

## The Highland Licensing Committee

Meeting – 2 February 2016

Agenda Item	6
Report No	HLC/016/16

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### Review of Public Entertainment Licence Activities

#### Report by the Legal Manager

#### Summary

This Report invites the Committee to consider the responses received in respect of the advertisement inviting representations in relation to the proposed changes to the activities licensed as public entertainment under Section 41 of the Civic Government (Scotland) Act 1982.

#### 1.0 Background

1.1 At the meetings of the Highland Licensing Committee held on 11 August and 6 October 2015 Members agreed a draft resolution proposing a number of amendments to the activities licensed under Section 41 of the Civic Government (Scotland) Act 1982 which relate to public entertainment.

1.2 The proposed changes are as follows:

#### 1. Premises used for exhibitions, lectures and illustrated talks (categories ii and xiii in the existing resolution)

**Proposal:** To remove the requirement for the abovementioned activities to be licensed when they take place indoors. Only events which take place outdoors or which involve the use of a temporary structure and where there is an admission fee or charge to the public will require a licence.

#### 2. Premises used for fireworks displays, laser displays and war games (categories iii and v)

**Proposal:** To extend the requirements of this category to include fireworks displays and laser displays where there is no admission fee or charge.

#### 3. Premises used for trampolines and bungee trampolines

**Proposal:** To introduce a new category and license these activities only where there is an admission fee or charge to the public.

#### 4. Premises used for entertainment/variety shows

**Proposal:** To license such events only where there is an admission fee charge to the public (to be included in category xii musical performances).

## **5. Premises used for concerts and musical performances**

**Proposal:** To license outdoor concerts and musical performances where there is no admission fee or charge and which have a capacity of over 250 and where amplified music, or use of a public address system, is the principle activity of the event (to be included in category xii musical performances).

## **6. Premises used for raves**

**Proposal:** to include raves and similar impromptu musical events within category xii musical performances

## **7. Premises used for the performance of plays**

**Proposal:** To license the use of premises for the performance of plays where there is a charge to the public. This activity will only be licensed under the public entertainment category once the provisions in the Theatres Act 1968 governing the licensing of premises used for the performance of plays are repealed, and corresponding changes to the 1982 Act are brought into effect to allow the use of premises for the performance of plays to be included as an activity which requires a public entertainment licence. This is now due to happen in late 2016.

- 1.3** In accordance with the Act an advertisement was placed in the Press and Journal, a newspaper circulating in the Highland area, inviting the public to submit representations in relation to the proposed changes. A press release was also issued and information on how to submit representations was included on the Council's website. A copy of the advertisement was also sent to the Senior Ward Managers with a view to cascading to Ward Managers who may wish to draw the proposals to the attention of the community councils in their areas.
- 1.4** A total of 4 representations were received. A copy of these are contained in Appendix 1.
- 1.5** The Committee are invited to consider these representations when agreeing the final version of the list of activities. The Committee, before proceeding to make a resolution to amend the list of licensable activities, may make such modifications to the proposed resolution as they think fit in light of the representations made provided such modifications do not extend its scope.
- 1.6** **Summary of Responses**
- 1.7** **Ballachulish Community Council (BCC)** – The representation received from BCC raises concerns that the introduction of public entertainment licensing to cover free public firework displays will have an adverse effect on their small rural community. BCC currently run a fireworks event and state that this could cease due to the various requirements of the public entertainment licence. They advise that they currently take all the necessary safety precautions, have emergency services presence at the event and their volunteers have all relevant qualifications to manage and control events.

