

County Buildings
Wellington Square
AYR KA7 1DR
Telephone No.01292 612169



17 November 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 1 December 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 Prestwick 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 3 November 2022 (copy herewith).
3. Late Hours Catering Exemption Report – Submit report by Head of Legal and Regulatory Services (copy herewith).

<p>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</p>
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REGULATORY PANEL

Minutes of a hybrid webcast meeting of
3 November 2022 at 10.00 a.m.

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

Present Remotely: Councillors Mary Kilpatrick and Craig Mackay.

Apologies: Councillors Ian Cavana and Martin Kilbride.

Attending: K. Briggs, Service Lead – Legal and Licensing; D. Scobie, Civic Licensing Standards Officer; J. McClure, Committee Services Lead Officer; and E. Moore, Committee Services Assistant.

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 Service Lead – Legal and Licensing called the Sederunt for the meeting and having called the roll, confirmed that there were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Minutes of Previous Meeting

The minutes of 29 September 2022 (issued) were submitted and approved.

3. Civic Government (Scotland) Act 1982 – Electronic Communications

There was submitted a report (issued) of 13 October 2022 by the Head of Legal and Regulatory Services requesting 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.

The Panel, having welcomed this report,

Decided:

- (1) to 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; and

- (c) notifications of a change to a licence under paragraph 9 of Schedule 1 of the 1982 Act;
- (2) to give notice under paragraphs 5,9,10,11 or 12 of Schedule 1 of the 1982 Act;
- (3) to 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;
- (4) to 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; and
 - (c) notifications of a change to a licence under paragraph 14 of Schedule 2 of the 1982 Act;
- (5) give notices under paragraphs 8,10,13, 14 or 15 of Schedule 2 of the 1982 Act;
- (6) 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
- (7) 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 would be sufficient means of authorisation.

4. Update by Civic Licensing Standards Officer.

The Civic Licensing Standards Officer

- (1) outlined the failure statistics for Taxis and Private Hire Vehicles for the third quarter of 2022 (1 July to 30 September), compared to the same period in 2021 as follows:-
 - (a) 14% failure rate for the thirty seven Taxi Vehicles tested and five vehicles which failed; compared to 5% in 2021 when thirty nine Taxi Vehicles had been tested and two failed; and
 - (b) an 8% failure rate for the fifty nine Private Hire Vehicles tested and five failures as opposed to 18% in 2021 when fifty one vehicles had been tested and nine failed;
- (2) advised that all operators would continue to be monitored and, if necessary, brought before the Panel; and
- (3) that all of the Taxi fails and three of the five Private Hire fails had been classed as Repair Immediately (Major Defects).

Following questions from Panel Members, the Civic Licensing Standards outlined the various reasons for vehicles failing the taxi test; advised that a meeting of the Taxi Forum would be taking place shortly when the Panel's concerns could be highlighted to those licence holders present; and referred to a checklist provided by Fleet Management which was issued to those licence holders whose vehicle had failed a test.

Panel Members thereafter reiterated that vehicles should be inspected regularly and that a daily check should be carried out of lights, tyres, etc.

The Panel, having expressed disappointment at the increase in failure rates of Taxi Vehicles and the decrease in standards of Taxi Vehicles and Private Hire Vehicles,

Decided: to note the update from the Civic Licensing Standards Officer.

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

(a) **Taxi Drivers**

- (i) The Panel heard from the Service Lead – Legal and Licensing in relation to the application from Mark Peter Postlethwaite.

Decided: to continue consideration of this application to a future meeting of this Panel to allow further information to be sought.

- (ii) The Panel heard the Service Lead – Legal and Licensing advise that the licence holder, Derek Wilson, had returned his taxi badge and would no longer be operating as a taxi driver.

Decided: to suspend the licence held by Derek Wilson for its unexpired duration with immediate effect.

- (iii) The Panel heard the Service Lead – Legal and Licensing advise that the licence holder, Jamie Easdale, had outlined that he would be returning his taxi badge and would no longer be operating as a taxi driver.

Decided: to suspend the licence held by Jamie Easdale for its unexpired duration with immediate effect.

(b) Private Hire Drivers.

- (i) The Panel heard from the Service Lead – Legal and Licensing and from the licence holder, Graeme Ferguson in relation to the proposed suspension of the licence held by him as he had failed to complete the statutory training course.

Mr Ferguson advised that he had recently completed this course and had submitted the certificate to Licensing Services; and the Service Lead – Legal and Licensing advised that the certificate had not yet been received by Licensing Services.

Decided: to continue consideration of this application to the next meeting of this Panel scheduled to be held on 1 December 2022 to allow the Service Lead – Legal and Licensing to ascertain if the training certificate had been submitted to Licensing Services; however, if the certificate had been received by Licensing Services, no further action would be taken.

- (ii) The Panel heard the Service Lead – Legal and Licensing advise that the licence holder, Ian Kerr, had outlined that he would be returning his taxi badge and would no longer be operating as a taxi driver.

