
To: Regulatory Functions Board

On: 10th November 2022

Report by: Director of Finance and Resources

Heading: **Review of Public Entertainment Licensing Resolution: Community Events and Other Issues**

1. Summary

- 1.1 The purpose of this report is to recommend a relaxation of the Council's existing public entertainment licensing resolution by removing certain classes of entertainment from licensing. The current policy came into effect on 3rd June 2013.
- 1.2 The resolution setting out the current public entertainment licensing policy is detailed at Appendix 1, in the terms previously advertised. A proposed new resolution, which seeks to vary the existing one by removing certain activities which may be considered to be relatively low risk, is attached at Appendix 2.
- 1.3 Further changes proposed to the Council's public entertainment licensing policies and procedures are set out at section 5 of the report.

2. **Recommendations**

It is recommended that the Board:

- 2.1 Agree the terms of the proposed resolution and notice at Appendix 2, which seeks to vary the Council's current public entertainment licensing resolution at Appendix 1, as suitable for advertising;
- 2.2 Instruct officers to arrange publication of the proposed resolution and notice attached at Appendix 2 in a newspaper circulating in Renfrewshire;
- 2.3 Instruct officers to meantime exercise discretion in relation to the enforcement of public entertainment licensing activities which are proposed to be removed from the current resolution;
- 2.4 Agree that public entertainment licence applications which in terms of existing Council policies require to be advertised should be advertised on the Council's website, rather than in a newspaper;
- 2.5 Agree that the licence application fee (currently £955) for a temporary or new licence for outdoor events (other than large commercial events) involving amplified music, circuses and funfairs be replaced with the existing fee for public entertainment licences which do not require to be advertised (currently £196), to reflect the removal of the previous requirement to advertise in a newspaper;
- 2.6 Agree that public entertainment licences issued for funfairs where licensed days, dates or periods of operation are clearly defined on a recurring basis be capable of renewal, a fee of £390 requiring to accompany the renewal application;
- 2.7 Otherwise note the terms of the report.

3. **Background**

- 3.1 The Council has previously agreed to license public entertainment under the provisions of section 41 of the Civic Government (Scotland) Act 1982 ("the 1982 Act"). Where the Council licenses public entertainment as an activity, its resolution requires to specify the classes of activities for which a public entertainment licence is required. The current resolution, which was agreed in 2012 and came into effect on 3rd June 2013 following upon

completion of the required statutory procedures, is detailed at Appendix 1.

- 3.2 While the current resolution has generally been operating satisfactorily, some issues have arisen, notably in relation to concerts and events held in community halls and in particular those which are not subject to a permanent alcohol licence.
- 3.3 The public entertainment licence provisions of the 1982 Act were amended with effect from 2012, prior to the current resolution coming into effect, and then again in November 2016.
- 3.4 The first of these amendments to the 1982 Act changed the definition of a “place of public entertainment” to remove the reference to payment for admission or use of facilities. The effect of this change was that activities set out in a public entertainment licensing resolution would now require a licence if the entertainment was free of charge.
- 3.5 The second change, which took effect on 1st November 2016, related to a statutory exemption from the need for a public entertainment licence. Prior to that date, entertainment covered either by (i) a full premises licence issued under the terms of the Licensing (Scotland) Act 2005 for the sale of alcohol, or (ii) an occasional licence for the sale of alcohol under that Act, did not require a further licence for the public entertainment aspect, provided that the entertainment was provided within the hours of operation of the liquor licence. The amendment to this exemption in 2016 removed the reference to occasional licences, so that only those premises with a perpetual licence allowing the sale of alcohol would qualify for this exemption.
- 3.6 The combined result of the above changes has resulted in a number of events over the years, whether or not free and regardless of their scale, being caught by the terms of the Council’s public entertainment licensing resolution unless a full premises licence for the sale of alcohol is in place. In recent years, however, a particular issue has arisen in relation to events such as concerts and other events arranged for village halls and other similar premises used by local communities (hereinafter “community halls”). While some of the larger town halls are subject to full liquor licences, this is not always the case with community halls. As a result, organisers of concerts and other events in those premises are likely to require to apply for a public entertainment licence to allow their events to take place.
- 3.7 A motion was agreed by Council on 30th September 2021 underwriting the costs of licensing applications for events in community halls. This has allowed organisers of such events to avoid having to pay the licence