- 1.8** BCC also advise that they can foresee a number of unintended consequences of the proposal, which will have a direct effect on public safety. The lack of an organized fireworks display may lead to individuals holding private functions, uncontrolled burning of unsuitable materials and a higher level of risk of accidents to humans, environment and animal welfare.
- 1.9** BCC also raises concerns in relation to the cost of the licence, which they say would be difficult to meet, and whether they would require to pay the fee again in the event that their firework display had to be postponed to another date.
- 1.10** They also raise an issue in relation to whether the licence fee would require to be paid annually.
- 1.11** BCC advise that they may require to start charging people to attend the event which will have an effect on the economically, socially vulnerable families and people who reside in their community and will seriously affect their attempt to include all their residents to be a part of the whole social fabric of their community.
- 1.12** BCC also queried as to whether a hotel who wish to have fireworks to celebrate a wedding, anniversary etc. would require to hold a licence.
- 1.13** **Comments** - It is not envisaged that a further fee would be required where the date of the event had to be changed due to unforeseen circumstances e.g. inclement weather.

A 3 year licence could be applied for which would cover the organisation for 3 annual fireworks displays.

In relation to an hotel letting off fireworks, providing this was in relation to a private function, and they were being let off before 11.00pm, then no licence would be required.

- 1.14** **Ms Ann Cross** – Ms Cross refers to proposal 5, in relation to outdoor concerts and musical performances, and suggests that licensing should be required wherever the music is amplified rather than whether there is an audience, however small or large.

**Comments** - In considering this representation Members will note that the intention of this category is for there to be a control on large free musical events, which may involve requirements such as stewarding, medical provision and traffic management. Notwithstanding the above it would be open for any member of the public to contact the Council's Environmental Health Service in relation to any concerns which they have in relation to noise.

- 1.15** **Mr M. Afek** – Mr Afek, whose representation relates to proposal 2 above regarding firework displays, has concerns about the increasing use of fireworks and the effect it has in terms of noise, distress caused to people and animals and also with debris associated with the same. Mr Afek also objects to the Council granting a licence to any business to stock and sell fireworks at any time of the year other the week leading up to 5 November.

- 1.16**     **Comments** - The purpose of licensing free firework events is to ensure that organisers of such displays meet a number of requirements including carrying out risk assessments, carrying out consultation with the Fire Service and holding public liability insurance. The Licensing Committee do not have the power to prohibit fireworks being let off on nights other than 5 November nor do they have the power to ban the sale of fireworks at particular times of the year.
- 1.17**     If Members agree to the proposal to extend licensing to cover free fireworks events details of any such applications will be available on the Council's website which the public can access at any time and check if there are fireworks displays planned within their area.
- 1.18**     **Mr Richard Ardern** – In his representation Mr Ardern makes reference to proposal 2 relating to fireworks and suggests that firework displays only take place on or around 5 November and on Hogmanay as the public and pet owners expect them on these dates. A further suggestion made is that if displays are to be permitted on other dates they should only be permitted where this has been advertised so as to give the public warning.
- 1.19**     Mr Ardern also refers to proposal 5 and 6 which relate to concerts, musical performances and raves and makes particular reference to people busking with musical instruments on the High Street and Falcon Square, Inverness.
- 1.20**     Mr Ardern also refers to events which take place at Bught Park and Northern Meeting Park in Inverness where a PA system is used and requests that regulation be introduced requiring sound levels to be reduced and regularly monitored.
- 1.21**     **Comments** - As detailed above the Licensing Committee do not have the power to permit fireworks being let off on 5 November and 31 December only.
- 1.22**     The suggestion by Mr Ardern that the event is advertised could be covered by the fact that the details of any such applications for firework displays will be available on the Council's website which the public can access at any time.
- 1.23**     The concerns which Mr Ardern has in relation to the use of PA systems at Bught Park and Northern Meeting Park for non-licensed events can be passed onto Highlife Highland who operate both these venues.

## **2.0**     **Process**

- 2.1**     Where the Council intends to commence licensing a new activity, in terms of the legislation, they must allow a period of 9 months from the date that the resolution is made before the licensing scheme can commence. This is to allow time for anyone who is likely to require to be licensed to make application and for that application to be determined. It is also to allow time for persons to adapt their businesses so as to meet any licensing requirements.

**2.2** To comply with the abovementioned timescales the proposed resolution as advertised provided that the implementation date for any changes be 1 January 2017.

