

County Buildings
Wellington Square
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20 October 2022

To:- Councillors Bell (Chair), Cavana, Clark, Connolly, Dixon, Kilbride, Kilpatrick, Mackay and Townson.

All other Members for Information Only

Dear Councillor

REGULATORY PANEL (LICENSING)

You are invited to participate in the above hybrid webcast Panel to be held on **Thursday 3 November 2022 at 10.00 a.m.** for the purpose of considering the undernoted business.

Please note that a briefing meeting will take place for all Panel Members at 9.15 a.m., online and in the Dundonald Room.

This meeting will be held on a hybrid basis, remotely and in County Hall and will be live-streamed and available to view at <https://south-ayrshire.public-i.tv/>

Yours sincerely

CATRIONA CAVES
Head of Legal and Regulatory Services

B U S I N E S S

1. Declarations of Interest.
2. Minutes of previous meeting of 29 September 2022 (copy herewith).
3. Civic Government (Scotland) Act 1982 – Electronic Communications – Submit report by Head of Legal and Regulatory Services (copy herewith).
4. Civic Licensing Standards Officer Update.

5. Civic Government (Scotland) Act 1982 - Applications for Licences - Consider applications for licences in respect of which adverse comments have been received in terms of the accompanying reports, namely:-

- (a) Taxi Driver**
- (b) Private Hire Driver**
- (c) Private Hire Vehicle**

Submit reports by Head of Legal and Regulatory Services (copies herewith - members only).

For more information on any of the items on this agenda, please telephone Janice McClure, Committee Services, on 01292 612169, at Wellington Square, Ayr or e-mail: committeeservices@south-ayrshire.gov.uk
www.south-ayrshire.gov.uk

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REGULATORY PANEL

Minutes of a hybrid webcast meeting of
29 September 2022 at 10.00 a.m.

Present in County Hall: Councillors Kenneth Bell (Chair), Ian Cavana, Alec Clark, Brian Connolly, Mark Dixon, Martin Kilbride and Duncan Townson.

Present Remotely: Councillor Craig Mackay.

Apology: Councillor Mary Kilpatrick.

Attending: C. McMenemy, Co-ordinator, Legal Services; D. Scobie, Civic Licensing Standards Officer; M. Wright, Fleet Inspector; J. McClure, Committee Services Lead Officer; and C. McCallum, Committee Services Assistant.

In Attendance Sergeant S. Syme, Police Scotland.

Chair's Remarks

The Chair confirmed to Members the procedures to conduct this meeting and advised that the meeting was being broadcast live.

1. Sederunt and Declarations of Interest.

The Co-ordinator, Legal Services called the Sederunt for the meeting and having called the roll, confirmed that Councillor Cavana had declared an interest in item 7(a)(iii) of this Minute as the licence holder was known to him.

2. Minutes of Previous Meeting

The minutes of 1 September 2022 (issued) were submitted and approved.

3. Civic Government (Scotland) Act 1982 - Licences**(a) Taxi Drivers**

- (i) The Panel heard from the Co-ordinator, Legal Services and from the applicant, Robert Ross, in relation to his application.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

- (ii) The Panel heard from the Co-ordinator, Legal Services and from the applicant, James Mitchell, in relation to his application.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

- (iii) The Panel heard an objection from Police Scotland and from the applicant, Keiran Dempsie in relation to his application.

In terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Panel moved to a vote for or against the Motion. Seven Members voted for the Motion and one Member voted against the Motion.

Decided: to approve this application for one year subject to standard conditions as previously agreed.

4. **Variation in order of business**

In terms of Council Standing Order No. 13.3, the Panel agreed to vary the order of business as hereinafter minuted.

5. **Civic Government (Scotland) Act 1982 - Licences**

(a) **Taxi Drivers**

The Panel heard a representation from Police Scotland in relation to the application from Coen Brian Urquhart.

Decided: in the absence of the applicant, to approve this application for one year subject to standard conditions as previously agreed.

(b) **Taxi Vehicle**

The Panel heard from the Civic Licensing Standards Officer, the Fleet Inspector and from the applicant in relation to the proposed suspension of the licence currently held by Balkar Singh (Registration No. SF16 FJJ, Plate 96).

Councillor Clark, seconded by Councillor Townson, moved not to suspend the licence, however, the vehicle be tested every six months for a period of one year.

By way of Amendment, Councillor Connolly, seconded by Councillor Cavana, moved not to suspend the licence, however, the vehicle be tested every four months for a period of one year.

