

Agenda



Special Meeting of Licensing Committee

Date: Wednesday, 28 February 2018

Time: 14:00

Venue: Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank

Contact: Nuala Borthwick, Committee Officer
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Dear Member

Please attend a special meeting of the **Licensing Committee** as detailed above. The business is shown on the attached agenda.

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:

Councillor Jim Finn (Chair)
Councillor Jim Brown
Councillor Ian Dickson
Councillor Jonathan McColl (Vice Chair)
Councillor Marie McNair
Councillor John Mooney
Councillor Lawrence O'Neill
Councillor Brian Walker

All other Councillors for information

Chief Executive
Strategic Director – Regeneration, Environment and Growth
Strategic Director – Transformation and Public Service Reform
Chief Officer of Health & Social Care Partnership

Date issued: 15 February 2018

LICENSING COMMITTEE

WEDNESDAY, 28 FEBRUARY 2018

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in the undernoted item of business on this agenda and, if so, state the reasons for such declarations.

**3 CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PART V – 5 - 8
PUBLIC PROCESSIONS, POLICE, PUBLIC ORDER AND
CRIMINAL JUSTICE (SCOTLAND) ACT 2006, NOTICE OF
PROPOSAL TO HOLD A PUBLIC PROCESSION: PROTESTANT
MARTYRS (CLYDEBANK) LOYAL ORANGE LODGE NO 2000**

Submit report by the Strategic Lead – Regulatory concerning a Notice of Proposal to hold a Public Procession submitted by Mr Cameron Russell on behalf of the Protestant Martyrs (Clydebank) Loyal Orange Lodge No. 2000.

WEST DUNBARTONSHIRE COUNCIL
Report by the Strategic Lead - Regulatory
Licensing Committee – 28 February 2018

Subject: Civic Government (Scotland) Act 1982
Part V – Public Processions
Police, Public Order and Criminal Justice (Scotland) Act 2006
Notice of Proposal to hold a Public Procession:
Protestant Martyrs (Clydebank) Loyal Orange Lodge No 2000

1. Purpose

- 1.1** To consider a Notice of Proposal to hold a Public Procession submitted by Mr. Cameron Russell on behalf of the Protestant Martyrs (Clydebank) Loyal Orange Lodge No. 2000. There is a Police objection to this notification.

2. Recommendations

- 2.1** It is recommended that Members consider the notification of proposal to hold a public procession from Mr. Russell for the Protestant Martyrs (Clydebank) Loyal Orange Lodge No. 2000 to hold a Public Procession on their preferred route on Saturday 17 March 2018.

3. Background

- 3.1** In terms of the Civic Government (Scotland) Act 1982 an applicant must notify the Police and the Local Authority of its intention to hold a procession. This is the fifth year that this applicant has applied for this procession. However, since the last time the applicant has applied for this procession there has been a change to the Police Scotland position on what they would want to be in place for processions. Police Scotland are requesting that a Temporary Traffic Order (“TTRO”) is in place to facilitate traffic control on the day of the procession. Previously, there was no such request by Police Scotland that a TTRO would require to be in place for such processions.

- 3.2** In respect of this notification of a proposal to hold a Public Procession Police Scotland have stated;

“Police Scotland does not have a general responsibility for the closure of roads and/or the enforcement of traffic restrictions at pre planned events.. Primary responsibility lies with the Local Authority. The Roads Authority is responsible for implementing any TTRO deemed necessary, Sect 16A of the Road Traffic regulations Act 1984 gives power to grant a TTRO. For the purpose of Sect 16A a relevant event means any sporting event, social event or entertainment, which is held on a road. This includes parades and processions. In this instance Police Scotland are working within a necessary legal framework.”

- 3.3** We understand that Police Scotland has a legal opinion to support this view but this has not yet been exhibited to the Council.
- 3.4** Section 16A of the Road Traffic Regulation Act 1984 (RTRA84) states that a TTRO may be made where there is a “relevant event” in terms of the Act. The definition of a “relevant event” under Section 16 A (1) is “*any sporting event, social event or entertainment which is held on a road.*”
- 3.5** Legal advice sought by other Scottish Local Authorities confirms the Council's view that organisations with political or religious motivations would not fall within the definition of the Act and that a TTRO would not be competent in such circumstances. The Police have powers under Section 163 of the Road Traffic Act 1988 to control traffic.
- 3.6** It is the legal opinion of West Dunbartonshire Council that there are no powers under Section 16A of the Act for a Roads Authority to grant a TTRO for processions/parades that fall out with the definition of a “relevant event” which is a sporting event, social event or entertainment. Accordingly, at this stage it is the position of this Local Authority that there are no competent powers to insist that a TTRO be put in place by the Roads Authority. The Clerk to the Committee will address the Committee further at the hearing on the position with regard to TTROs.

4 Main Issues

- 4.1** A meeting between the applicant, representatives of Police Scotland and Council Officers was held on 1 February 2018. At this meeting the applicants agreed to change the date of the procession to accommodate a Police Scotland request. All parties were in agreement with the route and timings etc. however, there was no agreement on the requirement for a Temporary Traffic Road Order (TTRO) between Police Scotland and Council representatives.
- 4.2** The form 5:16:2 response from Police Scotland states that this procession would require a TTRO as the applicants meet the definition included within their recent guidance and object to the procession if a TTRO is not in place. The stated grounds of objection are that, as the event is pre planned, Police will require a TTRO to facilitate traffic control. As indicated in the background section the Council believes the Police Scotland's position is flawed. Police Scotland have stated that there is a “Low risk” with regard to this procession. The Committee will now require to consider the objection and hear from Police Scotland on the terms of its objection.
- 4.3** Section 63(8)(a) of the Civic Government (Scotland) Act 1982 outlines the considerations to which the Committee shall have regard when deciding whether to prohibit the holding of a procession or impose conditions on it. The terms of these considerations will be advised to the committee at the hearing.

5 People Implications

5.1 There are no personnel issues.

6.1 There are no financial implications.

7 Risk Analysis

7.1 There is a risk to the Council that should it require a TTRO to be applied for from an organisation that is not required to by legislation that this might expose the Council to legal risk.

8 Equalities, Health & Humans Rights Impact Assessment

8.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9 Consultation

9.1 Details of the procession were posted on the Council's website on 28 December 2017 and then reposted on 1 February 2018 after the original date was changed.

9.2 Members of the Licensing Committee and Councillors for the ward area in which the proposed procession is due to pass through were contacted and advised of the details of the procession by email on 28 December 2018 and then re-consulted on 1 February 2018. No comments were received.

9.3 Police Scotland were sent a copy of the notice of proposal on 28 January 2018. On 7 February 2018 Form 5:16:2 was received from Police Scotland and is available as a background paper.

9.4 Community Councils in which the proposed procession is due to pass through were contacted and advised of the details of the procession by email on 28 December 2018 and then re-consulted after a date change on 1 February 2018. No comments were received.

10 Strategic Assessment

10.1 There are no strategic implications.

Strategic Lead - Regulatory

Date: 15 February 2018

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Appendices: None

Background Papers:

- 1) Letter to Chief Executives from Chief Constable Police Scotland.
- 2) Notice of Proposal to hold a Public Procession submitted 22 December 2018.
- 3) Police Scotland Form 5/16/2 dated 7 February 2018
- 4) Letter to Mr.Russell dated 8 February 2018.
- 5) WDC - Code of Conduct
- 6) Email to the Members of the Licensing Committee and Councillors dated 28 December 2017 and re-notification on 1 February 2018.
- 7) Email to Community Councils