Decided: to suspend the licence held by Ian Kerr for its unexpired duration with immediate effect.

(c) Private Hire Vehicle

The Panel heard from the Service Lead – Legal and Licensing in relation to the application from Ingvar Ritzen.

Decided: to continue consideration of this application to a future meeting of this Panel to allow the applicant's vehicle to be re-inspected.

The meeting ended at 10.40 a.m.

South Ayrshire Council

**Report by Head of Legal and Regulatory Services
to Regulatory Panel (Licensing)
of 1st December 2022**

**Subject: Civic Government (Scotland) Act 1982 – Late Hours
Catering Licence Exemption Applications**

1. Purpose

- 1.1 The purpose of this report is to present 3 applications requesting an exemption from the requirement to obtain a late hours catering licence for a particular occasion which requires to be determined by the Panel.

2. Recommendation

2.1 It is recommended that the Panel:

- 2.1.1 **accepts the 3 letters received from Gosschalks Solicitors, attached as Appendix 2, on behalf of their client Wm Morrison Supermarkets Ltd and all dated 27 October 2022, as applications for exemptions from the requirement to hold a late hours catering licence, in terms of Section 42(5) of the Civic Government (Scotland) Act 1982;**
- 2.1.2 **determines whether to grant the applications to Wm Morrison Supermarkets Ltd for exemption from the requirement to hold a late hours catering licence for Morrisons Petrol Filling Station, Duke Street, Troon; Morrisons Petrol Filling Station, Castlehill Road, Ayr; and Morrisons Supermarket, Castlehill Road, Ayr ; between 23:00h and 00:00h from Thursday 23 December 2022 to Friday 24 December 2022 inclusive; and**
- 2.1.3 **if the Panel agrees to grant the 3 applications, it imposes the South Ayrshire Council late hours catering conditions, under deletion of the word “licence holder” and insertion of the word “applicant” applicable to late hours catering licence attached at Appendix 3.**

3. Background

- 3.1 A Late Hours Catering Licence is required for the use of premises between the hours of 23:00h and 05:00h for the sale to, or consumption by, the public of food in accordance with section 42(1) of the Civic Government (Scotland) Act 1982 (“1982 Act”).

- 3.2 The Council has received 3 applications under section 42(5)(a) of the 1982 Act for an exemption from the requirement to hold a late hours catering licence for a particular occasion, namely Christmas, at the 3 locations referred to in paragraph 2.1.2 between 23:00h and 00:00h from Thursday 23 December 2022 to Friday 24 December 2022 inclusive. The relevant premises are located at the Morrisons Petrol Filling Station, Duke Street, Troon, Morrisons Supermarket, Castlehill Road, Ayr and Morrisons Petrol Filling Station, Castlehill Road, Ayr. A copy of the letters which were submitted as applications for exemption are attached at **Appendix 2**.

4. Proposals

- 4.1 An exemption from the requirement to hold a late hours catering licence is permitted under section 42(5) of the 1982 Act in respect of any particular occasion or during a specified period not exceeding 2 months in any period for 12 months, upon application to the local authority. South Ayrshire Council has no prescribed application form or fee which requires to be completed or paid for this kind of application. The applicant has applied in writing through their solicitor and has requested that the letters be treated as their application for exemption.
- 4.2 In terms of the South Ayrshire Council Scheme of Delegation there is no delegated authority for the Head of Legal and Regulatory Services to grant this kind of exemption. Accordingly, this application requires to be determined by the Regulatory Panel.
- 4.3 If the Regulatory Panel are minded to grant the exemption applications, they are able to impose conditions on the applicant in terms of section 42(6) of the 1982 Act which would apply throughout the exemption period specified. The Regulatory Panel has previously approved standard conditions which are routinely applied to late hours catering licences and it is recommended that the said conditions may be appropriate to apply in these circumstances. The conditions would apply throughout the exemption period. A copy of the said conditions is attached to the report at **Appendix 3**.

5. Legal and Procurement Implications

- 5.1 There are no legal implications arising from this report.
- 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 The recommendations ask the Panel to make a determination on the 3 applications received under the 1982 Act. There are no risks associated with adopting the recommendations.

8.2 **Risk Implications of Rejecting the Recommendations**

- 8.2.1 The recommendations ask the Panel to make a determination on the 3 applications received under the 1982 Act. If the recommendations are rejected and the Panel do not make a determination on the 3 applications, the failure to do so could be the subject of an appeal against the Council.

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 3](#).

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 or Portfolio Holder consultation, as the purpose of this report is to bring exemption applications to the Regulatory Panel for determination.

