

Notice of Meeting and Agenda Regulatory Functions Board

Date	Time	Venue
Thursday, 06 June 2019	10:00	Council Chambers (Renfrewshire), Council Headquarters, Renfrewshire House, Cotton Street, Paisley, PA1 1AN

KENNETH GRAHAM
Head of Corporate Governance

Membership

Councillor Eddie Devine: Councillor Audrey Doig: Councillor Lisa-Marie Hughes: Councillor Alistair Mackay: Councillor Cathy McEwan: Councillor Kevin Montgomery: Councillor Andy Steel: Councillor Jane Strang:
Councillor John McNaughtan (Convener): Councillor Emma Rodden (Depute Convener):

Further Information

This is a meeting which is open to members of the public.

A copy of the agenda and reports for this meeting will be available for inspection prior to the meeting at the Customer Service Centre, Renfrewshire House, Cotton Street, Paisley and online at <http://renfrewshire.cmis.uk.com/renfrewshire/CouncilandBoards.aspx>

For further information, please either email democratic-services@renfrewshire.gov.uk or telephone 0141 618 7112.

Members of the Press and Public

Members of the press and public wishing to attend the meeting should report to the customer service centre where they will be met and directed to the meeting.

Items of business

Apologies

Apologies from members.

Declarations of Interest

Members are asked to declare an interest in any item(s) on the agenda and to provide a brief explanation of the nature of the interest.

1 Houses in Multiple Occupation (HMO): Consultation on adding new categories to the definition of an HMO

1 - 8

Report by Director of Finance & Resources.

2 Review of Fees for Licence Applications: Community

9 - 22

Events

Report by Director of Finance & Resources.

EXCLUSION OF PRESS AND PUBLIC

The Board may by resolution exclude the press and public from the meeting during consideration of the following items of business as it is likely, in view of the nature of the business to be transacted, that if members of the press and public are present, there could be disclosure to them of exempt information as defined in paragraph 3 of Part I of Schedule 7A of the Local Government (Scotland) Act, 1973.

3 Applications for Exemption from Drivers' Duties under Section 165 of the Equality Act 2010 - Personal

Appearances

Submit the undernoted applications for exemption from drivers' duties under Section 165 of the Equality Act 2010. The applicants have been asked to appear personally for the first time:-

- (a) Mohammed Qasim
- (b) John Easton – T696
- (c) John Clark – T0041

4 Renewal of Private Hire Car Driver's Licence - Personal

Appearance

Submit the undernoted application for renewal of a Private Hire Car Driver's Licence. The applicant has been asked to appear personally for the first time:-

5 Grant of Private Hire Car Drivers' Licences - Personal

Appearances

Under reference to item 3 of the Minute of the meeting of this Board held on 28 March 2019 resume consideration of applications (a), (b) and (c) for grant of Private Hire Car Drivers' Licences and submit applications (d), (e), (f) and (g) for grant of Private Hire Car Drivers' Licences. Applicants (a), (b) and (c) have been asked to appear personally for the second time and applicants (d), (e), (f) and (g) have been asked to appear personally for the first time together with Police Scotland who has submitted an objection and further letter of representation to application (a); an objection to application (b) which was received outwith the statutory timescale; an objection to application (c); representations to applications (d), (e) and (f); and an objection to application (g):-

- (a) Barry Purawec
- (b) Danish Zafar
- (c) Peter Ritchie
- (d) Mohhad Dahdal
- (e) James Murphy
- (f) Kulwant Lally
- (g) Thomas Baxter

6 Recall of Suspension of Private Hire Car Driver's Licence - Personal Appearance

Under reference to item 10 of the Minute of the meeting of this Board held on 15 November 2018 consider submit the undernoted request for recall of suspension of a Private Hire Car Driver's Licence. The applicant has been asked to appear personally for the first time together with Police Scotland:-

Naqash Ahmed

7 Variation of Taxi Operator's Licence - Personal

Appearance

Submit the undernoted application for variation of Taxi Operator's Licence. The applicant has been asked to appear personally for the first time:-

Applicant: Anthony Stewart

Licence No.: TX037

Variation: to vary condition 22(iii) and apply for a one year extension to age of vehicle

