

PERTH AND KINROSS COUNCIL

Licensing Committee

12 July 2018

Licensing of Public Entertainment

Report by Head of Legal & Governance Services (Report No. 18/237)

PURPOSE OF REPORT

To update the Resolution in respect of activities licensable in regard to Public Entertainment.

1. BACKGROUND/MAIN ISSUES

- 1.1 The Council, as a Licensing Authority, regulates the licensing of Public Entertainment under the Civic Government (Scotland) Act 1982 (“the Act”).
- 1.2 A public entertainment licence is required for the use of premises as a place of public entertainment. Section 41 of the Act originally defined a “place of public entertainment” as:
 - “any place where ***on payment of money or money’s worth***, members of the public are admitted or may use any facilities for the purposes of entertainment or recreation...”
- 1.3 The former Perth and Kinross District Council resolved to licence a list of activities where an entry fee is charged as public entertainment on 2 May 1984. This list of activities was then amended by way of resolution in December 1985. A copy is attached as Appendix 1.

In April 2012 Section 176 of the Criminal Justice and Licensing (Scotland) Act 2010 repealed that part of the definition highlighted in bold italics above. The effect of the amendment was to increase the scope of public entertainment licensing, as it permitted local authorities to licence “free entry” events. One of the main aims behind this change was to allow licensing authorities to control large-scale free public entertainments such as community based events.
- 1.4 Within Perth and Kinross free entry” events are not licenced and should continue not to be licensed as it is felt such a requirement is prohibitive to many charity and community based events taking place. It was considered more appropriate to consider this more fully when next reviewing the resolution relating to public entertainment licensing.

In the Perth and Kinross area large “free entry” events such as the Christmas Light Switch On, Norrie Miller Light Night, Community Bonfire Nights, Mary Queen of Scots Festival, The McCrae Gravel Challenge are already subject to the Council’s Strategic Advisory Group and the Safety Advisory Group process. These groups consist of officers from the Council, Police Scotland and Scottish Fire and Rescue who meet with the organiser of the event to discuss all aspects of the event which includes consideration of public safety as a paramount consideration. Event Management plans are provided by the organiser to the group together with Risk Assessments and other safety documentation.

- 1.5 Members should however be aware that organisers of any event where mechanical rides are present and where the public pay to use any facilities for the purposes of entertainment or recreation still require a Public Entertainment Licence. This is the case regardless of it being a “free entry” event and is because the public still have to pay for use of the rides. This allows the Licensing Authority to ensure that current safety documentation for each ride, as well as public liability insurance, are in place to reduce any risk to public safety.
- 1.6 Other Local Authorities adopt differing approaches when considering free entry events. Stirling, Angus and Glasgow City Councils have placed a maximum limit on the numbers attending a free entry event and only where attendance is anticipated to exceed that limit is a Public Entertainment Licence required. Angus Council set its limit at attendance over 200; Glasgow Council where attendance is over 500; and Stirling Council where attendance is over 300. Dundee City Council however requires a licence for all free events regardless of attendance numbers. It should be noted that where there is a maximum attendance limit in place, reliance is firmly placed on applicants’ honesty with regard to anticipated attendance figures.
- 1.7 This Council’s resolution requires to be reviewed to bring it up to date to reflect those activities which should now require a public entertainment licence. There is also a need to consider whether public entertainment licensing should be extended to include activities which are free within the licensing regime. Section 9 of the Act permits the Licensing Authority to vary a resolution previously made by it by passing a new resolution.
- 1.8 Before any proposed resolution can be passed, section 9(6) of the Act requires the proposal to be published in local newspaper together with a notice stating (a) that the Council intends to make the resolution and (b) that representations about the resolution may be made in writing to the local authority within 28 days of the first publication of the notice.
- 1.9 After the period of 28 days has passed a further report will be brought to Committee to consider any representations that have been submitted and make such modifications to the proposed resolution as it thinks fit in light of those representations.

- 1.10 Once the final resolution has been passed, it must thereafter be published in a local newspaper together with a notice confirming that from the specified date it will be an offence to engage in activities detailed in the resolution without a licence. The specified date must not be before the expiration of the period of nine months beginning with the day on which the resolution was made.

2 PROPOSAL

- 2.1 It is proposed that the Committee continue not to licence “free entry” events as large scale “free entry” events are subject to the Council’s Safety Advisory Group process whereby the risks are managed. Smaller “free entry” events are deemed to be low risk and the Council do not wish to have a potential negative impact on charitable and community based events. Licensing of “free entry” events where mechanical rides are present and a fee is charged will continue to be licenced as this is deemed high risk.
- 2.2 It is also proposed that the Committee agree the terms of the proposed resolution for the licensing of places of public entertainment. This change will bring the activities up to date with current events taking place within Perth and Kinross.

3 RECOMMENDATIONS

- 3.1 It is recommended that the Committee:-
- a. agrees that no licence should be required for public entertainment where there is no payment of money or money’s worth to gain entry to the entertainment and
 - b. agrees the terms of the proposed resolution for the licensing of places of public entertainment attached at Appendix 2.

Author(s)

| Name | Designation | Contact Details |
|-------------|--------------------|---------------------------|
| D.Merchant | Licensing Manager | civiclicensing@pkc.gov.uk |

Approved

| Name | Designation | Date |
|--------------|------------------------------------|-------------|
| Lisa Simpson | Head of Legal & Governance Service | 31 May 2018 |

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

ANNEX

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

| Strategic Implications | Yes / None |
|-----------------------------------------------------|-------------------|
| Community Plan / Single Outcome Agreement | Yes |
| Corporate Plan | Yes |
| Resource Implications | |
| Financial | Yes |
| Workforce | No |
| Asset Management (land, property, IST) | None |
| Assessments | |
| Equality Impact Assessment | None |
| Strategic Environmental Assessment | None |
| Sustainability (community, economic, environmental) | None |
| Legal and Governance | Yes |
| Risk | Yes |
| Consultation | |
| Internal | Yes |
| External | None |
| Communication | |
| Communications Plan | None |

1. Strategic Implications

Community Plan/Single Outcome Agreement

The proposals set out in this report will support the delivery of the Perth and Kinross Community Plan/Single Outcome Agreement in terms of the following priorities:

- Promoting a prosperous, inclusive and sustainable economy
- Creating a safe and sustainable place for future generations

Corporate Plan

The proposals set out in this report will support the delivery of the Corporate Plan in terms of the following priorities:

- Promoting a prosperous, inclusive and sustainable economy
- Creating a safe and sustainable place for future generations

2. Resource Implications

2.1 Financial

The costs associated with the amendment of the resolution will be met from licensing fee income. The cost of the licence will cover the administration and issuing of the licence.

2.2 Workforce

A change in the resolution may see an increase in applications being received however staff workload will be managed should any additional workload arise.

3. Assessments

3.1 Equality Impact Assessment

Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) and are not considered to be relevant

3.2 Strategic Environmental Assessment

Not applicable

4. Consultation

4.1 Internal

Health and Safety have been consulted and no adverse comments were received.

4.2 External

If approved, changes to the resolution will be advertised and the public will have an opportunity to make representations.

5. Communication

Not applicable

6. BACKGROUND PAPERS

Not applicable

7. APPENDICES

Appendix 1 – Current list of licensed activities

Appendix 2 – Draft Resolution