

WEST DUNBARTONSHIRE COUNCIL

Report by the Strategic Lead - Regulatory

Licensing Committee – 8 June 2016

Subject: Variation to a Taxi Partnership Licence / Hearing regarding possible recall of the order to suspend a Taxi Partnership Licence

1. Purpose

- 1.1** To firstly consider an application for the variation to a Taxi Partnership licence currently held by Mr. John Kernan, 43 King Street, Whitecreek, Clydebank G81 1DS and Mrs. Helen Kernan, 87 North Elgin Street, Whitecreek, Clydebank G81 1BX who wish to add an additional partner, Elaine Thomson, 35 East Barns Street, Whitecreek, Clydebank G81 1DE to the licence.
- 1.2** In the event that Committee decide to allow the variation to the Taxi Partnership Licence, Members are further asked to consider a request to recall the order to suspend the Taxi Partnership Licence.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.
- 2.2** In the event that Committee are minded to allow the variation to the Taxi Partnership Licence, Members are asked to consider the terms of this report and thereafter determine whether the Taxi Partnership Licence should be reinstated providing that Mrs. Helen Kernan is removed from the Taxi Partnership.

3. Background

- 3.1** Following the hearing which took place at a meeting of the Licensing Committee held on 21 October 2015, Members decided to suspend the Taxi Partnership Licence held by Mr. John Kernan and Mrs. Helen Kernan with immediate effect until the first meeting at which the Committee could further consider the suspension following the conclusion of the pending criminal proceedings brought under the Misuse of Drugs Act 1971.
- 3.2** An application for the variation to the Taxi Partnership Licence was submitted on 26 May 2016. Separate letters were also received from Mr. John Kernan and Mrs. Helen Kernan requesting the recall of the suspension of the Taxi Partnership Licence. A further letter was submitted from Mrs. Helen Kernan resigning from the Taxi Partnership.
- 3.3** A Taxi Partnership Licence must always comprise of at least 2 persons. Before processing the letter of resignation submitted by Mrs. Kernan, the Taxi

Partnership Licence would have to be varied to allow a third person to join. Only then could the letter of resignation from Mrs. Kernan be processed, returning the Taxi Partnership to 2 persons, namely Mr. Kernan and Ms. Thomson.

- 3.4 On 31 May 2016, Mr. Kernan submitted a sworn affidavit from his solicitor stating that Mrs. Kernan would derive no financial gain from either the variation of the licence or the subsequent operation of the licence if her name was removed.
- 3.5 An email was received from the Chief Superintendent of the Police authority on 3 June 2016 advising that there were no Police objections to either the variation to the Taxi Partnership Licence or the recall of the suspension of the Taxi Partnership Licence.
- 3.6 The Taxi Partnership Licence held by Mr. John Kernan and Mrs. Helen Kernan expires on 2 March 2018.

4. Main Issues

- 4.1 The Licensing Committee are being asked to consider the variation of a Taxi Partnership Licence while the licence is suspended.
- 4.2 A licensing authority may recall an order to suspend a licence under Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 if, in its opinion, the carrying on of the activity to which the licence relates is no longer likely to cause a threat to public safety.

5. People Implications

- 5.1 There are no personnel issues.

6. Financial and Procurement Implications

- 6.1 There are no financial implications

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 Police Scotland were consulted in relation to both the application for the variation to the Taxi Partnership Licence including the intended resignation of

Mrs. Helen Kernan and the request for the recall of the order to suspend the Taxi Partnership Licence.

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.

Strategic Lead - Regulatory

Date 02/06/2016

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Appendices: N/A.

Background Papers:

1. Application to vary an existing Taxi Partnership Licence
2. Letter from Mr. Kernan dated 26 May 2016.
3. Letters from Mrs. Kernan dated 26 May 2016
4. Sworn affidavit submitted by Mr. Kernan dated 31 May 2016
5. Email from Police Scotland dated 3 June 2016.
6. Letter to Mr. Kernan date 3 June 2016.
7. Letter to Mrs. Kernan dated 3 June 2016.
8. Letter to Ms. Thomson dated 3 June 2016.
9. Letter to the Chief Constable, Police Scotland dated 3 June 2016.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL
Report by the Strategic Lead - Regulatory
Licensing Committee – 8 June 2016

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:
Independent Republican Bands Scotland

1. Purpose

- 1.1** To consider a Notice of Proposal to hold a Public Procession submitted by Mr Brian Keenan on behalf of the Independent Republican Bands Scotland.

2. Recommendations

- 2.1** It is recommended that Members consider the request from Mr Keenan to allow the Independent Republican Bands Scotland to hold a Public Procession on their preferred route on Saturday 25 June 2016.

