

# Supplementary Agenda



## Meeting of Licensing Committee

**Date:** Wednesday, 9 September 2020

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**Time:** 10:00

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**Format:** Zoom video conference

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**Contact:** Nuala Borthwick, Committee Officer,  
Email: [nuala.borthwick@west-dunbarton.gov.uk](mailto:nuala.borthwick@west-dunbarton.gov.uk)

Dear Member

### ITEM TO FOLLOW AND ADDITIONAL ITEM OF BUSINESS

I refer to the agenda for the above meeting that was issued on 27 August and now enclose a copy of **Item 8** which was not available for issue at that time. I would also advise that Councillor McColl, Vice Convener, has agreed to accept an additional item of business (**Item 9** 'Temporary Public Entertainment Licences for Commercial Funfairs, Firework Events and Live Amplified Music Events during the COVID-19 Pandemic – Consideration of the Non-Statutory Guidance on Funfairs').

Yours faithfully

**JOYCE WHITE**

Chief Executive

Note referred to:-

**8      CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – REVIEW      19 - 38**  
**OF TAXI FARES AND CHARGES – DUMBARTON & VALE**  
**OF LEVEN TAXI LICENSING ZONE**

Submit report by the Strategic Lead – Regulatory on the review of fares and charges applicable to taxis in the Dumbarton & Vale of Leven Taxi Licensing Zone.

**9      TEMPORARY PUBLIC ENTERTAINMENT LICENCES FOR      39 - 49**  
**COMMERCIAL FUNFAIRS, FIREWORK EVENTS AND LIVE**  
**AMPLIFIED MUSIC EVENTS DURING THE COVID-19 PANDEMIC –**  
**CONSIDERATION OF THE NON-STATUTORY SCOTTISH**  
**GOVERNMENT GUIDANCE ON FUNFAIRS**

Submit report by the Strategic Lead – Regulatory:-

- (a) providing information on the current non statutory Scottish Government Guidance for Funfairs and the Council's current procedure for notification requirements on receipt of applications for Temporary Public Entertainment Licences (commercial funfairs, firework events and live amplified music events); and
- (b) seeking consideration of possible amendment of the current procedure for notification requirements for the duration of the COVID-19 pandemic.

**Distribution:**

Councillor Jim Finn (Chair)  
Councillor Ian Dickson  
Councillor Caroline McAllister  
Councillor Jonathan McColl (Vice Chair)  
Councillor Marie McNair  
Councillor Lawrence O'Neill  
Councillor Brian Walker  
Vacancy

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: 3 September 2020





**WEST DUNBARTONSHIRE COUNCIL**

**Report by Strategic Lead - Regulatory**

**Licensing Committee – 9 September 2020**

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**Subject: Civic Government (Scotland) Act 1982  
Review of Taxi Fares and Charges  
Dumbarton & Vale of Leven Taxi Licensing Zone**

**1. Purpose**

- 1.1** To report to the Committee on the review of fares and charges applicable to taxis operating within the Dumbarton & Vale of Leven Taxi Licensing Zone.

**2. Recommendations**

**2.1** It is recommended:-

- (a) that the Committee agrees to consider only responses received from operators within the Dumbarton & Vale of Leven Taxi Licensing Zone;
- (b) that the Committee agrees to retain the current level of fares and charges applicable to the Dumbarton & Vale of Leven Taxi Licensing Zone at this current moment in time, but agrees officers to revisit this within the next 18 months as appropriate taking into consideration the impact on the taxi trade due to the COVID-19 pandemic;
- (c) that officers arrange for the advertisement of the fares and charges agreed by the Committee; and
- (d) that authority be delegated to the Strategic Lead - Regulatory, in consultation with the Chair of the Licensing Committee, to conclude the review without the requirement for the Committee to consider a further report on the matter provided no objections or representations are received in relation to the proposal.

**3. Background**

- 3.1** In terms of the Civic Government (Scotland) Act 1982, Licensing Authorities must fix scales for taxi fares and related charges within 18 months from the date on which the scales last came into effect. There is no mechanism to extend this period despite the challenges of conducting a taxi fare review at this time.
- 3.2** Officers have progressed the taxi fare review with an initial pre-consultation letter issued on 26 February 2020 which asked operators if they believed that they were receiving a fair return in relation to their earnings, taking into account

the various expenses which they incur in running their business. Only 1 response was received. The operator was of the view that the fare chart should remain unchanged until the following review.