Background Papers : none

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: 11th November 2022

South Ayrshire Council Equality Impact Assessment Scoping
1. Proposal details

Civic Government (Scotland) Act 1982 S42(5): applications for exemption from requirement for late hours catering licence.	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: This report is required in order for the Panel to make a determination on applications received under legislation, and is not in relation to any policy or procedure of the Council.			
Signed : Karen Briggs , Service Lead Legal and Licensing			
Date: 11.11.22		Copy to equalities@south-ayrshire.gov.uk	

GOSSCHALKS

BY EMAIL AND POST
The Clerk to the Licensing Board
SOUTH AYRSHIRE COUNCIL
County Buildings
Wellington Square
Ayr
KA7 1DR

Please ask for: Alex Green
Direct Tel: 01482 590284
Email: arg@gosschalks.co.uk
Our ref: ARG / LBM / 109500.14322
#GS4857442
Your ref:
Date: 27 October 2022

Dear Sir/Madam,

**Re: Morrisons Petrol Filling Station, Castle Hill Road, Ayr, Strathclyde, KA7 2HT
Application for Exemption for Requirement of Late Hours Catering Licence
Section 42 (5) Civic Government (Scotland) Act 1982
Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive**

We act for Wm Morrison Supermarkets Ltd in respect of the above premises.

Our client company is seeking to open this petrol filling station until midnight from Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive.

We would be grateful if you would accept this letter as an application for exemption from the need to hold a Late Hours Catering Licence for these dates under Section 42 (5) Civic Government (Scotland) Act 1982.

If you require some form of formal application or fee in relation to the above, then please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully,



GOSSCHALKS LLP

GOSSCHALKS

The Clerk to the Licensing Board
SOUTH AYRSHIRE COUNCIL
County Buildings
Wellington Square
Ayr
KA7 1DR

Please ask for: Alex Green
Direct Tel: 01482 590284
Email: arg@gosschalks.co.uk
Our ref: ARG / LBM / 109500.14325
#GS4857270
Your ref:
Date: 27 October 2022

Dear Sir/Madam,

**Re: Morrisons Petrol Filling Station, Dukes Road, Troon, South Ayrshire, KA10 6QR
Application for Exemption for Requirement of Late Hours Catering Licence
Section 42 (5) Civic Government (Scotland) Act 1982
Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive**

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If you require some form of formal application or fee in relation to the above, then please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully,



GOSSCHALKS LLP

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BY EMAIL AND POST

The Clerk to the Licensing Board
SOUTH AYRSHIRE COUNCIL
County Buildings
Wellington Square
Ayr
KA7 1DR

Please ask for: Alex Green
Direct Tel: 01482 590284
Email: arg@gosschalks.co.uk
Our ref: ARG / LBM / 109500.14338
#GS4857483
Your ref:
Date: 27 October 2022

Dear Sir/Madam,

**Re: Morrisons Supermarket, Ayr Store, Castle Hill Road, Ayr, Strathclyde, KA7 2HT
Application for Exemption for Requirement of Late Hours Catering Licence
Section 42 (5) Civic Government (Scotland) Act 1982
Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive**

We act for Wm Morrison Supermarkets Ltd in respect of the above premises.

Our client company is seeking to open this supermarket until midnight from Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive.

We would be grateful if you would accept this letter as an application for exemption from the need to hold a Late Hours Catering Licence for these dates under Section 42 (5) Civic Government (Scotland) Act 1982.

If you require some form of formal application or fee in relation to the above, then please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully,



GOSSCHALKS LLP

Standard Conditions for a Late Hours Catering Licence

1. The licence holder shall be permitted to trade in or from the above premises and no other premises.
2. The licence holder is permitted to sell meals or refreshment for consumption on as well as off the licensed premises hereby licensed during the following hours:-
 - Monday
 - Tuesday
 - Wednesday
 - Thursday
 - Friday
 - Saturday
 - Sunday
3. The licence holder shall at all times ensure that the premises comply with all regulations applicable to the premises made under The Food Safety Act, 1990, and any other amendments in respect thereof and Orders arising therefrom.
4. Where there is a material change of circumstances affecting the licence holder, or the activity to which the licence relates, the licence holder must notify South Ayrshire Council of the change as soon as reasonably practicable after it has taken place.
5. The Licenceholder shall deliver this licence document to South Ayrshire Council where the licence relates to an activity either which he/she has given up or has had suspended/revoked and that within seven days of the said surrender/suspension/ revocation.
6. The Licenceholder will provide an appropriate litter receptacle for use by patrons at a suitable location outside the licence premises; will empty the receptacle when necessary and will ensure that the area in the immediate vicinity of the receptacle is kept in a clean and tidy condition, all to reasonable satisfaction of the licence Authority.
7. As an alternative to the requirements the Licenceholder may make other arrangements for the clearance outside the licence premises of litter generated by carry-out sales subject to the prior approval of the arrangements by the authority
8. The Licenceholder is advised that the premises may be covered by the Fire (Scotland) Act 2005, which require that the employer or other relevant person undertake a fire risk assessment. Further guidance is available in the document "Fire Safety Guidance Booklet" which is published by the Scottish Executive. ([www. Infoscotland.com/firelaw](http://www.Infoscotland.com/firelaw)).
9. The Licenceholder shall ensure that all other necessary consents in relation to the operation of a business in Late Hours Catering are in place prior to the operation of this licence.