**8 Renewal of Skin Piercing and Tattooing Licence -
Personal Appearance**

Submit the undernoted application for renewal of a Skin Piercing and Tattooing Licence. The applicant has been asked to appear personally for the first time together with the Director of Communities, Housing and Planning Services who has submitted an objection to the application:-

Applicant: Shona Weir

Licence No.: SP031

Premises: mobile service – Renfrewshire area

9 Grant of Landlord Registrations - Personal Appearances

Submit the undernoted applications for grant of Landlord Registrations. The applicants have been asked to appear personally for the first time:-

(a) Mark McCafferty

(b) Gordon Cooley

(c) James Campbell

**10 Hearing into Possible Removal from the Register of
Private Landlords - Personal Appearance**

Consider the possible removal of the undernoted landlord from the Register of Private Landlords. The landlord has been asked to appear personally for the first time:-

Claire Morrison – 184372/350/05000

**11 Grant of House in Multiple Occupation Licence - Personal
Appearance**

Submitted the undernoted application for grant of a House in Multiple Occupation Licence. The applicant has been asked to appear personally for the first time together with the Director of Communities, Housing and Planning Services, Renfrewshire Council:-

Applicant: Stuart Henderson
Property: 25 Caledonia Street, Paisley

Adjournment

The meeting will adjourn after consideration of item 11 and reconvene at 2.00 pm.

12 Hearing into Possible Suspension or Revocation of Booking Office Licence - Personal Appearance

Under reference to item 7 of the Minute of the meeting of this Board held on 22 May 2019 resume consideration of the possible suspension of the undernoted Booking Office Licence. The licence holder has been asked to appear personally for the second time together with Angela McCormack, complainer:-

Applicant: Renfrewshire Cab Company
Licence No. BO003

13 Renewal of Late Hours Catering Licence

Submit the undernoted application for renewal of a Late Hours Catering Licence:-

Applicant: Mohammad Haidaz
Premises: Papa John's, 58 Glasgow Road, Paisley
Activity: fast food outlet
Operating hours: 7 days per week – 11.00 pm to 2.00 am
Licence No.: LHC089



To: Regulatory Functions Board
On: 6 June 2019

Report by: Director of Finance and Resources

Heading: Houses in multiple occupation (HMO): consultation on adding new categories to the definition of an HMO

1. Summary

- 1.1 The purpose of this report is to advise the Board of the above consultation and to seek the Board's approval of the proposed response at Appendix 1.
-

2. Recommendations

- 2.1 It is recommended that the Board approve the proposed response to the consultation attached at Appendix 1 to this report, and
- 2.2 Otherwise note the content of this report.
-

3. Background

- 3.1 The Scottish Government is carrying out a consultation on the draft "The Houses in Multiple Occupation (Scotland) Order 2019" ("the draft Order"). The draft Order seeks to add new categories to the definition of an HMO. The aim is to ensure that properties which accommodate contract workers on a long-term basis, are regulated by the HMO licensing regime. A copy of the draft Order is found in Appendix 2 and the full consultation document can be viewed at:-

<https://www.gov.scot/publications/houses-multiple-occupation-hmo-consultation-adding-new-categories-definition-hmo/>

- 3.2 Currently, for a property to be classed as an HMO it must be occupied by three or more persons, from three or more families, as their only or main residence. As such, accommodation for contract workers may not

fall within this definition as it may not be considered the only or main residence for the workers.