On a vote being taken by electronic means, five Members voted for the Amendment and three for the Motion; and the Amendment was accordingly declared carried.

Decided: not to suspend the licence held by Mr Singh, however, to agree that Mr Singh's vehicle as outlined above should be tested every four months for a period of one year.

(c) **Private Hire Vehicle**

The Panel heard from the Civic Licensing Standards Officer, the Fleet Inspector and from the applicant in relation to the proposed suspension of the licence currently held by Zamen Ali Mirzai (Registration No. GF66 YPU, Plate 17).

Decided: not to suspend the licence held by Mr Mirzai, however, to agree that Mr Mirzai's vehicle as outlined above should be tested every four months for a period of one year.

6. **Exclusion of press and public.**

The Panel resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, that the press and public be excluded from the remaining items of business on the agenda, on the grounds that they involved the likely disclosure of exempt information in terms of paragraph 6 of Part 1 of Schedule 7A of the Act.

7. **Civic Government (Scotland) Act 1982 - Licences**

(a) **Taxi Drivers**

- (i) The Panel heard an objection from Police Scotland who also referred to convictions regarded as 'protected' in terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amended Order 2015 and requested that the Panel consider these convictions. Following discussion, the Panel agreed to consider these convictions as it accepted that justice could not be done except by having full information before it and, thereafter, it was agreed to consider a written copy.

The Police letter outlining the 'protected' convictions was then circulated and the Panel heard from Police Scotland in relation to this and from the applicant, Alexander Mitchell in response.

Decided: to approve this application for three years subject to standard conditions as previously agreed.

- (ii) Reference was made to the Minutes of 1 September 2022 (Page 5, paragraph 8(b)(ii)) when the Panel had decided to suspend the Taxi Driver Licence held by John Easdale with immediate effect for a period of six weeks or until a hearing under paragraph 11 of the Act, whichever shall be earlier; and the Panel now heard from Police Scotland in relation to the suspension of the licence held by Mr Easdale.

Decided: to suspend the licence previously held by John Easdale with immediate effect for its unexpired duration under paragraphs 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982, namely that the licence holder is not, or is no longer, a fit and proper person to hold the licence and the carrying on of the licensed activity is likely to cause a threat to public safety.

Having previously declared an interest in the following item, Councillor Cavana left the meeting during consideration of this matter:-

- (iii) Reference was made to the Minutes of 1 September 2022 (Page 5, paragraph 8(b)(i)) when the Panel had decided to suspend the Taxi Driver Licence held by Ian Richard Patterson with immediate effect for a period of six weeks or until a hearing under paragraph 11 of the Act, whichever shall be earlier; and the Panel now heard from Police Scotland in relation to the suspension of the licence held by Mr Patterson.

Decided: to suspend the licence previously held by Ian Richard Patterson with immediate effect for its unexpired duration under paragraphs 11(2)(a) and (c) of Schedule 1 of the Civic Government (Scotland) Act 1982, namely that the licence holder is not, or is no longer, a fit and proper person to hold the licence and the carrying on of the licensed activity is likely to cause a threat to public safety.

The meeting ended at 12.10 p.m.

South Ayrshire Council

**Report by Head of Legal and Regulatory Services
to Regulatory Panel (Licensing)
of 3rd November 2022**

Subject: Civic Government (Scotland) Act 1982 – Electronic Communications

1. Purpose

- 1.1 The purpose of this report is to request that the Panel agrees to determine to accept certain applications, objections, representations and notifications under the Civic Government (Scotland) Act 1982 by means of an electronic communication; and also to determine to give certain types of notices and reasons under the 1982 Act by means of an electronic communication.

2. Recommendation

- 2.1 **It is recommended that the Panel determines to:**

2.1.1 **accept by means of electronic communication,**

- a) **Applications for the grant or renewal of a licence under paragraph 1 of Schedule 1 of the 1982 Act**
- b) **Objections or representations under paragraph 3 of Schedule 1 of the 1982 Act**
- c) **Notifications of a change to a licence under paragraph 9 of Schedule 1 of the 1982 Act.**

2.1.2

- a) **give notices under paragraphs 5,9,10,11 or 12 of Schedule 1 of the 1982 Act, and**
- b) **give reasons under paragraph 17 of Schedule 1 of the 1982 Act by means of an electronic communication, subject to the terms of paragraph 16A(5) of Schedule 1 of the 1982 Act .**