- 3.3 A subsequent questionnaire was issued to all taxi operators on 21 August 2020 seeking responses by 4 September 2020. At the time of writing this report, 3 responses have been received all taking the view that the fare chart should remain unchanged at this moment in time. Any additional responses received by that date will be produced to the Committee for consideration.
- 3.4 The fares and charges which are applicable to taxis operating within the Dumbarton & Vale of Leven Taxi Licensing Zone are detailed in Appendix 1.
- 3.5 At a meeting of the Licensing Committee held on 16 August 2017, Members agreed to extend future consultations to all taxi drivers and taxi licence holders and to report the findings separately
- 3.6 At the Preliminary Hearing held on 10 October 2019 in the Taxi Fare Appeal by Bonnar, Bonnar and MacLeod v West Dunbartonshire Council, the Depute Traffic Commissioner determined that he *'should consider taxi operators being persons who hold taxi licences under S.10 of the Act, as opposed to taxi drivers who hold a licence under S.13 of the Act.'*

#### 4. Main Issues

- 4.1 The questionnaire was issued on the 21 August 2020 to 114 taxi operators who represent the 177 taxi licences issued in the Dumbarton & Vale of Leven zone of West Dunbartonshire. A copy of the questionnaire is attached at Appendix 2. A pre-consultation was sent to operators on 26 February 2020 and a copy of the letter and the single response received are detailed at Appendix 3.
- 4.2 The full consultation questionnaire asked the following questions pertaining to the taxi fare review and to date only 3 responses have been received which are as detailed at Appendix 4. No respondent to the consultation has proposed anything different from the status quo and there have been suggestions that this fare review should be done at a more settled operating time for the taxi trade:-

##### Q1.

*Do you wish to retain the current fare chart with no increase to the flagfall or the running mile? If you answer Yes please go straight to Q4.*

##### Q2. FLAGFALL

*Do you wish to see a change to the initial flagfall which is currently set at £2.50 on Tariff 1, £3.00 on Tariff 2, £4.10 on Tariff 3, £3.10 On Tariff 4, £3.60 on Tariff 5 and £5.40 on Tariff 6.*

*Please indicate what change you would like to be made to the initial flagfall. Please indicate the amount below providing details of the reason for the proposed change.*

*Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses.*

### **Q3:OTHER CHANGES**

*Do you wish to see any other changes to the existing fare chart such as a change to the amount applicable to the running mile or any other element of the fare chart?*

*Please indicate what change you would like to be made indicating the amount(s) below providing details of the reason for the proposed change. Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses:-*

### **Q4: FEEDBACK**

*Please use this space to provide any views you have on the procedure we are using to carry out our taxi fare reviews.*

- 4.3** In terms of Section 17 of the Civic Government (Scotland) Act 1982, before fixing any scales or carrying out any review, the Licensing Authority is required to consult with persons or organisations appearing to be representative of operators of taxis within the area.
- 4.4** Before fixing any scales or carrying out any review, in addition to consulting with persons or organisations appearing to be representative of operators of taxis within the area, the Licensing Authority is required:
- (a) to publish the proposed scales in a newspaper circulating in the area setting out the proposed scales, explaining the effect of the proposed scales and proposing a date on which the proposed scales are to come into effect;
  - (b) to invite representations from any persons with respect to the proposals within a period of one month from the date of publication of the notice; and
  - (c) to consider any such representations which have been duly lodged before a decision is taken on the matter.
- 4.5** It should be noted that if representations or objections to the proposals are received, a further report on the matter will require to be considered by the Committee. In addition, there is provision within the legislation for taxi operators within the area to appeal to the Traffic Commissioner against any decision of the licensing authority on the review of scales.
- 4.6** Should no objections or representations be received in relation to the proposals, and in order to expedite matters, it is suggested that authority be delegated to the Strategic Lead - Regulatory, in consultation with the Chair of the Licensing Committee, to conclude the review without the requirement for the Committee to consider a further report on the matter.

- 4.7** Given the legal recommendation at 3.6 it is recommended that going forward, the Committee agrees officers only to require consultation with taxi operators and not taxi drivers which is the legal requirement within the terms the Civic Government (Scotland) Act, 1982.

**5. People Implications**

- 5.1** There are no personnel issues for the Council arising from this report.

**6. Financial Implications**

- 6.1** There are no financial implications for the Council arising from this report.

**7. Risk Analysis**

- 7.1** There is no increased risk to the Council associated with the contents of this report.

**8. Equalities Impact Assessment (EIA)**

- 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** All Dumbarton & Vale of Leven Taxi Operators were consulted in relation to the Dumbarton & Vale of Leven Fare Review.

**10. Strategic Assessment**

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

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Peter Hessett  
Strategic Lead - Regulatory  
3 September 2020

**Person to Contact:** Raymond Lynch  
Section Head (Licensing Services),  
Licensing Team,  
Municipal Buildings,  
College Street,  
Dumbarton,

G82 1NR.

Tel. No. (Direct line) 01389 737818.