- 3.3 The draft Order sets out types of living accommodation that are proposed to be included within the definition of an HMO. These are:
- a) Bed & breakfast accommodation;
 - b) Hotel accommodation;
 - c) Backpackers' hostel;
 - d) Living accommodation in the same premises where the worker is employed;
 - e) A flat or house;
 - f) A serviced apartment;
 - g) Self-catering accommodation also used for tourism lets;
 - h) Lodgings consisting of rented room(s) in another person's house;
 - i) A non-traditional or temporary structure (which is not a caravan, tent, van, shed or similar structure).
- 3.4 For the accommodations listed (a) – (c) (B&Bs, hotels, and hostels) to be classed as an HMO, the property owner must have made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists.
- 3.5 Accommodations listed (d) to (i) (other types of accommodation) will be classed as an HMO if it is engaged for seasonal agricultural work, other work or to accommodate workers before/after going off shore.
- 3.6 The Scottish Government proposes these criteria to allow local authorities to consider the manner in which a property is being used without taking into account whether or not an occupant has a main residence elsewhere. The aim is to address potential health and safety concerns in relation to the accommodation that contract and transient workers live in when they are working away from home.
- 3.7 The Board may consider it appropriate to extend the definition of an HMO if an accommodation is regularly used to accommodate contract and transient workers. Not only could this benefit workers; it will also allow regulation of these accommodations for the benefit of neighbouring properties. The Council has previously received complaints in relation to contract workers being housed in accommodation in residential areas. Complaints have included allegations of anti-social behaviour. Accordingly, the proposals from the Scottish Government may assist in better regulation of these properties to the benefit of the residents of Renfrewshire. Accordingly, the proposed response at Appendix 1 is largely supportive of the draft Order.

- 3.8 As stated, for hotels, B&Bs and hostels to be classed as an HMO, the property owner must have made a physical and/or operational change to the premises. This criteria will not capture all accommodations of this nature which are effectively used as an HMO property. For example, a hostel may accommodate a worker for a part of each week in a six-month period. Under the proposals, this hostel would not require an HMO licence if it also allows other non-worker occupants access to the same facilities (such as a kitchen) as the worker is allowed. Accordingly, the Board may consider it appropriate that local authorities also be able to assess, separately, the frequency such properties are used by contract and transient workers and/or the frequency of individual workers staying over a period of time. The proposed response has been drafted on this basis.
- 3.9 The Board's approval of the proposed consultation response is sought to enable the response to be submitted prior to the deadline of 8 July 2019.

Implications of the Report

1. **Financial – none**
2. **HR & Organisational Development - none**
3. **Community Planning –** *Building strong, safe and resilient communities* – The improvement of the licensing regime will help contribute to safer communities.
4. **Legal - none**
5. **Property/Assets – none**
6. **Information Technology – none.**
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 the proposals in the consultation or the response do not negatively impact any group. 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 – None.**
9. **Procurement – None**
10. **Risk - None**
11. **Privacy Impact – none**
12. **Cosla Policy Position – not applicable**

Author: Andrew McLaughlin, Senior Solicitor
andrew.mclaughlin@renfrewshire.gov.uk
0141 618 7585

Appendix 1

Proposed response to Houses in multiple occupation (HMO): consultation on adding new categories to the definition of an HMO

Question 1: Should holiday lets, hostels or B&Bs be licensed as HMOs, when contract and transient workers are residing in them and special arrangements have been made for the workers?

Response: Yes

Renfrewshire Council agrees that the categories of HMO accommodations should be extended to include holiday lets, hostels or B&B accommodations which are effectively being used as HMO accommodation by housing transient or contract workers. Renfrewshire Council agrees that this will benefit workers staying in such accommodation. Moreover, it will also allow regulation of these accommodations for the benefit of neighbouring properties. For example, if there were concerns in relation to anti-social behaviour then the licence holder could be referred to the relevant local authority for failing to adequately manage a licensed HMO.

Question 2: Do you agree with the policy approach to change the focus from the only or main residence test to instead focus on the type of accommodation and its manner of occupation for contract and transient workers?

Response: Yes

It is agreed that the current test of “only or main residence” allows many properties effectively used as HMO accommodation to go unlicensed. Accordingly, Renfrewshire Council agrees with the policy approach to allow local authorities to consider the manner in which a property is being used without taking account whether or not the occupant has a main residence elsewhere. This will allow proper regulation of properties used effectively as HMO accommodation for transient or contract workers.

Question 3: Do you agree with the types of living accommodation set out in article 2(1) of the draft Order?

Response: Yes

While the types of living accommodation are wide ranging, it is agreed that these types of accommodations can be used effectively as HMO accommodation to house transient or contract workers. At the same time, the assessment of the manner of occupation must be appropriate to ensure that holiday accommodation which infrequently houses contract or transient workers are not required to obtain an HMO licence. Renfrewshire Council’s view on the manner of occupations are detailed below.

Question 4: Do you agree with the policy approach outlined in article 2(2) of the draft Order?

