differences?**

The bill implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation.

The Council strongly supports introducing provisions which would allow it to set a minimum standard of training for PHC drivers.

The Council support the power to introduce over provision for PHCs but is not prejudging whether the Council would introduce such a cap. At present the number of PHCs in the City have remained stable at approx 950 for the previous three years.

The Council would be concerned that some form of clear guidance would be required for Licensing Authorities to allow them to measure demand as an initial assessment of whether to introduce a cap.

This guidance should be statutory and the Scottish Government should introduce it under a provision of the Act.

**39. Do you have any views on the section 62 provisions bringing vehicles contracted for exclusive use for 24 or more hours within the licensing regime for taxis and private hire cars, and should any exemptions be included in the Bill?**

The Act implements the position of the Council which it outlined when it responded to the previous Scottish Government Consultation. The Council has concerns that vehicles such as party limos or similar vehicles are unregulated.

The Council has no view to offer on exemptions.

Name/Organisation:

City of Edinburgh Council

## 6. Scrap Metal Dealer Licensing

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

**40. Taking the proposals in sections 63 to 66 of the Bill together, how will they have the desired effect of strengthening the metal dealers' licensing regime to the extent that metal theft and related criminal activity is reduced?**

The Council welcomes proposals to tighten the rules on metal dealers as a necessary response to incidences of theft of metal.

The Council is content that the 48 hour rule is no longer mandatory provided it retains discretion to apply as a local condition depending on circumstances.

The form of records are similar to that which the Council currently requires for second hand dealers and the Council supports these.

**41. In your view, could the Bill be further strengthened in any way, for example, by including an accreditation scheme for metal dealers?**

The Council has no objection but notes that self regulating schemes of accreditation are of limited use in tackling problems dealers.

**42. Removal of exemption warrant - do you wish to comment on the proposal to remove the exemption warrant system?**

The Council supports the abolishing of the exemption warrants and has previously responded to a Scottish Government consultation in those terms.

**43. Removal of requirement to retain metal on-site - what impact will the proposal to remove the retention of metal requirement have on the enforcement of the licensing regime and prevention of criminal activities?**

The Council has no view on this.

**44. Forms of payment - what is your view on the proposal to go 'cashless' and is there merit in considering whether metal dealers could be allowed to operate using cash for only very small transactions, which could be limited to a certain number per month?**

The Council would be concerned that the rules are easily understood and enforceable, It may be prudent to restrict cash transactions to those below a small weight and to prevent repeated cash transactions with the same seller of metal.

**45. Forms of identification and record keeping:**

**In line with the Scrap Metal Dealers Act 2013, the Bill adds additional record keeping requirements to a metal dealer's licence including recording the means by which a seller's name and address was verified and retaining a copy of the document, and the method of payment and a copy of the payment document. The Bill will also require a metal dealer to record information in books with serially numbered pages or by means of an electronic device, and to keep separate records at each place of business. Such information and documents are to be kept for three rather than the current two years.**

**How important is it that the record keeping requirements reflect those in the Scrap Metal Dealers Act 2013, and do you agree with the Scottish Government that the proposed record keeping requirements are not unduly burdensome?**

The Council does not think the proposals are unduly burdensome.

**46. Mandatory and discretionary licensing requirements:**

**The Scottish Ministers can impose mandatory licensing requirements, such as those included in the Bill relating to record keeping and the identification of customers. In addition, local authorities can also attach discretionary requirements to licences in their areas.**

**Does the Bill get the balance right between mandatory and discretionary licensing requirements? Should the Bill include other mandatory conditions for obtaining a metal dealer's licence, such as installing CCTV at metal dealers' premises or in relation to labelling of metal and 'forensic coding'?**

The Council has no concerns about the approach set out in the bill.

Name/Organisation:

City of Edinburgh Council

## 7. Civic Licensing – Theatre Licensing

You may respond to all the questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

### 47. Will there be any impacts during the transitional period between ending the current theatre licence and starting the public entertainment licence?

The question assumes the licensing authorities will amend their public entertainment resolution to include 'theatres' as required. There is a risk that this process will take up to 18 months to achieve. There is a risk that Theatres will become unlicensed if a particular licensing authority does not include these premises within its public entertainment resolution.

The bill will result in the licensing of theatres being discretionary rather than at present mandatory.

### 48. Are there additional costs or resource implications on theatres or licensing authorities?

This will require a review of licence conditions and there will be some resource implications.

### 49. How should licensing authorities integrate their current fee charging structure into their public entertainment regime?

