

Minutes

Regulatory Committee

10.00am, Monday 7 August 2023

Present

Councillors Ross (Convener), Caldwell, Dixon, Graham (Items 1.1-7.2) Mattos-Coelho, Mowat, Rae and Walker.

1. Deputations

a) Living Rent

(In relation to Item 7.2 Short-term Lets Licensing Scheme – Update)

The deputation welcomed efforts to commit to a licensing scheme. There were concerns over the enforcement of the scheme and exemptions within the scheme. A review of the scheme by summer recess 2024 was welcomed.

The deputation believed a clear and proactive enforcement plan is required with a team in place to protect both guests and residents of the city.

2. Minutes

Decision

- 1) To approve the minute of the Regulatory Committee of 1 May 2023 as a correct record.

3. Rolling Actions Log

The Rolling Actions Log for August 2023 was presented.

Decision

- 1) To agree to close the following actions:
 - Action 1 – Licensing Service Update and Draft Regulatory Committee Work Programme
 - Action 3 – Response to Motion by Councillor Younie - Sexual Entertainment Venues

- Action 4 – Motion by Councillor Neil Ross – Delay in Start Date for Short Term Lets Licensing
 - Action 9 – Changes to Legislation on the Sale and Use of Fireworks in Scotland – referral from the Culture and Communities Committee
- 2) To otherwise note the remaining outstanding actions.

(Reference – Rolling Actions Log, submitted.)

4. Regulatory Committee Business Bulletin

The Regulatory Committee Business Bulletin for August 2023 was presented.

Decision

- 1) To check with officers when the Licensing Hub telephone line would be operational and email this to members.
- 2) To arrange a visit to Mortonhall Crematorium and request discussions with staff to consider new processing innovations.
- 3) To otherwise note the Business Bulletin.

(Reference – Business Bulletin, submitted.)

5. Licence Income Fees from 2022/23

The report provided information on the income collected from licensing fees during the last full financial year. The report gave detail on income from the three main licence categories and provided a breakdown of the areas of expenditure against this.

Decision

To note the report by the Executive Director of Place.

(References - report by the Executive Director of Place, submitted)

6. Short Term Lets Licensing Scheme – Update -

The report provided an update on the outcome of a Judicial Review of the Council's Short-term Lets (STL) Licensing Policy and Conditions Framework in the Court of Session, following the issuing of the Court's opinion on 8 June 2023 and subsequent interlocutor setting out its decision on 22 June 2023.

Motion

- 1) To note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions.
- 2) To note that the Council had decided not to appeal the judgement.

- 3) To note that the Short-Term Lets Licensing Policy and Conditions in Appendix 2 of the report by the Executive Director of Place had been amended to take the Court's decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions would be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27.
- 5) To note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022.
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer the report to the Planning Committee for noting.

- moved by Councillor Ross, seconded by Councillor Caldwell

Amendment

- 1) To note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions.
- 2) To note that the Council had decided not to appeal the judgement.
- 3) To note that the Short-Term Lets Licensing Policy and Conditions in Appendix 2 of the report by the Executive Director of Place had been amended to take the Court's decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions would be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27.
- 5) To note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022.
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer the report to the Planning Committee for noting.
- 7) To note that paragraphs 4.25 to 4.41 of the amended policy and conditions dealt with compliance and enforcement, and to request a briefing to members setting out further detail about how compliance and enforcement would be managed, and in particular how members of the public may report suspected unlicensed Short Term-Lets and whether, and in what circumstances, the Council would consider proactive enforcement.
- 8) To note, as set out in paragraph 4.28 of the report by the Executive Director of Place, that a further report would be presented to Committee on points around the policy which were raised subsequent to the judicial review, and agree that this report should be presented to Committee within two cycles, and that the

report should, in addition to those points, also set out further details on the Council's approach to compliance and enforcement.

- moved by Councillor Rae, seconded by Councillor Dixon

In accordance with Standing Order 22.12, the amendment was accepted as an addendum to the motion.