Response: Yes

As previously stated, Renfrewshire Council agrees with the policy approach to allow local authorities to consider the manner in which a property is being used without taking account whether or not the occupant has a main residence elsewhere.

Question 5: Do you agree with the manners of occupation set out in article 2(2) of the draft Order?

Response: Yes

In relation to B&Bs, hotel accommodation and backpackers hostels, a physical/operational change by the property owner is wide ranging and should result in the licensing of a large portion of properties which are effectively being used as HMO accommodations for transient or contract workers. However, as detailed in the Response 6, consideration should be given to other criteria to assess manner of occupations to ensure the licensing of other properties effectively being used as HMO accommodations for transient or contract workers.

In relation to the type of accommodation mentioned in article 2(1)(d) to (i), Renfrewshire Council agrees that the defined manner of occupation will allow local authorities to consider, effectively, the manner in which a property is being used without taking into account whether or not the occupant has a main residence elsewhere.

Question 6: Are there other manners of occupation that should be described in the Order?

Response: Yes

Renfrewshire Council does not agree that the requirement for there to be a physical or operational change to the premises for accommodations listed (a) – (c) to be classed as an HMO should be the only criteria to determine whether an accommodation listed (a) – (c) should constitute a HMO (when it is not a worker's only main residence).

It is accepted that there must be a criteria to separate hotels, bed & breakfasts and hostels that are effectively used in the same manner as an HMO for workers. For example, it would not be appropriate to require an accommodation which infrequently houses workers to be licensed as an HMO. However, Renfrewshire Council considers that local authorities should be able to assess the manner in which a property is being used is by assessing the frequency such properties are used by contract and transient workers and/or the frequency of individual workers staying over a period of time. This should be separate to the criteria of whether there has been an operational or physical change. For example, a hostel may accommodate a worker for a part of each week in a six-month period. This hostel would not require an HMO licence if it also allows other non-worker occupants access to the same

facilities (such as a kitchen) as the worker is allowed. It is the view of Renfrewshire Council that a worker in this situation should be afforded the same benefits of the HMO licensing system as a worker who has a special arrangement in relation to accessing facilities.

Question 7: Do you agree with the time pattern approach outlined in article 2(3) of the draft Order, whereby there does not have to permanently be 3 or more persons living in the accommodation?

Response: Yes

It is agreed that this time pattern approach is necessary for ensuring protection of workers whose living pattern may change week to week.

Question 8: Are there any proposals in this consultation which impact on, or have implications for islands communities?

Response: N/A

Question 9: Are there any proposals in this consultation which impact on, or have implications for equality groups?

Response: No

It is not considered that there will be an adverse impact on equality groups. If transient or contract workers have large proportions of a particular group then it is considered that the proposals will have a beneficial impact on these groups.

Question 10: Do any of the proposals in this consultation have financial, regulatory or resource implications for you and/or your business (if applicable)?

Response: Yes

Increasing the categories of HMO accommodations will increase the workload for the different departments which process applications for HMO, which carry out inspections to assess the properties and which enforce the licensing standards.

The proposals should result in an increase of licensing fees received by the Local Authority which may help fund any increased work load.

Question 11: Over the coming months, would you be willing to take part in a short interview to expand further on your comments to Question 10?

Response: No

Appendix 2

Draft Order laid before the Scottish Parliament under section 191(4)(a) of the Housing (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

HOUSING

The Houses in Multiple Occupation (Scotland) Order 2019

Laid before the Scottish Parliament 2019

Coming into force - - 2019

The Scottish Ministers make the following Order in exercise of the powers conferred by section 125(1)(b) of the Housing (Scotland) Act 2006(1) and all other powers enabling them to do so.

In accordance with section 125(1A) of that Act, they have consulted local authorities and such tenants (or tenants' representatives) and such landlords (or landlords' representatives) as they think fit.

In accordance with section 191(4)(a) of the Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This order may be cited as the Houses in Multiple Occupation (Scotland) Order 2019 and comes into force on 24 May 2019.