application fee. However, organisers still require to apply for licences for their events. This has resulted in some concerns being raised that the licensing procedure may discourage some organisers from arranging similar events, which may be regarded as relatively low risk, in the future.

- 3.8 The Council also considers public entertainment licence applications for a number of gala days and similar local events, which the Board may also consider to be low risk. As with events within community halls as detailed above, many such licence applications do not require payment of an application fee under the terms of existing licensing policies of the Council.

4. **Proposals for Change to Current Licensing Resolution**

- 4.1 It is open to the Council to vary the terms of its public entertainment licensing resolution to remove certain classes of entertainment from licensing. A statutory process would require to be completed to achieve this, which involves publication in a newspaper of the terms of any proposed new resolution along with a notice stating that the Council intends to make the resolution and that representations may be made by the public within 28 days following publication.
- 4.2 The Board is asked to agree the terms of the proposed draft resolution and notice at Appendix 2 as suitable for advertising in the press. The proposed draft resolution, should it be approved and brought into effect following upon it being advertised, would vary the terms of the existing resolution, including by removing, firstly, the licensing requirement relating to events taking place within community halls. The removal of these events from licensing would reduce the administrative burden on local event organisers, as set out at Paragraph 3.6 above, who are likely to be operating on a relatively small scale.
- 4.3 Secondly, to avoid any disadvantage in respect of local community or voluntary groups in holding small events upon other premises, or in respect of small events which are charitable in nature, the proposed draft resolution would remove the licensing requirement from these events.
- 4.4 Thirdly, the proposed draft resolution envisages an exception for local gala days and similar annual local community events. For the avoidance of doubt, the proposed draft resolution would retain the licensing requirement for any fairground rides or fireworks display associated with a gala day.
- 4.5 The proposed draft resolution at Appendix 2 also seeks to remove category (e) from the existing resolution at Appendix 1, which relates to

premises which facilitate dancing but are not covered by a liquor licence under the terms of the Licensing (Scotland) Act 2005. Such premises have not been the subject of applications for public entertainment licences in recent years.

- 4.6 As stated above, the Board is now asked to agree the proposed draft resolution at Appendix 2 as suitable for advertising.

Next Steps

- 4.7 Should the Board agree the terms of the proposed draft resolution and notice at Appendix 2 as suitable for advertising, officers will arrange for publication of the proposed resolution and notice in a newspaper circulating in Renfrewshire, allowing a period of 28 days for representations to be made in accordance with the relevant statutory requirements. Following the expiry of that period, a further report will be brought to the Board advising the Board of any representations which require to be considered and seeking approval of the final terms of the new resolution and a date upon which it will come into effect. The proposed draft resolution at Appendix 2 suggests a date of 1st March 2023 to allow for completion of the statutory procedures. Once the terms of any new resolution are finally approved, a further notice along with the final terms of that resolution will require to be published.
- 4.8 The Board may wish to note that, as the suggested changes to the existing resolution seek only to remove activities from licensing, a shortened process applies. This process allows any agreed changes to come into effect almost immediately once those changes have been advertised for a period of 28 days and the final terms of the resolution have been agreed at a future meeting of the Board.
- 4.9 It should be noted that the shortened process set out at Paragraph 4.8 does not apply where a decision is made to add new activities to a public entertainment licensing resolution. In those circumstances, once the terms of any proposed resolution are agreed by the Board, a lengthier statutory process applies, under which the date when the new resolution may come into effect must be, at a minimum, nine months from the day on which the resolution is made.
- 4.10 The effect of any decision to remove activities from licensing will be that these will no longer require a public entertainment licence. It would be for the organiser of events to take appropriate steps to monitor and control them and to carry out such risk assessments as may be appropriate. The Council as licensing authority would no longer have any

remit in monitoring or enforcing compliance with any licence conditions, nor in carrying out checks in relation to those seeking to obtain a licence for the activities removed.

