

To: Regulatory Functions Board

On: 15th September 2022

Report by: Director of Finance and Resources

Heading: **Civic Government (Scotland) Act 1982: Electronic Communications**

1. Summary

- 1.1 The purpose of this report is to ask the Board to make a determination to accept licensing communications, including applications, objections and representations, electronically. The requested determination relates to various licences which are applied for and granted under the terms of the Civic Government (Scotland) Act 1982 (“the 1982 Act”).
- 1.2 The Board is asked to agree publication of the attached Determination at Appendix 1 and to recommend to Council that powers be delegated to officers in consultation with the Convener to update the published Determination as required.
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2. Recommendations

It is recommended that the Board:-

- 2.1 Make a determination in the terms set out at Appendix 1 and agree its publication on the Council’s licensing web pages; and instruct officers to otherwise publicise the determination as they consider appropriate;
- 2.2 Recommend to Council that an additional power be delegated to officers as set out at Paragraph 4.2.1 of the report; and

2.3 Otherwise note the terms of the report.

3. Background

3.1 The Council licenses various activities under the terms of the 1982 Act and Orders made under that Act, such as taxi and private hire car drivers and vehicles, booking offices, second-hand dealers and skin piercing/tattooing. With the exception of Houses in Multiple Occupation and registration of private landlords, most of the applications considered by the Board fall under the scope of the 1982 Act.

3.2 The original provisions of the 1982 Act regarding the requirements of applications, objections, representations and various other matters were amended with effect from November 2016. The updated provisions, set out in Paragraphs 16A of Schedule 1, and Paragraph 22A of Schedule 2, to the 1982 Act (hereinafter, “the updated provisions”) now allow a licensing authority to determine to accept applications, objections, representations and notifications of a material change by means of electronic communication. The determination must specify the form of electronic communication, the electronic address to be used and any means of authentication in addition to an electronic signature. The Council requires to publish any determination as they consider appropriate.

3.3 Prior to the national lockdown announced on 23rd March 2020 as a result of the coronavirus pandemic, all licensing applications in Renfrewshire under the terms of the 1982 Act were made on paper forms, as were other communications (such as objections and representations) under that Act. Following the closure of Renfrewshire House and a period during which applications for licences were unable to be received, the Council introduced a partially online application process. This involved application forms being submitted through a live website and then pre-checked by customer service staff (and supporting documents verified). Thereafter, following payment, a hard copy of the application was emailed or sent to the applicant to sign and return by post, allowing the Council to capture a wet signature in accordance with the requirements of Paragraph 1(1)(b) of Schedule 1 to the 1982 Act.

3.4 This system is operating well and appears to be able to be used by applicants for licences with few, if any, issues. However, the requirement for a physically signed form means that there is inevitably a delay between the initial electronic submission, payment and receipt of the signed paper form. In order to modernise the licensing regime, the Board may now wish to determine that such communications as are permitted by the updated provisions may now be given by electronic means. A proposed Determination to this effect is attached at Appendix 1.

- 3.5 Officers involved in the licensing process have consulted with colleagues in Customer and Digital Operations. The application forms in respect of which the process is already partially online are available through My Account. The online address where these forms can be accessed and completed is detailed on the proposed Determination. The updated provisions state that the Determination should state any means of authentication of an application in addition to an electronic signature.
- 3.6 Should the Board agree the terms of the Determination, it is envisaged that a check box will be incorporated into the current online forms which will, when completed, display the name of the applicant in the style of a written signature. It is not proposed to introduce any other means of authentication in addition to the electronic signature. In order to make any application through My Account, using the electronic address set out at Appendix 1, applicants for a licence require to have set up an account on it. This already involves in-built mechanisms to ensure the identity of the person making the application.
- 3.7 In addition to applications, the updated provisions allow the Council to resolve to accept other communications electronically, including (i) objections and representations and (ii) notifications of material changes and alterations in respect of a licence. The proposed Determination envisages that these communications may be given by email to licensingadmin.cs@renfrewshire.gov.uk It is proposed that these written communications, in order to be accepted as valid by the Council, will require to be electronically signed by the person making them, or on their behalf, as well as, in the case of objections or representations, meeting the statutory requirements, in addition to the electronic signature, set out in Paragraph 3 of Schedule 1 to the 1982 Act. These requirements are that objections and representations be in writing, specify the grounds of objection or nature of the representation, state the name and address of the person making them and are, subject to them being accepted late where sufficient reason is shown, made timeously. It is not proposed to provide for any other means of authentication in addition to an electronic signature in respect of these matters.
- 3.8 Officers recommend avoiding the use of other email addresses for submitting objections, recommendations and material changes and alterations in respect of a licence, so as to minimise the risks of objections and other submissions either not being received, or overlooked while particular officers are on leave or otherwise unavailable.
- 3.9 The updated provisions also allow the Council to determine to give various notices electronically, such as notices of various decisions, as also statements of reasons, where a person agrees to receive a notice

or written reasons electronically to an agreed electronic address. The proposal therefore also sets out that the Council would issue these notices/ reasons by such means in these circumstances.

4. Updates to the Electronic Communications Policy

4.1 While it is anticipated that a number of applications received under the 1982 Act will be able to be made electronically from the dates stated in the determination, there are some application types under that Act where online forms remain to be developed, notably for Market Operator licences and Public Entertainment licences.