(2) In this Order—

“the 2006 Act” means the Housing (Scotland) Act 2006,

“backpackers’ hostel” means low-cost, dormitory-style accommodation, used by tourists or travellers,

“serviced apartment” means a house, flat or an apartment forming part of a hotel in relation to which concierge or cleaning services are supplied;

“tourist” means a visitor to Scotland, a person spending their holiday in Scotland or a person travelling for pleasure within Scotland, and “tourism” shall be construed accordingly, and

“worker” means a person who is employed or self-employed either under a contract or on a seasonal basis, or other ad-hoc basis, whose employment, due to its location or any other reason, requires them to live in accommodation which is not their only or main residence.

Meaning of “house in multiple occupation”

2.—(1) The following types of living accommodation for workers are specified for the purposes of section 125(1)(b) of the 2006 Act:—

(1) 2006 asp 1.

- (a) bed and breakfast accommodation occupied in the manner described in paragraph (2)(a),
- (b) hotel accommodation occupied in the manner described in paragraph (2)(b),
- (c) a backpackers' hostel occupied in the manner described in paragraph (2)(c),
- (d) living accommodation in the same premises where the worker is employed;
- (e) a flat or house,
- (f) a serviced apartment;
- (g) self-catering accommodation also used for tourism lets;
- (h) lodgings consisting of a rented room or rooms in another person's house;
- (i) a non-traditional or temporary structure designed or adapted for living accommodation, which is not—
 - (i) a "caravan" as defined by section 29 of the Caravan Sites and Control of Development Act 1960, or
 - (ii) a tent, van, shed or similar structure, used for human habitation.

(2) The following manners of occupation by workers are specified for the purposes of section 125(1)(b) of the 2006 Act:—

- (a) living in bed and breakfast accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (b) living in hotel accommodation where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (c) living in a backpackers' hostel where the property owner has made a physical and/or operational change to the premises or the nature of the business to accommodate workers in a manner which differs from the use of the premises by tourists,
- (d) living in any type of accommodation mentioned in article 2(1)(d) to (i) while engaged in seasonal agricultural or other work,
- (e) living in any type of accommodation mentioned in article 2(1)(d) to (i) either—
 - (i) before being transported offshore for employment, or
 - (ii) after being transported back from offshore,
- (f) living in any type of accommodation mentioned in article 2(1) with other persons who occupy the living accommodation as an only or main residence where the number of workers and other persons together amounts to the 3 or more persons mentioned in section 125(1) of the 2006 Act.

(3) The manners of occupation mentioned in paragraph (2) are deemed to take place where—

- (a) occupation takes place for only part of a week, or
- (b) the 3 or more persons mentioned in section 125(1) of the 2006 Act occupy the same living accommodation for a minimum period of one day in a 12-month period.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers



To: Regulatory Functions Board

On: 6th June 2019

Report by: Director of Finance and Resources

Heading: Review of Fees for Licence Applications: Community Events

1. Summary

- 1.1 The purpose of this report is to advise the Board of a review by officers of licensing charges for community events and to recommend changes arising from the review.
-

2. Recommendations

- 2.1 The Board is requested to:-
- 2.1.1 Note the review of various licensing charges relevant to community events; and
- 2.1.2 Approve the proposed revised charges for market operators' licences set out at Appendix 1.
-

3. Background

- 3.1 At its meeting on 13th December 2018, Council agreed the terms of a Motion which called for a review of the Council's charging policy for community events. The Motion made reference to other Councils, in

particular City of Edinburgh and Stirling, which had established tourist footfall.

- 3.2 The holding of community events could potentially involve the following licences being required. The Council normally considers, in relation to community events, applications for (i) public entertainment licences, as well as applications for (ii) market operators' licences or (iii) street traders' licences, where goods are sold.
- 3.3 Separately, the Licensing Board is responsible for considering any applications for occasional licences for the sale of alcohol, which in terms of Regulations made under the Licensing (Scotland) Act 2005, currently require to be accompanied by a £10 fee. (This occasional licence fee is set by legislation and is not part of this review).
- 3.4 Officers have now carried out a review of the current charges for the licences detailed at Paragraph 3.2 above and the details of this review are set out in this report.