3. Background

- 3.1** The notice of proposal to hold a public procession and risk assessment was submitted by Mr Keenan on behalf of the Independent Republican Bands Scotland on 25 May 2016. The reason for the procession, as stated on the notice of proposal, is for the Hunger Strike Commemoration. The notice of proposal was subsequently advertised on the Council's website.
- 3.2** A precursory meeting was arranged for 2 June 2016. The meeting was attended by Lawrence Knighton (Licensing Officer), Sergeant Calum Fulton from Police Scotland and Brian Keenan (organiser) and Martin Harper from Independent Republican Bands Scotland.
- 3.3** The route, as stated in the notice of proposal, requested that the procession commence at Morar Road, then south on Kilbowie Road, then west on Second Avenue, then south on Duntocher Road, then east on Dumbarton Road, then south on Agamemnon Street, then east on Cable Depot Road for dispersal.
- 3.4** A discussion took place at the precursory meeting in relation to the route proposed by the organiser. A notice of proposal was submitted by the same organisation in 2014 and 2015 for a similar route and after discussion with the Police at the precursory meeting in 2014, the route was amended to Kilbowie Road, Dumbarton Road, Agamemnon Street with a dispersal point at Cable Depot Road. In 2015 the proposed route was put to the Licensing Committee and conditioned by the Committee to reflect that suggested by Police Scotland.

- 3.5** At the precursory meeting on 2 June 2016, Sergeant Fulton commented that the route applied for was contrary to condition 11 of the Council's code of conduct which states:-

'The organiser shall ensure that, wherever possible, proposed routes follow main roads and do not go through residential housing developments'.

- 3.6** Sergeant Fulton suggested that by travelling along Second Avenue, an excessive part of the procession would involve passing through a residential area. Sergeant Fulton also pointed to the success of the processions in 2014 and 2015 which passed without incident when using the route suggested by Police Scotland.
- 3.7** In response, Mr. Keenan made the point that the proposed route was also a main bus route and should be considered to be a main road and was therefore in line with the Council's code of conduct.
- 3.8** Mr Keenan suggested that any observations from the Police in relation to the length of the procession should not be an issue and gave examples of processions the organisation have conducted within other local authority areas, naming North Lanarkshire as examples, where processions of similar and longer length have taken place.
- 3.9** The notice of proposal also included a request to hold a short rally at Cable Depot Road.
- 3.10** Inspector Wallace has stated that Police Scotland would facilitate a speech at Cable Depot Road.
- 3.11** The notice of proposal from the Independent Republican Bands Scotland names the Coatbridge United Irishmen Flute Band as the only participating band in the procession.
- 3.12** Police Scotland have noted that on Saturday 25 April 2015 a Public Procession through Alexandria by the John Brady Republican Flute Band took place. The Coatbridge United Irishmen Flute Band were part of this Parade. At the conclusion of the parade a spontaneous rally occurred at which a 49 year old male was arrested for a contravention of Section 12(3) of the Terrorism Act 2000. Members of the Coatbridge United Irishmen Flute Band were argumentative and aggressive towards the Police refusing to comply and they threatened to picket Clydebank Police Office.
- 3.13** Police Scotland have requested that, if the Committee grant permission for the procession that the applicant, all stewards and the person responsible for the band report to the Officer in Charge of the parade for a briefing prior to the commencement of the parade.
- 3.14** As no agreement could be reached, the organiser requested that the notice of proposal to hold a public procession be put before a meeting of the Licensing

Committee for determination.

4. Main Issues

4.1 Condition 11 of the Council's code of conduct states:-

'The organiser shall ensure that, wherever possible, proposed routes follow main roads and do not go through residential housing developments'.

4.2 Members may wish to consider whether they regard the route proposed by Independent Republican Bands Scotland, principally the section of the route on Second Avenue, as being a main road in terms of the code of conduct. Members may also wish to consider whether Second Avenue is classed as a residential housing development.

4.3 Police Scotland submitted a Procession Summary on 2 June 2016 detailing Police observations regarding the proposed procession. Police Scotland considers aspects of the procession to be high risk namely the likelihood of disruption to the community due to the proposed route.

5. People Implications

5.1 There are no personnel issues.

6. Financial Implications

6.1 There are no financial implications.

7. Risk Analysis

7.1 The Committee should consider whether the route applied for constitutes both a main road and/or an area of residential housing and if so, consider whether or not to depart from the code of conduct by allowing the procession to travel along Second Avenue and in so doing, consider the risk of disruption to the community.

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 27 May 2016. No objections were received.

9.3 The Chair of the Licensing Committee and Members in 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 26 May 2016. No adverse comments

were forthcoming.

- 9.4** Police Scotland were sent a copy of the notice of proposal on 26 May 2016. A response was received on 2 June 2016 outlining observations in relation to the proposed route.

10. Strategic Assessment

- 10.1** There are no strategic implications.

Strategic Lead - Regulatory

Date: 2 June 2016

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Appendices: WDC - Code of Conduct

Background Papers:

- 1.** Notice of Proposal to hold a Public Procession submitted 25 May 2016.
- 2.** Email to the Chair of the Licensing Committee and Members dated 26 May 2016.
- 3.** Procession Summary 5:16:2 received from Police Scotland dated 2 June 2016.