2.1.3 **accept by means of electronic communication,**

- a) **Applications for the grant or renewal of a licence under Schedule 2 of the 1982 Act**
- b) **Objections or representations under paragraph 8 of Schedule 2 of the 1982 Act**
- c) **Notifications of a change to a licence under paragraph 14 of Schedule 2 of the 1982 Act.**

2.1.4

- a) give notices under paragraphs 8,10,13, 14 or 15 of Schedule 2 of the 1982 Act, and
- b) give reasons under paragraph 23 of Schedule 2 of the 1982 Act by means of an electronic communication, subject to the terms of paragraph 22A(5) of Schedule 2 of the 1982 Act ; and

2.1.5

determines that the form of electronic communication by which applications, objections, representations or notifications may be made or given is email; that the electronic address to be used for making or giving applications, objections, representations or notifications is Licensing@south-ayrshire.gov.uk; and that an electronic signature will be sufficient means of authorisation.

3. Background

3.1

The Air Weapons and Licensing (Scotland) Act 2015 included provisions to amend the Civic Government (Scotland) Act 1982. In particular, it added a new paragraph 16A in Schedule 1 to the 1982 Act, and a new paragraph 22A to Schedule 2 to the 1982 Act, both of which relate to electronic communications. Under both paragraphs, licensing authorities are enabled to make a determination to accept certain types of applications, objections, representations and notifications by means of an electronic communication, and also to give certain types of notices and reasons by way of an electronic communication. Where a licensing authority makes such a determination, they must specify the form of communication which may be used, the electronic address to be used, and acceptable means of authentication in addition to an electronic signature.

3.2

Schedule 1 to the 1982 Act sets out the procedural provisions for most of the licensed activities under the Act, including for instance, taxi and private hire driver and operators, second hand dealers, public entertainment and late hours catering. Under paragraph 16A(1) of Schedule 1, a licensing authority may determine to accept the following by means of an electronic communication:

- a) Applications for the grant or renewal of a licence under paragraph 1 of Schedule 1
- b) Objections or representations under paragraph 3 of Schedule 1
- c) Notifications of a change to a licence under paragraph 9 of Schedule 1.

In addition, under paragraph 16A(4), a licensing authority may determine to do the following by way of an electronic communication:

- d) Give notices under paragraphs 5 (grant or refusal); 9 (changes and alterations to licence holder or licensed activity); 10 (variations to licence terms); and 11 and 12 (suspensions and revocations).
- e) Give reasons under paragraph 17.

3.3

Schedule 2 to the 1982 Act sets out the procedural provisions for control of sex shops and sexual entertainment venues. Under paragraph 22A(1) of Schedule 2, a licensing authority may determine to accept the following by means of an electronic communication:

- a) Applications for the grant or renewal of a licence under Schedule 2
- b) Objections or representations under paragraph 8 of Schedule 2
- c) Notifications of a change to a licence under paragraph 14 of Schedule 2.

In addition, under paragraph 22A(4), a licensing authority may determine to do the following by way of an electronic communication:

- d) Give notices under paragraphs 8 (objections and representations); 10 (notification of decisions and reasons); 13 (revocation); 14 (notification of change of circumstances); and 15 (variation of licences).
- e) Give reasons under paragraph 23.

4. Proposals

4.1 The amendments to the 1982 Act as detailed in Section 3 above came into force in November 2016. It is now common practice to receive applications, objections and representations in respect of licensing matters by way of electronic communication, specifically through means of email. However in reviewing matters, it would appear that there has not been a formal request to the Regulatory Panel (Licensing), to make a determination as required under the legislation. It is proposed that, in order to regularise matters, a formal determination is made by the Panel, enabling the licensing authority to accept by means of electronic communication, the types of applications, objections, representations and notifications, and to give the types of notices and reasons, as specified in Section 3.2 and 3.3 of this report.

4.2 It is important to note that, as part of the legislative amendments, a licensing authority can only give a notice or reasons by way of an electronic communication where the recipient has agreed to this, and the communication is sent to an electronic address provided by them for that purpose. This is specified in paragraph 16A(5) of Schedule 1 and paragraph 22A(5) of Schedule 2. The Licensing team will therefore continue to issue notices and reasons in paper form to postal addresses, unless agreed in advance with the recipient.