Licensing of Community Events

- 3.5 The Council has licensed various activities as "public entertainment" under the terms of the Civic Government (Scotland) Act 1982 ("the 1982 Act") for many years. Community events in Renfrewshire require a public entertainment licence if they involve a large fete, funfair, live music or other activities which are included in the Council's public entertainment licensing resolution. Where goods are sold, it is likely that a market operator's licence, or individual street traders' licences, will also be required. The Council's charges for these licences are set out at Paragraphs 3.6 to 3.10 below.

Public Entertainment Licensing

- 3.6 In relation to public entertainment licence applications, the Council charges a fee of £182 when a person applies for a new licence, with the exception of outdoor events involving amplified music, funfairs, circuses and other activities likely to cause public concern. The Council's policy is that those events should be advertised in a local newspaper. Given the cost of an advertisement, an increased application fee of £891 is payable in respect of those events, with a higher fee applicable to large commercial events, which are also advertised.

Exemptions from Public Entertainment Licence Application Fee

- 3.7 However, the Council has had a policy of specifically exempting certain events from payment of a licence application fee, including a number of traditional gala days, since 2004. These events are listed at Appendix 2

to the report. As a result, although organisers of these events require to make an application for a public entertainment licence, the organisers need not pay a fee for that application. Where traditional gala days, or other local annual events, are not contained in the list at Appendix 2, it is still open to the organisers of the event to request exemption from payment of the fee. As a result, organisers of community events, provided their event has taken place in previous years, are generally granted an exemption from payment of any public entertainment licence fee. As such, with the exception of funfairs run by commercial operators (which are normally the subject of a separate licence application by the operator), no fee is usually payable.

Market Operators' and Street Traders' Licence Applications

3.8 As stated at Paragraph 3.5, it is likely that a market operator's licence, or individual street traders' licences, will be required if goods are to be sold at an event, unless the market is operated by a charitable, religious, youth, recreational, community, political or similar organisation and exempt from licensing in terms of the 1982 Act.

3.9 The current charges in Renfrewshire for these licences are as set out below:

Street Trader (New Grant 1 year or temporary)	£74
Street Trader (Renewal 2 years)	£143
Market Operator (New Grant 1 year or temporary)	£367
Market Operator ((Renewal 2 years)	£719

3.10 An organiser of an event, in addition to any public entertainment licence, may require a market operator's licence, or for the traders at the event to hold individual street traders' licences, unless the market is exempt from licensing as set out at Paragraph 3.8. Where a market operator's licence is obtained, there is no need for additional street traders' licences to be obtained under the terms of the 1982 Act. Similarly, where all street traders at an event are licensed, the Council will not expect the organiser of the event to apply for an additional market operator's licence.

The fee for a temporary market operator's licence, which will normally be obtained in relation to a one-off event, is £367, as shown at Paragraph 3.9.

Comparisons with Other Local Authority Areas

- 3.11 The City of Edinburgh Council has a complex charging structure for market operators' licences. Different fees apply according to whether markets are held regularly and whether they are indoor or outdoor and also according to the number of stalls. There is also a different fees structure depending upon whether markets are held within or outwith the city centre. The full charging structure is shown at Appendix 3 to this report.
- 3.12 The City of Edinburgh Council also has a separate fee for community markets or markets run by registered charities which involve a maximum of 20 stalls. In relation to these markets, they charge £121, provided there is no commercial element with 100% of the profits being given over to the charity or community group. Otherwise, their normal fee structure will apply. In Renfrewshire, no licence is required (and accordingly no fee is payable) where charitable, religious, community or other similar groups operate a market on that basis.
- 3.13 In relation to their charges for public entertainment licence applications, the City of Edinburgh Council do not require a public entertainment licence for free community events where the capacity does not exceed 500 people, or community events where people pay to enter provided that the capacity does not exceed 250 people. In Renfrewshire, these events do require a public entertainment licence, which allows events to be regulated but, as noted at Paragraph 3.7 above, are generally exempted from payment of a licence application fee.
- 3.14 Stirling Council charges a fee of £119 for market operators' licences. This fee applies to licences of a one year duration, while a three year licence can be applied for at a cost of £276.
- In relation to Stirling Council's public entertainment licensing approach, they provide that a public entertainment licence will not be required for certain voluntary or community groups, provided that they admit no more than 300 people in total to an event and do not charge in excess of a specified admission fee. In Renfrewshire, a licence is required for large fetes and other events which fall within the Council's public entertainment resolution, but traditional gala days and other local events are generally granted an exemption from payment of the licence application fee, as noted above.
- 3.15 Otherwise, the approach differs from one local authority area to another. The period for which a licence is granted, subject to a three year maximum under the 1982 Act, varies. Some authorities have agreed a

restricted temporary licence fee and a small number of authorities provides for a higher fee based on the number of stalls.