[raymond.lynch@west-dunbarton.gov.uk](mailto:raymond.lynch@west-dunbarton.gov.uk)

**Appendices:**

1. Current Fare Chart for Dumbarton & Vale of Leven Taxi Licensing Zone.
2. Taxi Operator's full questionnaire and covering letter
3. Responses received to full questionnaire as at 2<sup>nd</sup> September 2020.
4. Taxi Operator's initial preliminary consultation and responses received.

**Wards:**

All



## Civic Government (Scotland) Act 1982

## Fare Chart (Effective from 20 February 2019)

**DUMBARTON AND VALE OF LEVEN ZONE**

<b>Tariff One</b> 6.00am to 9.00pm Monday to Sunday	For a distance not exceeding ½ OF A MILE..... £2.50 For each additional 1/19th mile..... £0.10
<b>Tariff Two</b> 9.00pm to 6.00am Monday to Sunday	For a distance not exceeding ½ OF A MILE..... £3.00 For each additional 1/21st mile..... £0.10
<b>Tariff Three</b> 6.00pm on 24th December to 6.00am on 27th December and 6.00pm on 31st December to 6.00am on 3rd January	For a distance not exceeding ½ OF A MILE..... £4.10 For each additional 1/25th mile..... £0.10
<b>Tariff Four</b> 6.00am to 9.00pm Monday to Sunday (Only applicable when five or more passengers are being carried)	For a distance not exceeding ½ OF A MILE..... £3.10 For each additional 1/23rd mile..... £0.10
<b>Tariff Five</b> 9.00pm to 6.00am Monday to Sunday (Only applicable when five or more passengers are being carried)	For a distance not exceeding ½ OF A MILE..... £3.60 For each additional 1/25th mile..... £0.10
<b>Tariff Six</b> Christmas and New Year hours as per Tariff Three (Only applicable when five or more passengers are being carried)	For a distance not exceeding ½ OF A MILE..... £5.40 For each additional 1/31st mile..... £0.10

Any hire terminating out with the West Dunbartonshire area will be at a rate to be agreed at the time of hire.

**Extra Charges**

Taxi drivers may add on any charge incurred at Glasgow Airport when either dropping off or picking up passengers. Drivers must make passengers aware in advance that extra charges may be added to the fare.

**Fares for Waiting**

The Driver is, in addition to the above, entitled to charge for waiting whether in one stoppage or in several stoppages as follows:

For each period of TWENTY SECONDS or part thereof ....£0.10 (All Tariffs)

**Soiling Fee**

A fee of £50 is chargeable for any soiling which necessitates a taxi being removed from service for cleaning. Soiling in this context includes any soiling by means of food, drink, vomit, urine or excrement.





## DUMBARTON TAXI FARE REVIEW

A copy of the current fare chart is enclosed for reference purposes

Please ensure that you complete both sides of this questionnaire, sign and date the form and state your plate number(s).

<b>Q1.</b>	
<b>Do you wish to retain the current fare chart with no increase to the flagfall or the running mile? If you answer Yes please go straight to Q4.</b>	
YES <input type="checkbox"/>	NO <input type="checkbox"/>

<b>Q2. FLAGFALL</b>	
<b>Do you wish to see a change to the initial flagfall which is currently set at £2.50 on Tariff 1, £3.00 on Tariff 2, £4.10 on Tariff 3, £3.10 On Tariff 4, £3.60 on Tariff 5 and £5.40 on Tariff 6.</b>	
YES <input type="checkbox"/>	NO <input type="checkbox"/>

Please indicate what change you would like to be made to the initial flagfall. Please indicate the amount below providing details of the reason for the proposed change. Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses:-

(Continue on a separate sheet if necessary)

### Q3. OTHER CHANGES

**Do you wish to see any other changes to the existing fare chart such as a change to the amount applicable to the running mile or any other element of the fare chart?**

YES ☐

NO ☐

Please indicate what change you would like to be made indicating the amount(s) below providing details of the reason for the proposed change. Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses:-

(Continue on a separate sheet if necessary)

## Q4. FEEDBACK

**Please use this space to provide any views you have on the procedure we are using to carry out our taxi fare reviews.**

(Continue on a separate sheet if necessary)

**Plate Number(s)** \_\_\_\_\_

**Signed** \_\_\_\_\_

**Dated** \_\_\_\_\_

Our Ref:  
Your Ref:  
Date: 21 August 2020  
If telephoning please ask for: Robert Mackie - Direct Line (01389) 738741  
E-Mail Address: [licensing@west-dunbarton.gov.uk](mailto:licensing@west-dunbarton.gov.uk)



**Regulatory**  
Council Offices  
16 Church Street  
DUMBARTON  
G82 1QL

Dear Sir/Madam,

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982  
REVIEW OF TAXI FARES**

I refer to my previous correspondence dated 26 February 2020.