4.2 Accordingly, to allow any additional application types to be introduced online smoothly, it is proposed that the Board recommend to Council that a change be made to the Scheme of Delegated Functions to allow officers to make necessary changes to the determination, as required. The recommended change would be in the following terms:

4.2.1 “To the Director of Finance and Resources, Head of Corporate Governance, Legal and Democratic Services Manager, Managing Solicitors and Assistant Managing Solicitor (Licensing), a power:

“To make and publicise changes to the Council’s Electronic Communications determination under the terms of Paragraph 16A of Schedule 1, and Paragraph 22A of Schedule 2, to the Civic Government (Scotland) Act 1982”.

4.3 This issue does not arise in relation to communications other than applications, such as objections or representations, as it is proposed within the attached Determination that these will be able to be received by electronic means immediately, as further detailed at Paragraph 5.1.

5. Conclusion

5.1 The Board is asked to agree the terms of the determination attached at Appendix 1 and to authorise its publication. As stated in the proposed determination, it is suggested that the determination would come into effect on 2nd October 2022 in relation to applications for short-term lets and, in respect of the other application types listed, on 1st November 2022. The proposed determination envisages objections, representations and material changes of circumstances being able to be made electronically from 2nd October 2022 in relation to all types of licensing provided by the Council under the terms of the 1982 Act.

5.2 Should the Board agree the above recommendations, officers will arrange publication of the determination on the Council's licensing web pages and will also arrange to update online guidance to assist members of the public who may be considering making an objection or representation to an application.

5.3 In the view of officers, the removal of the remaining paper processes, where possible, would benefit both the licensing process and parties with an interest in the licensing process. It is anticipated that most of the relaxations in licensing procedures, which were introduced temporarily by the Coronavirus (Scotland) Act 2020, will be removed from 1st October 2022, potentially restricting the latitude currently available to applicants seeking renewal of their licences. Further, it is noted that, with regard to the introduction of a licensing regime for short-term lets from 1st October 2022, the Scottish Government encourage the adoption of electronic processes for these applications.

Implications of the Report

1. **Financial** – These are likely to be minimal. The Council's licensing processes are already operating on a largely paperless basis. The removal of the requirement for return of paperwork will provide some savings for members of the public, including licence holders.
2. **HR & Organisational Development** – None.
 - **Community Planning** – Reshaping our Place, our Economy and our Future- embracing and maximising the benefits of digital change
 - Creating a Sustainable Renfrewshire for all to enjoy- reducing the paperwork associated with licensing application processes and resulting environmental benefits
3. **Legal** – As detailed in the report, the Civic Government (Scotland) Act 1982 now allows the Council to determine to accept, and give, certain communications electronically.
4. **Property/Assets** – None
5. **Information Technology** – There will require to be some amendment to existing electronic licensing processes to facilitate the proposed arrangements.
6. **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 recommendation is to remove the additional requirement for paper processes from the existing licensing application process. If anything, it is likely the removal of that requirement will provide benefits in terms of convenience for all applicants and other parties involved in the licensing process. 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** – None
13. **Climate Emergency** – The reduction in paperwork generated by the licensing process is likely to provide some environmental benefits.

List of Background Papers- None.

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APPENDIX 1

CIVIC GOVERNMENT (SCOTLAND) ACT 1982: PARAGRAPH 16A, SCHEDULE 1 DETERMINATION IN RELATION TO ELECTRONIC COMMUNICATIONS

It is hereby determined that:

1. In accordance with the provisions of Paragraph 16A of Schedule 1 to the above Act, Renfrewshire Council will accept, with effect from the dates specified below as those on which this Determination comes into effect, the following applications, whether for grant or renewal, by electronic means, *videlicet*:-

(a) From 2nd October 2022:-

Short-Term Let Licence

(b) From 1st November 2022:-

Taxi Licence
Taxi Driver Licence
Private Hire Car Licence
Private Hire Car Driver Licence
Booking Office Licence
Second Hand Dealer's Licence
Metal Dealer's Licence
Street Trader's Licence
Indoor Sports Entertainment Licence
Late Hours Catering Licence
Window Cleaner's Licence
Skin Piercing or Tattooing Licence

Applications for these licences will be accepted when they are completed by online application through <https://myaccount.renfrewshire.gov.uk/MyServices> and the relevant requirements set out in the above Act are met. Applicants will require to have an account with MyAccount to complete their online application form, which will require the insertion of an electronic signature.

2. In accordance with the provisions of Paragraph 16A of Schedule 1 to the above Act, Renfrewshire Council will accept, from 2nd October 2022, objections and representations made in response to all applications under the above Act to which Schedule 1 to the said Act applies, as also notifications of a material change made under Paragraph 9 of that Schedule, by email, to licensingadmin.cs@renfrewshire.gov.uk. Objections and representations will require to contain an electronic signature, by the person making them or on their behalf, as well as meeting the other statutory requirements as set out in Paragraph 3 of Schedule 1 to the above Act, which include that they be in writing, specify the grounds of the

objection or nature of the representation and contain the name and address of the person making them, and that they are made timeously.

3. In accordance with the provisions of Paragraph 16A(5) of the above Schedule to the above Act, the licensing authority will, from 1st November 2022, provide notices under Paragraphs 5, 9, 10, 11 and 12 to that Schedule, and Statements of Reasons under Paragraph 17 thereof, by email, where this is agreed by the person entitled to receive them, to an email address specified by them.
4. This determination will take effect [A] on 2nd October 2022 in relation to: (i) the submission of applications for short-term let licences and (ii) the making of objections and representations, and notifications of material changes and alterations in respect of a licence, relative to any type of licensing provided by the Council under the terms of the 1982 Act; and, [B] in respect of all other electronic communications specified above, on 1st November 2022.

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