Wards Affected: Clydebank Central and Clydebank Waterfront

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006

CODE OF CONDUCT - PUBLIC PROCESSION

(1)	A minimum of 28 days notice will be given to the Council of the intention to hold a procession. If possible, a greater period of notice should be given and notification should be made as early as possible in any instance in which a series of similar processions is proposed. Provision of a minimum of 28 days notice is a statutory requirement. Only in exceptional circumstances can a public procession take place without notification being given at least 28 days before the date of the proposed procession. In any instance in which a full 28 days notice is not given the onus is on the organiser to satisfy the Council that exceptional circumstances exist sufficient to justify the Council in making an Order waiving the legislative requirement for full 28 days prior notice.
(2)	The organiser shall co-operate with the Council and the police from the time of submission of the notification of intention to hold a procession until the procession disperses.
(3)	The organiser shall identify him or herself to the police officer in charge immediately on the assembly of the procession.
(4)	The organiser shall ensure that, in the event of the procession being cancelled, the Council and police are informed of this promptly and that the cancellation is confirmed in writing to the Council within 48 hours. No band other than the bands specified in the notification shall take part in the procession and in the event of any change in participants – including the withdrawal of any band specified in the notification – the organiser shall immediately advise the Council and the police.
(5)	The organiser shall ensure that all participants are informed of any condition imposed on the procession including any condition regarding change to timing or route.
(6)	The organiser shall ensure that any person under the influence of alcohol or drugs does not participate in the procession.
(7)	<p>The organiser shall ensure that the number of stewards or marshals present at the procession is in the ratio 1 steward/marshal per 10 participants and the organiser shall ensure that all stewards and marshals</p> <ul style="list-style-type: none"> • are briefed by the organisers and given guidance and instructions on their role prior to the procession including written directions/instructions in respect of legislation; • carry proof of their status; • co-operate with the police as required; • are highly visible and easily identifiable by means of high visibility wear which cannot be confused with police attire; • conduct themselves in a proper manner; • ensure that participants comply with directions regarding their own public safety and that of all other members of the public.
(8)	The organiser shall take responsibility for the behaviour of all participants and, where appropriate, bands and for ensuring general compliance with the Council's Code of Conduct on Public Processions and police instructions;
(9)	The organiser shall ensure that the behaviour of participants is not such as can be reasonably perceived

	to be aggressive, threatening, abusive, homophobic, sectarian or racist. The organiser shall exercise reasonable diligence to ensure that any follower of the procession also refrains from such behaviour, for example by bringing such matters to the attention of the Police as soon as possible;
(10)	The organiser shall ensure that, in the event that persons attached to or following the procession engage in behaviour which is aggressive, threatening, abusive, homophobic, sectarian or racist, and the police are of the view that the playing of music is exacerbating the situation, the organiser/band major should immediately instruct a band to cease playing when asked to do so by Police Scotland;
(11)	The organiser shall ensure that, wherever possible, proposed routes follow main roads and do not go through residential housing developments;
(12)	The organiser shall ensure that all participants do not march more than four abreast and that they keep to the near or left hand side of the street except on one way streets where they shall keep to the right hand side;
(13)	The organiser shall ensure that the police are assisted in guaranteeing that passage is allowed for traffic and pedestrians;
(14)	The organiser shall ensure that the procession is split into sections in order to avoid serious dislocation of traffic and to facilitate the crossing of pedestrians who have a right of free access and passage to and through any public area;
(15)	The organiser shall ensure that all playing of music ceases when approaching and passing places of worship as instructed by the police and, without prejudice to the foregoing generality, whenever services are in progress;
(16)	The organiser shall ensure that all participants disperse immediately the procession concludes.
(17)	The organiser shall ensure that all participants behave with due regard for the rights, traditions and feelings of others in the vicinity of the procession, particularly in any area in which there has, on any previous occasion, been public disorder in relation to processions;
(18)	The organiser shall ensure that all participants behave with due respect at sensitive areas such as areas adjacent to places of worship;
(19)	All participants must obey the lawful direction of procession organisers, stewards and the police at all times;
(20)	All participants must keep to the designated route as directed by the police;
(21)	All participants must refrain from consuming alcohol or drugs prior to or during the procession;
(22)	No flags relating to proscribed organisations or which are likely to cause offence shall be displayed;
(23)	All participants in processions shall disperse in good order immediately the procession concludes;
(24)	No halberds or weapons of any description shall be carried;
(25)	No obstruction shall be caused;
(26)	No procession shall commence before the hour of 7.30 am and no procession shall conclude after the hour of 9.00 pm;
(27)	Unless specifically stipulated in the notification, no band shall play or music shall be played before 9.00 am or after 9.00 pm.
(28)	The procession and all participants shall comply with all legal requirements including, without prejudice to the foregoing generality <ul style="list-style-type: none"> · Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers;

	<ul style="list-style-type: none">· The Public Order Act 1986 in relation to the prohibition of wearing of uniforms signifying association with any political organisations etc;
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A copy of this Code of Conduct is provided to organisers alongside the notification form.