Having carried out a pre-consultation exercise where we sought the views from taxi operators regarding the current fare chart to find out if you believe that you are receiving a fair return in relation to your earnings, taking into account the various expenses which you incur in running your business, we received 1 response which suggested that there should be no change to the existing tariff card.

As was the case with the previous review of taxi fares for the Dumbarton & Vale of Leven zone I have enclosed a questionnaire which provides you with an opportunity to give your views on the level of taxi fares.

Once the cut-off date has passed, all submitted responses will be collated and the findings presented to the Licensing Committee.

Please post your response to the Licensing Team, 16 Church Street, Dumbarton G82 1QL no later than 4 September 2020.

Alternatively, email your response to me directly at [robert.mackie@west-dunbarton.gov.uk](mailto:robert.mackie@west-dunbarton.gov.uk) quoting 'Dumbarton Taxi Fare Review 2020' within the email subject header.

Yours faithfully,

A black rectangular box redacting the signature of Robert Mackie.

Robert Mackie  
Senior Officer (Licensing Services)



## DUMBARTON TAXI FARE REVIEW

Appendix 3  
Response 1

A copy of the current fare chart is enclosed for reference purposes

Please ensure that you complete both sides of this questionnaire, sign and date the form and state your plate number(s).

<b>Q1.</b> Do you wish to retain the current fare chart with no increase to the flagfall or the running mile? If you answer Yes please go straight to Q4.	
YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

<b>Q2. FLAGFALL</b> Do you wish to see a change to the initial flagfall which is currently set at £2.50 on Tariff 1, £3.00 on Tariff 2, £4.10 on Tariff 3, £3.10 On Tariff 4, £3.60 on Tariff 5 and £5.40 on Tariff 6.	
YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

Please indicate what change you would like to be made to the initial flagfall. Please indicate the amount below providing details of the reason for the proposed change. Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses:-

COUNCIL CHARGES  
SHOULD REMAIN THE SAME  
AT THIS TIME OF LOST JOBS  
AND LOSS OF TRADE IN ALL AREAS  
BUT WILL THE COUNCIL BE  
UP TO IT. ?!!

LEGAL & ADMIN



31 AUG 2020

RECEIVED

(Continue on a separate sheet if necessary)

**Q3. OTHER CHANGES**

Do you wish to see any other changes to the existing fare chart such as a change to the amount applicable to the running mile or any other element of the fare chart?

YES ☐NO ☒

Please indicate what change you would like to be made indicating the amount(s) below providing details of the reason for the proposed change. Please provide evidence to support any proposed change such as repair bills, petrol receipts or any other taxi related expenses:-

11  
WE PUT MY VIEWS ON  
THE FARE STRUCTURE AND SHOULD REMAIN  
AS, AN INCREASE WOULD BE A KICK  
IN THE TEETH TO OUR CUSTOMERS.  
WILL THE COUNCIL STOP KICKING US.  
IN THE TEETH ? !!  
11

(Continue on a separate sheet if necessary)

**Q4. FEEDBACK**

Please use this space to provide any views you have on the procedure we are using to carry out our taxi fare reviews.

YOUR TRYING HARD  
MAKES A CHANGE !!

(Continue on a separate sheet if necessary)

Plate Number(s)

195 / BADGE 106

Signed

Dated

25/8/2020

**From:** John Watters [REDACTED]  
**Sent:** 24 August 2020 07:50  
**To:** Robert MacKie  
**Subject:** Re: Dumbarton Taxi Fare Review

Good morning Bob

I have read the questionnaire attached to this email and would like to state that I am of the opinion that the fares should remain the same with no increase at this time....

I own plate no4

Also

After talking to about 45 / 50 of the drivers active daily in the Dumbarton zone the overwhelming opinion of them is that the status quo should prevail until this nasty Pandemic is under control. I would like to suggest that this time next year would be a good time to reconsider this fare increase as hopefully by then we as a group would be in a better position to consider where and if our situation has improved from a business point of view .....

Yours

John Watters

Sent from my iPhone

On 21 Aug 2020, at 11:45, Robert MacKie wrote:

Dear Sir/Madam,

I have attached a letter and a questionnaire asking for your views on the fare chart currently in use within the Dumbarton & Vale of Leven zone which I have also attached. If you wish your views to form part of the review of taxi fares please complete the questionnaire and return it no later than 4 September 2020. Details on where to return the form are within the attached letter.

Regards,

Bob.