4. Conclusions, Recommendations and Further Information

4.1 Public Entertainment Licences

- 4.1.1 The majority of community events in Renfrewshire are covered by a public entertainment licence and, where goods are sold by commercial traders, these traders are covered either by individual street traders' licences or by a single market operator's licence (unless the statutory exemption set out at Paragraph 3.8 applies). As stated above, in most cases, given that these events will have taken place in the previous year or years, an exemption is allowed from payment of a public entertainment licence fee as set out at Paragraph 3.7. As such, no fee is usually payable. It is therefore the view of officers that no further changes in relation to these licence application fees are required.

Proposal in relation to Market Operators' Licence Fees

- 4.2 In relation to market operators' licence fees, while markets with no commercial element are already considered exempt from licensing and therefore are not required to pay any fee, it is recognised that the current fee of £367 may be prohibitive in relation to small markets, especially those of a short duration or which have a limited number of stalls. Equally, the Board may consider the current fee reasonable for commercial market operators who hold markets and rent out stalls to traders regularly throughout the duration of a one year market operator's licence.
- 4.3 A revised licensing fees structure in relation to these licences is therefore proposed at Appendix 1 to this report. This retains the existing fees for market operators' licences, for grant (for 1 year) and renewal (for 2 years), but allows a reduction in fee in respect of those markets which are not exempt from licensing but operate a small number of stalls for a restricted period. The proposed revised fees structure would mean that any market taking place over a maximum period of 7 days, and which involves no more than 20 stalls, would be liable to a reduced licence application fee of £120. This fee is comparable to the temporary licence application fee in Glasgow (£124), the fee payable in Stirling (£119) and the concessionary fee charged in Edinburgh for a one week licence as detailed at Paragraph 3.12 of the report.
- 4.4 It would be open to the Board to agree that this reduced fee should apply to a greater, or lesser, number of stalls, should they consider appropriate. Officers have recommended a number of 20 stalls, having regard to the

potential for organisers to recover the cost of the existing licensing charge through the hire of stalls to traders (who will not require to obtain street traders' licences as a result of a market operator's licence being obtained).

- 4.5 Equally, it would be open to the Board to agree that a nil charge should apply, restricted to those markets associated with community events. However, the Board will wish to ensure that, where considering this option, licensing charges remain sufficient to meet the Council's expenses in considering applications for licences, as provided under the 1982 Act.

Street Traders' Licences

- 4.6 Given that the Council currently avoids the duplication of licensing in relation to market operators and street traders, as set out at Paragraph 3.10, it is the view of officers that there is no need to set any reduced fee in respect of street traders' licences in addition to the proposed reduced fee relating to market operators' licences detailed at Paragraph 4.3.

5. Alternative Options

- 5.1 In carrying out the review, officers identified alternative options which the Board may wish to consider. These are set out at Paragraphs 5.2 and 5.3.
- 5.2 The Council's Scheme of Delegated Functions currently grants power to officers, in consultation with the Convener of the Board, to direct that an event similar in nature to a traditional gala day or local event be exempted from the requirement to pay a fee for a Public Entertainment Licence. This is the basis for granting the exemptions set out at Paragraph 3.7. It would be open to the Board to consider granting a similar power to officers, in consultation with the Convener, to exempt applicants for market operators' licences from payment of the current application fee, where the market is for a limited number of stalls and of a limited duration. However, this would be in addition to the statutory exemption from licensing available as stated at Paragraph 3.8 above where non-commercial markets take place.
- 5.3 A further alternative would be to agree a reduced fee for temporary market operators' licence applications, covering all temporary licences (which may be granted for a maximum period of 6 weeks). A reduced temporary licence application fee would be a straightforward approach to reducing the cost of those applications, which are subject to reduced statutory formalities, although it should be noted that the Council consults widely on these applications having regard to the public interest.