- 4.11 As the above statutory process is likely to take several months to complete, the Board is asked to instruct officers to exercise discretion in relation to enforcement of those activities proposed to be removed from public entertainment licensing in the meantime.

5. **Further Issues in relation to Public Entertainment Licensing**

Online Advertising of Outdoor Events

- 5.1 The Council has operated over many years a policy whereby certain open air events require to be advertised. These include licensed events involving amplified music, circuses, fairgrounds and other events likely to generate public concern. In respect of these events, the Council requires to arrange the advertising.
- 5.2. In terms of the 1982 Act as originally enacted, adverts required to be placed in a newspaper circulating in the Council's area. This meant that the Council was required to place advertisements at considerable expense. While this cost has previously been reflected in a higher licence application fee for advertised applications, the cost of advertising has increased over the years, resulted in an increasing proportion of the application fee being used to cover the cost of advertising. As the Board are aware, licence application fees under the 1982 Act require to be fixed on a cost recovery basis.
- 5.3 Following the national lockdown imposed on 23rd March 2020 as a result of the coronavirus pandemic, temporary and emergency legislation amended the provisions of the 1982 Act, enabling the Council to advertise these events on its website. As a result, such applications were then advertised on the Council's website as well as on the Tell Me Scotland portal operated by the Improvement Service, avoiding the need to advertise them in a newspaper with the associated expenditure.
- 5.4 This relaxation of the legal position has now been made permanent under Section 31 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022, which came into effect on 1st October 2022. It is anticipated that all applications for public entertainment licences which require under the above policy to be advertised will now be advertised on the Council's website. The Board is asked to agree this approach, as set out at Paragraph 2.4.

- 5.5 In view of this, the Board is asked to consider removing from the current licensing fees structure the fee of £955 which applies to outdoor events (other than large commercial events) involving amplified music, circuses and funfairs. This would mean that the fee of £196 would apply to these applications in future, assuming the application is for a temporary licence or for a new licence for a period of one year. For the avoidance of doubt, no change is proposed in respect of the current licence fee applicable to large commercial events.

Renewal of Public Entertainment Licences for Funfairs

- 5.6 The practice of the Council in relation to licence applications for funfairs, other than temporary licence applications, has been to request that applicants apply for a new public entertainment licence on an annual basis.
- 5.7 While most public entertainment licence applications for funfairs relate to one-off or temporary events which can be covered by a temporary licence, there are a small number of funfair operators who apply to license a particular site on a permanent basis, with the period of trading in some cases at the discretion of the owner of the premises. It is the view of officers that it would be beneficial to both applicants for licences and the delivery of the licensing service to bring the policy on these applications into line with the system of grant and renewal of licences which applies to most types of licences administered under the 1982 Act.
- 5.8 Accordingly, it is proposed that, where licence holders are licensed for days, dates or periods on a clearly defined recurring basis, they should be able to apply for renewal of that licence for a period of 2 years on identical terms. In the event that these applications continue to be advertised on the Council's website, rather than in a newspaper, it is proposed that the renewal fee to be charged would be £390, similar to other public entertainment licence applications which are subject to renewal.
- 5.9 It is anticipated that this change will only affect a small number of licence applications relating to funfairs.

6. Conclusion

- 6.1 Should the Board agree the recommendations contained in this report, officers will arrange to complete the statutory processes to bring the

resolution, as varied, into effect and otherwise to update the Council's licensing web pages as required.