## **Regulatory Services**

Robert Mackie  
Senior Officer (Licensing Services)  
Licensing Team  
Municipal Buildings  
College Street  
Dumbarton  
G82 1NA

Email :- [robert.mackie@west-dunbarton.gov.uk](mailto:robert.mackie@west-dunbarton.gov.uk)







**From:** johneadie [REDACTED]  
**Sent:** 21 August 2020 12:10  
**To:** Robert MacKie  
**Subject:** Re: Dumbarton Taxi Fare Review

I think the fares and flag fall should remain the same, in the current climate with uncertainty about jobs and income I don't think it would be fair on the public

[Sent from Sky Yahoo Mail for iPhone](#)

On Friday, August 21, 2020, 11:45 am, Robert MacKie <[Robert.Mackie@west-dunbarton.gov.uk](mailto:Robert.Mackie@west-dunbarton.gov.uk)> wrote:

Dear Sir/Madam,

I have attached a letter and a questionnaire asking for your views on the fare chart currently in use within the Dumbarton & Vale of Leven zone which I have also attached. If you wish your views to form part of the review of taxi fares please complete the questionnaire and return it no later than 4 September 2020. Details on where to return the form are within the attached letter.

Regards,

Bob.

### **Regulatory Services**

Robert Mackie  
Senior Officer (Licensing Services)  
Licensing Team  
Municipal Buildings  
College Street  
Dumbarton  
G82 1NA

Email :- [REDACTED]  
Tel :- 01389 738742  
Mob :- 07721 466336



Our Ref:  
Your Ref:  
Date: 26 February 2020  
If telephoning please ask for: Robert Mackie - Direct Line (01389) 738741  
E-Mail Address: [licensing@west-dunbarton.gov.uk](mailto:licensing@west-dunbarton.gov.uk)



**Regulatory**  
Council Offices  
16 Church Street  
DUMBARTON  
G82 1QL

Dear Sir/Madam,

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982  
REVIEW OF TAXI FARES**

The current fare chart for the Dumbarton & Vale of Leven zone has an effective date of 20 February 2019.

The Civic Government (Scotland) Act 1982 states:-

*The licensing authority must fix scales for the fares and other charges mentioned in subsection (1) within 18 months beginning with the date on which the scales have effect.*

Before we carry out our consultation exercise we are seeking views from taxi operators regarding the current fare chart to find out if you believe that you are receiving a fair return in relation to your earnings, taking into account the various expenses which you incur in running your business.

If you believe you are not making a fair return then we would ask that you submit specific evidence to support this position.

Once we have received all the responses we will collate them and put forward a consultation reflecting the views expressed which will give options as to potential rises in the fare chart or alternatively retaining the fares at the current level.

Please send your response to the Licensing Team, 16 Church Street, Dumbarton G82 1QL no later than 20 March 2020.

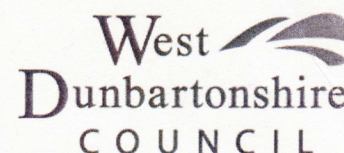
Yours faithfully,

A large black rectangular box redacting the signature of Robert Mackie.

Robert Mackie  
Senior Officer (Licensing Services)



Our Ref:  
Your Ref:  
Date: 26 February 2020  
If telephoning please ask for: Robert Mackie - Direct Line (01389) 738741  
E-Mail Address: [licensing@west-dunbarton.gov.uk](mailto:licensing@west-dunbarton.gov.uk)



Regulatory  
Council Offices  
16 Church Street  
DUMBARTON  
G82 1QL

Mr George Dempster  
[REDACTED]

DEAR SIR

THANK YOU FOR THIS  
I FEEL THE PRESENT  
FARE STRUCTURE SHOULD  
BE LEFT AS IT IS UNTIL  
THE NEXT REVIEW !!  
SINCERELY

Dear Sir/Madam,

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982  
REVIEW OF TAXI FARES**

[REDACTED]  
WDC. PLATE 195

The current fare chart for the Dumbarton & Vale of Leven zone has an effective date of 20 February 2019.

The Civic Government (Scotland) Act 1982 states:-

*The licensing authority must fix scales for the fares and other charges mentioned in subsection (1) within 18 months beginning with the date on which the scales have effect.*

Before we carry out our consultation exercise we are seeking views from taxi operators regarding the current fare chart to find out if you believe that you are receiving a fair return in relation to your earnings, taking into account the various expenses which you incur in running your business.

If you believe you are not making a fair return then we would ask that you submit specific evidence to support this position.

Once we have received all the responses we will collate them and put forward a consultation reflecting the views expressed which will give options as to potential rises in the fare chart or alternatively retaining the fares at the current level.

Please send your response to the Licensing Team, 16 Church Street, Dumbarton G82 1QL no later than 20 March 2020.