Decision

To approve the following adjusted motion by Councillor Ross:

- 1) To note the outcome of the Judicial Review of the Council's Short-Term Lets Licensing Policy and Conditions.
- 2) To note that the Council has decided not to appeal the judgement.
- 3) To note that the Short-term Lets Licensing Policy and Conditions at Appendix 2 have been amended to take the Court's decision into account.
- 4) To agree the Short-Term Lets Policy and Conditions will be reviewed commencing no later than June 2024 as set out in paragraphs 4.26 and 4.27;
- 5) To note that a separate legal advice paper was previously provided by the Council's Legal Service prior to agreement of the Policy and Conditions on 29 September 2022; and
- 6) To discharge the actions arising from the motions agreed by the Council on 22 June 2023 and by this Committee on 6 February 2023 and agree to refer this report to the Planning Committee for noting.
- 7) To note that paragraphs 4.35 to 4.41 of the amended policy and conditions deal with compliance and enforcement, asks for a briefing to members setting out further detail about how compliance and enforcement will be managed, and in particular how members of the public may report suspected unlicensed STLs and whether, and in what circumstances, the council would consider proactive enforcement.
- 8) To note, as set out in paragraph 4.28 of the report, that a further report will be presented to committee on points around the policy which were raised subsequent to the judicial review, and agrees that this report should be presented to committee within two cycles, and that the report should, in addition to those points, also set out further details on the council's approach to compliance and enforcement.
- 9) To circulate a briefing note to all elected members summarising the current scheme with reference to this report.
- 10) To provide communication on temporary licences to residents in buildings which contain secondary lettings.

- 11) To provide communication to residents on temporary exemption requests.
- 12) To keep members updated on Enforcement report due at October Committee, and position on the correct interpretation of legislation dealing with temporary exemptions.

(References - report by the Executive Director of Place, submitted)

7. Additional Item - Regulatory Committee Work Programme

The Convener ruled that the following item, notice of which has been given at the start of the meeting, be considered as a matter of urgency to allow the Committee to give early consideration to this matter.

A report was presented to update Committee on its agreed work programme which included both existing work streams and additional issues which officers had identified.

Decision

- 1) To note the progress with the Committee work programme.
- 2) To note the variety of objections made to licence applications and agreed to receive a report within two cycles on the provision of clear guidance on objections to licence applications and renewals, covering what ground might be considered as valid and not valid, a straightforward way to make complaints and estimated response timescales.
- 3) To agree to receive a Work Programme schedule to each meeting.

(References - report by the Executive Director of Place, submitted)

8. Licensing Performance Targets

The report set out steps the Licensing Service had taken to resolve issues caused by the disruption experience during the COVID-19 pandemic period, and the progress which had been made since.

Decision

To note the update and the measures which would be used to benchmark performance moving forward.

(References –report by the Executive Director of Place, submitted)

9. Late Hours Catering Enforcement

The report provided an update on enforcement activity in relation to Late Hours Catering Licences across Edinburgh.

Decision

To note the proactive enforcement action taken by Licensing Enforcement Officers in relation to late hours catering.

(Reference – report by the Executive Director of Place, submitted)

10. No Cold Calling Zones in Edinburgh

An overview was provided of no Cold Calling Zones in Edinburgh, which could be formed when a majority of residents in a proposed area indicate their support for the proposal.

Decision

- 1) To note the ongoing preventative benefits of No Cold Calling Zones operating across Edinburgh.
- 2) To support the creation of further No Cold Calling Zones where residents or Community Councils raise issues related to cold callers or doorstep crime.
- 3) To circulate a briefing note to members on 'No Cold Calling Zones' being automatically applied to sheltered housing complexes and care homes.
- 4) To include findings on sheltered housing complexes being automatically enrolled as designated No Cold Calling Zones in a members briefing.

(Reference – report by the Executive Director of Place, submitted)