Implications of the Report

1. **Financial** – Although reducing the scope of the public entertainment licensing resolution would mean less licence applications being received, the Council currently processes a number of licence applications without receiving payment of an application fee. Regarding the changes outlined in the report, a small number of events which have until now required an application for a licence and which have previously attracted a fee will no longer require to be licensed if the proposed changes to the resolution are implemented, following the required advertising. It is estimated that any loss of income will not exceed £2,000. It should be noted that this will be offset in terms of reducing the number of applications which require to be processed without payment of a fee.
2. **HR & Organisational Development** – Nil
3. **Community Planning** –

Our Renfrewshire is thriving- Delivering improved regulation throughout all communities to facilitate cultural events and promote a positive image of Renfrewshire.

Our Renfrewshire is well- Enabling communities to influence the places that affect them and allowing people to connect to their communities.

Creating a sustainable Renfrewshire for all to enjoy- Empowering communities to provide sustainable services.
4. **Legal** – The Council as licensing authority already resolves to license places of public entertainment under section 41 of the Civic Government (Scotland) Act 1982. Section 9(9) of that Act allows for variation of that resolution by means of a subsequent resolution. Section 9(5)(b) states that a public entertainment licensing resolution shall specify the place or places, or class or classes, of public entertainment which fall to be licensed. The procedure set out within section 9 requires a proposed resolution, or proposed variation of a resolution, to be advertised before the resolution is made. Where a proposed resolution only seeks to

reduce the scope of an existing resolution, it may take effect on any date subsequent to the making of the resolution.

5. **Property/Assets – Nil**
6. **Information Technology – Nil**
7. **Equality & Human Rights –**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report, as those recommendations seek only to remove regulation from certain events. It is likely that any impacts will be positive, through facilitating local events, particularly in remote communities. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety - Nil**
9. **Procurement – Nil**
10. **Risk - Nil**
11. **Privacy Impact - Nil**
12. **Cosla Policy Position – Nil**
13. **Climate Emergency – Nil**

List of Background Papers- None.

Author: Douglas Campbell, Assistant Managing Solicitor (Licensing), 0141-618-7172, douglas.campbell@renfrewshire.gov.uk

Appendix 1

Resolution

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PUBLIC ENTERTAINMENT LICENSING

Notice is hereby given in accordance with the provisions of Section 9 of the above Act that with effect from the date specified below as that on which the Resolution comes into effect it will be an offence under section 7(1) of that Act to do without a licence whatever this resolution specifies as being an activity requiring to be licensed.

Renfrewshire Council, by virtue of the powers conferred on them by Section 9 of the Civic Government (Scotland) Act 1982 do hereby resolve to vary the existing Resolution in respect of that optional provision of Part 2 of the said Act namely Public Entertainment Licensing in that as from 3rd day of June 2013, the said Resolution is varied and shall have effect within the whole of the area of Renfrewshire Council in so far as the particular activity as varied and referred to herein shall require to be licensed in accordance with the provisions of the said 1982 Act as amended by the Criminal Justice and Licensing (Scotland) Act 2010 and shall be regulated by those provisions, videlicet:-

The use of premises as a place of public entertainment in respect of the following places or classes of places, namely:-

- (a) Open air concerts,
- (b) Circuses,
- (c) Fairgrounds,
- (d) Large fetes with tented accommodation for the public (excluding any such fete organised by (i) a school, (ii) a church, or (iii) a voluntary organisation where such event is to take place within the grounds of said school, church or voluntary organisation),
- (e) Snooker, billiards and pool halls which do not have a liquor licence.
- (f) Premises used for dancing which are not exempt in terms of Section 41(2) of the Civic Government (Scotland) Act 1982.
- (g) Video machine arcades (not otherwise regulated under the Gambling Act 2005)
- (h) Concert halls.
- (i) Premises used for fireworks displays.
- (j) Premises used for pop concerts or other live performances.
- (k) Premises used for variety and musical shows.
- (l) Premises used for paintball games.
- (m) Premises used for bungee jumping and bungee running.
- (n) Motor truck shows and displays.
- (o) Premises used as suntan centres or offering sunbed treatments.