Yours faithfully,

[REDACTED]

Robert Mackie  
Senior Officer (Licensing Services)

LEGAL & ADMIN

05 MAR 2020

RECEIVED



**WEST DUNBARTONSHIRE COUNCIL**

**Report by Strategic Lead - Regulatory**

**Licensing Committee – 9 September 2020**

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**Subject: Temporary Public Entertainment Licences for Commercial Funfairs, Firework Events and Live Amplified Music Events during the COVID-19 Pandemic-Consideration of the Non Statutory Scottish Government Guidance on Funfairs**

**1. Purpose**

- 1.1** To report to the Committee on the current non statutory Scottish Government Guidance for Funfairs and also the Council's current procedure for notification requirements on receipt of applications for temporary public entertainment licences (commercial funfairs, firework events and live amplified music events), and to consider whether the Committee would wish to amend the current procedure for notification requirements during the duration of the Coronavirus (Scotland) Act 2020.

**2. Recommendations**

- 2.1** It is recommended that the Committee consider the Scottish Government's recently issued Guidance and agree to alter during the duration of the Coronavirus (Scotland) Act 2020 the previously agreed notification requirements on applicants requesting a temporary public entertainment licence "PEL" for a commercial funfair, a firework event or a live amplified music event that is legally permitted by Government to occur and that:
- (i) the Committee delegates authority to the Strategic Lead – Regulatory to determine the revised procedure to enable applications for a commercial funfair, firework event or live amplified music event to be considered within the 21 day period suggested by the Scottish Government Guidance and in addition that the applicant also, displays a site notice informing the public of any such proposed events ; and
  - (ii) the Committee agrees that relevant Community Councils and local ward Elected Members are still informed of any such applications for temporary public entertainment licences.
- 2.2** That in the event of any relevant representations/objections being made in respect of an application for a temporary PEL during the duration of the Coronavirus (Scotland) Act 2020 provisions that the Committee should delegate to the Strategic Lead, Regulatory in consultation with the Chair of the Licensing Committee the authority to determine such applications.

### **3. Background**

- 3.1** In terms of the Civic Government (Scotland) Act, 1982, an application may be made for a public entertainment licence in terms of Section 41 of the Act. Section 41 of the Act provides that a licence shall be required where a premises is used as a place of "public entertainment". The type of activities which are covered by the definition of "public entertainment" is within Local Authorities discretion. The Committee's current Resolution came into effect on the 8 December 2016 and details activities considered licensable as public entertainment. This includes events such as funfairs, firework events and music events.
- 3.2** The Council currently permits applicants, where the period sought is less than six weeks, to apply for a "temporary" public entertainment licence. This is in terms of Paragraph 7, Schedule 1 of the Civic Government (Scotland) Act 1982 that makes provision for temporary licences. It is discretionary as to whether the Council offers a temporary licence, but it has been the policy and practice of this Council to do so. The temporary licence is of a lesser fee than a full licence and also attracts lesser notification requirements than that of a full licence application.

### **4. Main Issues**

- 4.1** On the 26<sup>th</sup> August 2020 the Scottish Government issued non statutory guidance to Licensing Authorities who deal with applications for licences in respect of travelling funfairs made under the Civic Government (Scotland) Act 1982. This is attached at Appendix One and the relevant guidance to Licensing Authorities is as follows:

*"The Scottish Government wants licensing authorities to consider sensitively, pragmatically and timeously all applications for travelling funfairs that are being made in light of the re-opening of funfairs. The requirements as laid out in the 1982 Act should of course be adhered to, but there is considerable flexibility within the relevant requirements in respect of how applications are handled including how quickly they are processed.*

*The Scottish Government expects licensing authorities to seek to prioritise where possible applications made for travelling funfairs. From research undertaken by Richard Lyle MSP as part of preparation of his Travelling Funfairs (Licensing) (Scotland) Bill, it is apparent that some licensing authorities are able to process licensing applications for travelling funfairs within 21 days. The Scottish Government suggests a timescale such as this could usefully become the aim for licensing authorities in dealing with applications as travelling funfairs are able to operate again.*

*Through the issuing of this non-statutory guidance, the Scottish Government expects a sensitive, pragmatic and timeous approach. "*

- 4.2** Normally, this Local Authority would require up to a three month period to consult consultees in terms of the Act and also, consider at a Licensing Committee any such objections/representations. This Committee's current position on consultation for temporary public entertainment licences was decided at a Licensing Committee hearing on the 9<sup>th</sup> August 2019, and that the Committee agreed then as follows:

*(1) to impose additional notification requirements on applicants requesting a temporary public entertainment licence for a commercial funfair, a firework event or a live amplified music event:*

*(2) to delegate authority to the Strategic Lead – Regulatory to decide the revised procedure so that an applicant for a commercial funfair, firework event or live amplified music event would have to display a notice at or near to the site, and that the local Council would advertise the application in the relevant local newspaper at the applicant's cost. This cost would be reflected in an increased fee for an application for a commercial temporary public entertainment licence;*

*(3) that all relevant Community Councils, local ward Elected Members and Members of the Licensing Committee would be informed of such applications who would require to provide these additional notification requirements;*