The Council anticipates that the current fee structure for public entertainment is broadly suitable.

**Name/Organisation:**

City of Edinburgh Council

## **8. Civic Licensing – Sexual Entertainment Venues**

You may respond to all questions or only those you have a specific interest in. (Text boxes have no word limit, they will increase in size accordingly).

### **50. What are the consequences of operating the new licensing regime using the definitions set out at section 68 of the Bill?**

- 'sexual entertainment venue'
- 'audience'
- 'financial gain'
- 'organiser'
- 'premises'
- 'sexual entertainment', and
- 'display of nudity'

**Sexual Entertainment Venue, comments**

1) it is not clear what the difference between an audience and 'live audience' is within the bill.

2) the definition would allow a loop hole if the venue argued that the entertainment is provided for the financial benefit of any self employed entertainer as opposed to the organiser.

**Audience,** comment that the definition should include any interaction with the entertainment.

**Financial gain, comments**

1) not clear that this would be sufficient if the organiser argued that this was provided free and the financial gain came from ancillary activity such as the sale of food and alcohol.

2) Need to be clear that 'free to enter' venues would still be within the scope of this definition.

**Organiser:** See comment above regarding self employed entertainers.

**Premises:** comments

1) Be helpful if it included temporary structures and explicitly private members clubs.

**Sexual Entertainment:** comments

1) Would the display of any film or images be caught if the purpose was to stimulate a member of the audience.

2) It would be useful if the definition could be clear as to whether parliament intends the scope of licensing to extend to those premises which charge an entrance fee and thereafter patrons may engage in sexual activity between themselves. NB the Council is not seeking to licence premises which were formerly licences as places of public entertainment before the resolution changed.

**Display of Nudity:** No comments

**51. The Bill specifies that a venue hosting sexual entertainment on three occasions or less within a 12 month period would not be treated as a sexual entertainment venue: does this have any unintended consequences?**

The bill should be clearer, an occasion is not defined and may be subjective. For example would the duration of a festival be an occasion? An 'occasion' should be subject to an identifiable period of time. It may be easier to specify 'on three occasions and each occasion being less than 24 hours in total'.



**52. Local licensing authorities will be able to set the number of sexual entertainment venues in their area to below the existing level, or zero: are there any advantages or disadvantages to this approach?**

Without prejudice to any decision the Council may make the Council supports having the ability to control the numbers of such premises in its area. The Council must be able to take into account the views of residents and the cumulative impact or clustering of these premises.

The Council would like the ability to further control or limits these premises as appropriate within smaller geographical areas within its boundaries.

The Council would request that statutory guidance is provided to assist in exercise of any such power.

The Council notes that similar powers existing for local authorities in England and Wales.

**53. The Bill relies mainly on the existing licensing regime for sex shops as set out in**

**section 44 and Schedule 2 of the Civic Government (Scotland) Act 1982 (application, notification, objections and representations, revocation of licences etc., enforcement and appeals): is this mechanism adequate for the licensing of sexual entertainment venues - if not, please explain why?**

The Council has no objection to Sections 44 and Schedule 2 being used for these premises. It would however noted these reflect legislative practice in 1982 and a check should be made to ensure that they remain fit for purpose. It is noted that the use of these provision are limited across Scotland as some authorities do not licence sex shops.

The Council notes that there is a limitation on the powers of inspection for premises which ought to have a licence but does not. The Council would prefer that the powers of entry are amended to bring the Act into line with other statues which regulates business activity in respect of its powers.

**54. Are there any barriers to licensing authorities operating the new licensing regime?**

The Council believes that these premises ought to be subject to a robust licensing system which allow local authorities to regulate or limit as each thinks appropriate.

## 55. Civic Licensing

**Do you have any other comments to make on the civic licensing aspects of the Bill?**

The Council would argue that the 1982 Act requires updating in a number of key respects.

The Council would recommend that the powers section of the bill is reviewed in line with the sections above.

The Council would strongly argue that Licensing Authorities should have the power to revoke licences in the case of serious misconduct on the part of licence holders. The current position means that a license authority is restricted to suspending a licence up to and including the 'unexpired portion'. In practice this has meant that the Council has dealt with cases where it has had to entertain renewal or variation applications made with respect of licences which are suspended. The Council is concerned that this allows interested parties to circumvent the decisions of the authority and retain a licence which ought to have been revoked.

The Council is disappointed that the Bill does not address the gap in the licensing systems for booking offices of Taxis or PHC's. There are known gaps in that regime such as use of smart technology to book vehicles and the possibility that a booking office is operated from a site out with Scotland.