In relation to activities specified in paragraph (d) above, the exemptions provided for therein shall apply from 3rd September 2012. Applications for licences in respect of the activities specified in paragraphs (g) to (n) above, which from 3rd June 2013 will require to be licensed as public

entertainment under the Act, will be considered by the Renfrewshire Council from one month after the 22nd August 2012, being the date of making of the Resolution.

The above Resolution replaces the Council's existing Resolution which will remain in force subject to the exemptions as stated until the date this Resolution comes into effect.

Kenneth Graham
Head of Legal and Democratic Services
Renfrewshire Council
Renfrewshire House
Cotton Street
Paisley
PA1 1TT

Appendix 2

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PUBLIC ENTERTAINMENT LICENSING

Notice is hereby given in accordance with the provisions of Section 9 of the above Act that:

- (i) Renfrewshire Council intend to make a Resolution by virtue of the powers conferred on them by section 9 of the Civic Government (Scotland) Act 1982 varying their existing public entertainment licensing resolution, in the terms below;
- (ii) Representations about the intended Resolution may be made in writing to the licensing authority at the address or email address noted below, within 28 days of the publication of this notice.

The terms of the intended resolution, which if agreed will remove from the existing resolution (A) the current requirement for the types of events numbered as (1), (2) and (3) below to be licensed under a public entertainment licence and (B) the requirement for “Premises used for dancing which are not exempt in terms of Section 41(2) of the Civic Government (Scotland) Act 1982” to be so licensed, are as follows:-

“Renfrewshire Council, by virtue of the powers conferred on them by Section 9 of the Civic Government (Scotland) Act 1982, do hereby resolve to vary the existing Resolution in respect of that optional provision of Part 2 of the said Act namely Public Entertainment Licensing in that, as from 1st March 2023, the said Resolution is varied and shall have effect within the whole of the area of Renfrewshire Council in so far as the particular activity as varied and referred to herein shall require to be licensed in accordance with the provisions of the said 1982 Act, as amended, and shall be regulated by those provisions, videlicet:-

The use of premises as a place of public entertainment in respect of the following places or classes of places, namely:-

- (a) Open air concerts,
- (b) Circuses,
- (c) Fairgrounds,
- (d) Large fetes with tented accommodation for the public (excluding any such fete organised by (i) a school, (ii) a church, or (iii) a voluntary organisation where such event is to take place within the grounds of said school, church or voluntary organisation),
- (e) Snooker, billiards and pool halls which do not have a liquor licence.
- (f) Video machine arcades (not otherwise regulated under the Gambling Act 2005)
- (g) Concert halls.
- (h) Premises used for fireworks displays.
- (i) Premises used for pop concerts or other live performances.
- (j) Premises used for variety and musical shows.
- (k) Premises used for paintball games.

- (l) Premises used for bungee jumping and bungee running.
- (m) Motor truck shows and displays.
- (n) Premises used as suntan centres or offering sunbed treatments.

BUT excluding the following activities:

- (1) events taking place within community halls;
- (2) indoor events held by local community or voluntary groups on premises and, *separatim*, indoor events of a charitable or philanthropic nature held on premises where, in either case, the capacity will not exceed 500 persons; and
- (3) Local gala days and similar annual local community events, except in relation to any fairground or fireworks display provided as part of the event (which will continue to require a licence in accordance with activities (c) or (h) above).

The above Resolution replaces the Council's existing Resolution which will remain in force until the date this Resolution comes into effect. The exemptions numbered as (1) to (3) above shall apply from 1st March 2023."

The address to which representations may be sent is:

Head of Corporate Governance, Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley, PA1 1TT; or

By email: licensing.cs@renfrewshire.gov.uk

Mark Conaghan
Head of Corporate Governance
Renfrewshire Council
Renfrewshire House
Cotton Street
Paisley
PA1 1TT

Date of Publication: TBC