*(4) that the advertisement requirements for temporary public entertainment licences would be for a period of 14 days, and that any relevant representations/objections would be made to the Clerk to the Licensing Committee within 14 days of publication of such notifications. Thereafter, in the event that any relevant objections or representations were received, the Committee would determine such applications where the applicant had applied timeously which would require to be within three months of the proposed event.*

**4.3** It is proposed that in accordance, with the spirit of the Scottish Government Guidance that any such applications would be able to be considered within a 21 day period as suggested in the Guidance and where there are any objections/representations then it may be determined by the Strategic Lead of Regulatory in consultation with the Chair of the Committee and that authority be delegated for the duration of the Coronavirus (Scotland) Act 2020 provisions remaining in force. Any such delegation granted by the Committee would mean that applications that may be determined would take into account the relevant Scottish Government and HSE Guidance attached at Appendix 1 and 2 respectively. In addition, any application that was being considered would have to submit a full COVID risk assessment to the Licensing Authority and that this would be a condition of any licence granted by this Licensing Authority. Applications shall still be encouraged 3 months in advance as any lesser time may not leave sufficient time to determine an application, if it is not considered appropriate to exercise any delegation that may be granted (if agreed) by the Committee.

**4.4** In addition, it is worthy of note that this Council has already received an application for a four day funfair within Bank Street Car Park, Alexandria between the 17<sup>th</sup> to the 20<sup>th</sup> September 2020 that would fall to be considered by this Licensing Authority. This funfair has run with no reported issues over a lengthy period though, in terms of current notification requirements it does not meet the normal three month suggested period to notify that this Licensing Authority normally requires. If a delegation is granted and felt appropriate to be exercised then the application would be able to be determined without convening a Committee at short notice and not be treated as rejected for failing to comply with the normal suggested notification periods. It would be proposed that the application would be

advertised by way of site notice so that the public are aware of the proposed event.

## **5 People Implications**

- 5.1** There are no personnel issues for the Council arising from this report.

## **6 Financial Implications**

- 6.1** There are no financial implications for the Council arising from this report.

## **7 Risk Analysis**

- 7.1** There is no increased risk to the Council associated with the contents of this report.

## **8 Equalities Impact Assessment (EIA)**

- 8.1** No impact assessment is required.

## **9 Consultation**

- 9.1** The Council have to consider the terms of the non statutory guidance issued on potential applicants for public entertainment licences.

## **10 Strategic Assessment**

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people. In addition, the strategic priorities of meaningful community engagement with active empowered and informed citizens who feel safe and engaged and Open, accountable and accessible local government are relevant to Members' considerations of any changes to notifications.

**Peter Hissett**  
**Strategic Lead - Regulatory**  
**Date: 3/09/20**

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**Appendices:** Appendix 1:Coronavirus (COVID-19): Scottish Government  
Guidance for licensing authorities in relation to operation of  
licensing in respect of travelling funfairs



Appendix 2: HSE Enforcement of public health (COVID 19)  
issues at fixed and travelling fairgrounds

**Background Papers:**      None

**Wards:**                      All.



## **Coronavirus (COVID-19): Guidance for licensing authorities in relation to operation of licensing in respect of travelling funfairs**

This non-statutory guidance is issued by the Scottish Ministers for licensing authorities who deal with applications for licences in respect of travelling funfairs made under the Civic Government (Scotland) Act 1982.

This guidance should be read in conjunction with the sectoral guidance for the tourism and hospitality industry (<https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/pages/overview/>).

The coronavirus outbreak has had an unprecedented impact on Scotland including all sectors of the economy. Those who operate funfairs including travelling funfairs were required to close down operation as a result of Covid-19. As steps are taken to permit funfairs to open once again, the licensing arrangements for funfairs becomes more relevant. In particular, for travelling funfairs a lack of certainty as to the exact date when they would be permitted to re-open means they cannot easily have planned ahead effectively in considering the need for licensing arrangements to be agreed.

The Scottish Government wants licensing authorities to consider sensitively, pragmatically and timeously all applications for travelling funfairs that are being made in light of the re-opening of funfairs. The requirements as laid out in the 1982 Act should of course be adhered to, but there is considerable flexibility within the relevant requirements in respect of how applications are handled including how quickly they are processed.

The Scottish Government expects licensing authorities to seek to prioritise where possible applications made for travelling funfairs. From research undertaken by Richard Lyle MSP as part of preparation of his Travelling Funfairs (Licensing) (Scotland) Bill, it is apparent that some licensing authorities are able to process licensing applications for travelling funfairs within 21 days. The Scottish Government suggests a timescale such as this could usefully become the aim for licensing authorities in dealing with applications as travelling funfairs are able to operate again.

### **Conclusion**

Through the issuing of this non-statutory guidance, the Scottish Government expects a sensitive, pragmatic and timeous approach to be taken in terms of assessing licensing applications for travelling funfairs.