Recommendation

- 5.4 In the circumstances, it is recommended that the Council should introduce the restricted fee applicable to small, short-term markets as detailed at Paragraph 4.3 and Appendix 1 to this report.

6. Additional Information

- 6.1 It is understood that the charges imposed by the Council for the hire of stalls by community groups at Council-run events have been the subject of a separate review by Council officers.

Implications of the Report

1. **Financial** – the recommended fee structure at Appendix 1 would result in a small reduction in licensing income.
2. **HR & Organisational Development** – nil.
3. **Community/Council Planning** –
 - *Our Renfrewshire is thriving*- The options for a reduced licensing fee for market operators may assist the Council's commitments to driving cultural regeneration and increasing visitor numbers through encouraging local markets.
 - *Our Renfrewshire is safe*-The continuing regulation of events is key to the Council working with partners in keeping people safe.
 - *Creating a sustainable Renfrewshire for all to enjoy*- Effective business regulation and encouraging communities to use and enjoy outdoor spaces.
4. **Legal** – as detailed in the report. The Council is entitled to charge fees for licensing applications in terms of Paragraph 15 of Schedule 1 to the 1982 Act.
5. **Property/Assets** nil.
6. **Information Technology** – nil.
7. **Equality & Human Rights** -
 - (a) 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 because the report simply recommends a reduction in some licensing application fees. 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.

List of Background Papers

- (a) Background Paper 1 - None

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

APPENDIX 1

Proposed Revised Market Operators' Licence Charges for Renfrewshire

	<u>£</u>	
Application for New Licence (1 year)	367	(as existing)
Reduced Fee (applicable to markets which involve no more than 20 stalls and are of a duration of 7 days or less)	120	
Application for Renewal (2 years)	719	(as existing)

APPENDIX 2

List of Community Events Exempt from Public Entertainment Licensing Fee

1. Lillas Day
2. Bridge of Weir Gala Day
3. Inchinnan Gala Day
4. Bishopton Gala Day
5. Sma' Shot Day
6. Central Nursery Open Day
7. Barshaw Park Fun Day
8. Red Cross Fun Day
9. Johnstone Festival
10. Erskine Festival

APPENDIX 3

Edinburgh City Council- Market Operator's Licence Fee Structure

MARKET OPERATORS - Including car boot sales within Ward 11 (City Centre)

The annual fee is only available to markets that operate with a frequency of at least once per calendar month	annual indoor markets	£56 - per stall – 1 year new/ renewal
	annual outdoor markets	£84 - per stall – 1 year new/renewal
temporary outdoor markets who operate less than once per calendar month	temporary outdoor markets- subject to a max fee of £5,000	£84 – fee per stall for up to 28 days
	temporary outdoor markets- subject to a max fee of £5,000 inc late application surcharge	£101 – fee per stall for up to 28 days
temporary indoor markets who operate less than once per calendar month	temporary indoor markets- subject to a max fee of £1,000	£56 – fee per stall for up to 28 days
	temporary indoor markets - subject to a max fee of £1,000 inc late application surcharge	£68 – fee per stall for up to 28 days

Note an 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 temporary fenced off or restricted area or any temporary structure i.e. marquee

MARKET OPERATORS - Including car boot sales out with the City Centre (Ward 11)

temporary markets are those who operate **less than once** per calendar month

temporary indoor or outdoor market

£6 – fee per stall for up to 28 days

temporary indoor or outdoor market- **inc late application surcharge**

£7- fee per stall for up to 28 days

The annual fee is only available to markets that operate with a frequency of at least once per calendar month

£14 – fee per stall new / renewal for 1 year

COMMUNITY MARKETS OR REGISTERED CHARITIES - See Note 1

provided there is no commercial element, i.e. where 100% of the profits is given over to the charity or community group

City wide - 20 stalls maximum (thereafter normal fees will apply)

£121 – per week or part of a week (up to a max 7 days per application)

City wide - 20 stalls maximum (thereafter normal fees will apply) - **inc late application surcharge**

£144 – per week or part of a week (up to a max 7 days per application)