4.3 It is also a requirement under paragraphs 16A(2) of Schedule 1 and 22A(2) of Schedule 2 of the 1982 Act, that where a licensing authority makes a determination relating to electronic communications, it also specifies the form of electronic communication to be used, the electronic address to be used, and any means of authentication (in addition to an electronic signature) which are acceptable. In this regard, it is proposed that the form of electronic communication by which applications, objections, representations or notifications may be made or given is email. It is further proposed that the electronic address to be used for making or giving applications, objections, representations or notifications is **Licensing@south-ayrshire.gov.uk**, and that an electronic signature will be sufficient means of authorisation.

5. Legal and Procurement Implications

5.1 Approval of the recommendations in this report is consistent with the statutory requirements in the Civic Government (Scotland) Act 1982, as amended by the Air Weapons and Licensing (Scotland) Act 2015.

5.2 There are no procurement implications arising from this report.

6. Financial Implications

6.1 There are no financial implications arising from this report.

7. Human Resources Implications

7.1 Not applicable

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

8.1.1 There are no risks associated with adopting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

8.2.1 If the recommendations are rejected, there is a risk that a future decision of Regulatory Panel could be challenged if electronic communications were used without a formal determination to do so under the 1982 Act.

9. Equalities

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 1](#).

10. Sustainable Development Implications

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

12.1 The matters referred to in this report contribute to Commitment 6 of the Council Plan: A Better Place to Live/ Enhanced environment through social, cultural and economic activities.

13. Results of Consultation

13.1 There has been no public consultation.

13.2 Consultation has taken place with Councillor Martin Kilbride, Portfolio Holder for Buildings, Housing and Environment Portfolio, and the contents of this report reflect any feedback provided.

Background Papers [Air Weapons and Licensing \(Scotland \)Act 2015](#)

Person to Contact **Karen Briggs, Service Lead Legal and Licensing**
County Buildings, Wellington Square, Ayr, KA7 1DR
Phone 01292 612416
E-mail karen.briggs@south-ayrshire.gov.uk

Date: 13th October 2022

South Ayrshire Council Equality Impact Assessment Scoping
1. Proposal details

Civic Government (Scotland) Act 1982 electronic communications	Lead Officer Karen Briggs
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2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this proposal? Please indicate whether these would be positive or negative impacts

Community, Groups of People or Themes	Negative Impacts	Positive impacts
The whole community of South Ayrshire		X
People from different racial groups, ethnic or national origin.		X
Women and/or men (boys and girls)		X
People with disabilities		X
People from particular age groups for example Older people, children and young people		X
Lesbian, gay, bisexual and heterosexual people		X
People who are proposing to undergo, are undergoing or have undergone a process to change sex		X
Pregnant women and new mothers		X
People who are married or in a civil partnership		X
People who share a particular religion or belief		X
Thematic Groups: Health, Human Rights, Rurality and Deprivation.		X

3. Do you have evidence or reason to believe that the proposal will support the Council to:

General Duty and other Equality Themes	Level of Negative and/or Positive Impact (high, medium or low)
Eliminate discrimination and harassment faced by particular communities or groups	low
Promote equality of opportunity between particular communities or groups	low
Foster good relations between particular communities or groups	low
Promote positive attitudes towards different communities or groups	low
Increase participation of particular communities or groups in public life	low
Improve the health and wellbeing of particular communities or groups	low
Promote the human rights of particular communities or groups	low
Tackle deprivation faced by particular communities or groups	low

4. Summary Assessment

Is a full Equality Impact Assessment required? (A full EIA must be carried out on all high and medium impact proposals)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Rationale for decision: The report is in connection only with implementing a consultation process which will lead to a further report being prepared for the Leadership Panel which may have substantive proposals which will require to be assessed.		
Signed : Karen Briggs , Service Lead Legal and Licensing		
Date: 13.10.22	Copy to equalities@south-ayrshire.gov.uk	

SOUTH AYRSHIRE COUNCIL

REGULATORY PANEL

3 NOVEMBER 2022

TAXI DRIVER LICENCE

1. MARK PETER POSTLETHWAITE
2. DEREK WILSON
3. JAMIE EASDALE

SOUTH AYRSHIRE COUNCIL

REGULATORY PANEL

3 NOVEMBER 2022

PRIVATE HIRE DRIVER LICENCE

1. GRAEME DARREN FERGUSON
2. IAN KERR

SOUTH AYRSHIRE COUNCIL

REGULATORY PANEL

3 NOVEMBER 2022

PRIVATE HIRE VEHICLE LICENCE

1. **INGVAR RITZEN**