## **Enforcement of public health (COVID 19) issues at fixed and travelling fairgrounds**

### **Background**

HSE is aware of an increasing number of COVID 19 concerns relating to the operation of fixed and travelling fairgrounds. The purpose of this note is to provide guidance to HSE and Local Authority (LA) Inspectors on the enforcement of public health and conventional workplace occupational health and safety matters.

### **Applicable legislation and enforcement**

Although HSE would expect businesses to take certain limited action supportive of social distancing measures (see bulleted list below) HSE and LA Inspectors should not use the Health and Safety at Work etc Act 1974 (HSW) to enforce social distancing at fairgrounds by members of the public and other measures to prevent transmission of COVID 19 within the general population, as these are primarily public health matters.

There is more specific coronavirus/public health legislation for dealing with such matters, which are enforced by Local Authorities across the UK, namely;

- The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
- The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 English legislation
- The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 Scottish legislation original regulations - now amended by the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020
- The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 Welsh legislation - Original Regulations - now amended by the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020

This legislation can be found on the [legislation.gov.uk](https://www.legislation.gov.uk) website and LA Inspectors should ensure that they are working from the latest version as the situation is fast-moving and the applicable legislation may be further amended.

The main enforcement powers common to the above public health legislation are provisions for Local Authorities to close certain businesses and impose restrictions on movement and gatherings in response to a serious and imminent threat to public health and to prevent COVID-19 ("coronavirus") transmission in a Local Authority's area where this is necessary and proportionate to manage spread of the coronavirus.

It should be noted that HSE is not empowered to take enforcement action under the above regulations.

### **HSE Enforcement of standards at fairgrounds**

#### **Risk Assessment**

Lack of a suitable and sufficient COVID19 risk assessment should be enforced under Regulation 3 of the Management of Health and Safety at Work Regulations 1999.

For travelling fair grounds, Local Authorities will often be the licensing authority. In these circumstances the LA could require a COVID19 risk assessment as part of the licensing conditions.

Subject to application of the EMM and HSE enforcement policy, areas where HSW powers can be used to enforce measures within the control of fairground organisers and ride operators under Sections 2 and Section 3 could include:

- Measures to keep employees 2m apart (if this is not viable, keeping 1m apart with risk mitigation is acceptable);
- Use of screens to create a physical barrier between staff and members of the public;
- Measures to facilitate staff to work side-by-side rather than face-to-face;
- Provision of signage to remind people to keep a 2 m distance;
- Measures to limit movement of the public eg implementation of one-way systems and measures to encourage people to maintain 2m distance whilst queueing for rides;
- Measures to facilitate social distancing on rides eg to restrict the numbers of people on the ride at any one time;
- Cleaning and hygiene measures eg increased cleaning of rides and high frequency contact points such as handrails.

### **Joint working**

There will be circumstances arising at fairgrounds where the enforcement responsibilities of HSE and the Local Authority overlap and encompass aspects of both public health and workplace occupational health and safety.

In such circumstances, there should be local liaison between the NFIT team and the Local Authority to identify the specific issues that need addressing and develop a joint intervention plan.

The intervention plan should be devised to avoid duplication of work and ensure that the most appropriate legislation is used and that HSE and Local Authorities do not act ultra vires eg

- Local Authorities should not use their HSW powers of entry or serve HSW Enforcement Notices where they are not the designated enforcing authority under the Enforcing Authority Regulations.
- HSE should not use their general HSWA 1974 powers to address wider issues of public health that are not within the control of the HSW dutyholder eg to remedy situations where members of the public fail to comply with control measures intended to reduce the risk of general community transmission.

Whilst HSE has no powers to enforce public health legislation, if an HSE inspector observes activities they believe may be in breach of such requirements they should contact the appropriate enforcing body to pass on their concerns. Local Authorities should similarly contact HSE to report matters of evident concern requiring HSW enforcement where they are not the enforcing authority.

### **Designation of matters of concern**

When matters of concern are reported to either HSE or the Local Authority, inquiries should be made to establish the nature of the concern ie does it relate to public health and the general public or is it restricted to workplace occupational health and safety. Once this has been established the concern should be directed to the relevant enforcing authority to address.

In circumstances where the matter of concern at the fairground relates to both public health and workplace occupational health and safety, details of the concern should be passed to both the local NFIT team and Local Authority so that a co-ordinated response can be agreed based on the risks involved.

To help support a consistent approach to this work, we are aware that local Directors of Public Health are also co-ordinating discussions regionally regarding the approach to public health at fairground locations. It is more important than ever that we **work together** to ensure the most appropriate

authority progresses any concerns swiftly, this will help protect the public and workers alongside promoting the consistency of dutyholder COVID controls.