

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead – Regulatory
Licensing Committee – 4 September 2019

Subject: Proposed Licensing Scheme for Boat Hirers - Update

1. Purpose

- 1.1** To update the Committee on the proposed licensing scheme for boat hirers, and to seek authority for officers to publicly advertise the proposed licensing scheme for boat hirers.

2. Recommendations

- 2.1** It is recommended that the Committee delegates authority to officers to advertise the proposed licensing scheme for boat hirers, outlining the proposed conditions attached at Appendix 1 and seeking any comments thereon. Any responses received to the consultation will be considered by the Committee before deciding to adopt the Resolution and the proposed conditions.

3. Background

- 3.1** The Committee previously granted authority to officers to advertise the proposed resolution for a licensing scheme for boat hirers. The background papers refer to this process, and the need for a proposed boat hirers scheme. This was following a Marine Accident Investigation Board ("MAIB") report into a small passenger ferry that sank within Loch Lomond's waters. The MAIB found that there was no effective regulatory oversight of small passenger vehicles within Loch Lomond. The Committee will recall previously it agreed in principle that it was minded to introduce a boat hire licensing scheme for boat hirers throughout West Dunbartonshire.
- 3.2** The Licensing Team received several responses to the consultation when it was originally publically advertised by officers. A number of issues were raised in the consultation responses at that time. These issues were considered by officers and are summarised below with officer's comments as appropriate. Given the passage of time since the previous consultation it is recommended that a fresh consultation be undertaken. This would allow all interested parties to make representations, and be heard on them at the Committee should they wish. If the above recommendations are agreed then officers will write out to the parties that responded to the original consultation updating them of the current position.

4. Main Issues

- 4.1** The main concerns/issue areas from the initial consultation responses are as summarised below:

4.2 Need for Multiple Licences

- 4.2.1** As outlined in the previous reports to this Committee, Stirling and West Dunbartonshire Councils propose to delegate power to each other to grant boat hirer licences in their parts of Loch Lomond. Argyll and Bute Council have previously said that any boat hirer operator, who picks up passengers from within Argyll & Bute Council's area will still require a licence from them. This has caused concern with operators who believe that one licence would help minimise the burden on operators rather than one licence for West Dunbartonshire or Stirling Council, and a separate licence from Argyll and Bute Council. However it is the current position that in principal, discussions are ongoing to allow a delegation now between all the authorities, but this hasn't been formally agreed.

Comments

1. It is the understanding of West Dunbartonshire Council following the last set of meetings with other local authorities, that although a licensing scheme where only one licence is required to operate within all parts of Loch Lomond may be desirable, that formal agreement has only been reached with Stirling and West Dunbartonshire Council to delegate authority to each other. If this position changes in the future then officers will inform the Committee and applicants of this. The proposed scheme will be offered on this basis by West Dunbartonshire Council. Given the terms of Section 38 (11) of the said Act which requires all persons carried in the vessel to embark initially from places within the area of the authority, Stirling Council and West Dunbartonshire Council propose to delegate power to each other to grant boat hire licences in their parts of Loch Lomond.
2. In practice, this will mean that a boat hire licence issued by one of those councils will automatically apply to the area of the other council as well. For example, a boat hire operator who picks up passengers from both Balmaha and Balloch will only need a licence from one of the two councils. Any boat hire operator who picks up passengers from Argyll & Bute Council's (unless this is formally agreed) area will need a licence from Argyll & Bute Council. Stirling Council and West Dunbartonshire Council will expect that boat hirers apply to the council for the area in which they have their main operational base or from where most of their passengers embark. The council that receives the application may require the applicant to send the application to the other council if they believe that it should have been sent to that other council.

4.3 Fees

- 4.3.1** There is concern amongst operators that if the fee level and the cost of complying with proposed licensing conditions is too high, it may not be economically viable to run such boats commercially. The current fee for a Boat

Hirers licence is set at £1,423 for a three year period. The fee for this category of licence was agreed by the Licensing Committee following an assessment of the cost of providing such a licence, thereafter subject to annual inflationary increases. Stirling Council have previously stated that they would be willing to adopt the same fee as West Dunbartonshire Council. Argyll and Bute currently charge £167 for a one year licence.

Comments

The Committee will be aware that a civic licensing fee review is underway, and the current fee for boat hirers will be considered by officers and fully reported on. In addition, if the delegation between all authorities is agreed then officers will consider the level of fee that would be proposed to be charged by all authorities.

4.4 Technical Concerns

- 4.4.1** There were a number of technical matters with regard to the proposed conditions that were raised by the parties who responded to the initial consultation.

Comments

The proposed conditions are similar to the conditions adopted by Argyll and Bute Council. These conditions were subject to discussion by all Councils, and also input from a representative of the Coastguard, and have been recently revised to take into account current practice and standards. The Committee should consider any comments received on the conditions following the new public consultation. Officers have sought to have conditions that are similar across the three licensing authorities. Conditions will be reviewed and monitored where appropriate throughout the duration of any proposed licensing scheme.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial and Procurement Implications

- 6.1** The current fee for a Boat Hirers licence is set at £1,423. The fee for this category of licence was agreed by the Licensing Committee following an assessment of the cost of providing such a licence, thereafter subject to annual inflationary increases. Stirling Council have previously stated that they would be willing to adopt the same fee as West Dunbartonshire Council. Officers will monitor the level of the proposed fee, and consider if a delegation is formally agreed between all local authorities.

7. Risk Analysis

- 7.1** There would be a reputational risk for the Council if it fails to use powers to regulate activities that could cause harm to citizens or businesses.

8. Equalities Impact Assessment (EIA)

- 8.1** An equalities impact assessment identified that a licensing scheme would take account of the need to ensure the safety of people with disabilities or age related infirmities. These issues would be fully considered prior to a further report being presented to the Committee.

9. Consultation

- 9.1** The proposed resolution for a licensing scheme for boat hirers will be re-advertised online and in the local newspaper and responses received to the consultation will be reported to the Committee.

10. Strategic Assessment

- 10.1** A licensing scheme will improve the wellbeing of communities and protect the welfare of vulnerable people.

Peter Hessett
Strategic Lead - Regulatory

Date: 22nd August 2019

Person to Contact: Raymond Lynch
Solicitor, Section Head - Licensing
West Dunbartonshire Council
Garshake Road
Dumbarton
G82 3PU.
Tel. No. (Direct line) 01389 737818
raymond.lynch@west-dunbarton.gov.uk

Appendix: Proposed licensing scheme conditions for boat hirers.

Background Papers: Report on the investigation of the foundering of the small passenger ferry Vixen in Ardlui Marina, Loch Lomond Marine Accident Investigation Branch, June 2013.

Reports to the Licensing Committee - 28 August 2013,
20 April 2016 and 19 April 2017.

Wards Affected: All