**3.0 Recommendation**

3.1 The Committee are invited to consider the responses in relation to the consultation and agree either to make the resolution as advertised or make such modifications to the resolution as they think fit.

Designation: Legal Manager

Date: 19 January 2016

Author/Reference: Michael Elsey: 12/2/4

Appendix 1: Representations

Councilor Alan Henderson

Ballachulish Community Council

Chair Kevin Smith

Allt A Mhuillin

Laroch Beag

Ballachulish PH49 4L

Highland Council

Public Entertainment Proposed Extension of Licensing Resolution

Section 9 (2)

## 2. Premises used for Fireworks

The Ballachulish Community Council are very concerned of the effect of the implementation of Public Events License will have on our small rural community. The Community Council Currently run a Fireworks event that could cease due the need of licensed personnel for the event we hold at the moment.

We carry out Risk Assessments, take all the necessary safety precautions at site we utilize. We are in contact with Anne Hackett at Highland Council to verify we meet all the existing regulations. We have the ambulance, fire brigade and police presence at our major event. Our volunteers have all relevant qualifications to manage and control events.

To impose the Public Events License on the Community Council we would have to discuss with Highland Council our direct insurer of the effect of imposition of License, meet the demand for registered stewards, first aid personnel and other services mentioned.

We would need to start a compulsory entrance fee to cover all the cost incurred to meet PEL regulations. The Community Council can see this will have a serious effect on the economically, socially vulnerable families and people who reside in our Community.

We attempt to include all our residents to be a part of the whole social fabric of our community, the imposition of the PEL for Community Events would seriously affect our efforts for this assimilation.

The need to complete all relevant paperwork would be onerous to say the least to meet the exacting standard of License and the cost involved in these austere times

Community Council can foresee a number unintended consequence of this proposal, which will have a direct effect on the public safety.

The lack of an organized Fireworks display will lead to individuals holding private functions, uncontrolled burning of unsuitable materials and the higher level of risk of accidents to humans, environment and animal welfare.

As we know the amount of effort and controls that we have to put in place to reduce the level of exposure to danger in holding a Fireworks Display.

As our event is very weather related and we in the past have had to change dates at the last day. Would we be allowed to carry over or have to pay again for date change etc.? We note that at present the PEL cost is not refundable to any organization, we as Community Council even if we met all the relevant PEL paperwork demands. The cost of license alone would be difficult to meet once, let alone to be informed we would have to reapply and pay again for a later date would be very restrictive.

License fee cost would Community Council have to pay the same fee for annual 1 event. In comparison to a Community Hall which could run a number of events which is included in their annual PEL?.

Will Highland Council look at the possible unforeseen issue we have raised which I am sure there will be other issues that will be raised by other Community Council involved.

An issue raised by a concern Hotelier would their guest who wish to have Fireworks to celebrate their wedding, anniversary or other functions. Would the hotel have to organize an extra license to cover these events, also I was asked exactly what does the term Fireworks Display relate, a question I was unable to answer.

We await a response to our grave concern of the proposed changes in the Public Events Licensing.

Yours faithfully

Kevin Smith

## Licensing

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**From:** Robert Cross <rtomcross@gmail.com>  
**Sent:** 10 December 2015 11:40  
**To:** Licensing  
**Subject:** licensing of outdoor musical performances

Dear Sirs

With reference to para. 5 of Proposed Extension of Licensing Resolution, I note that the criteria for licensing appear to be that the audience should be over 250 and entrance fees are being charged.

I wish to suggest that where outdoor music events are being staged, licensing should be deemed necessary wherever the music is amplified rather than whether there is an audience however small or large. The volume of noise detracts from the quality of life of those living nearby, and there can be a hazy line between music for the purpose of "advertising entertainment, trade or business" as mentioned under the Control of Pollution Act 1974, and an outdoor event staged beside local venues.

Making the noise level the criteria for insisting on a licence might bring in more money to the Council.

Yours faithfully

Ann S Cross  
Strathpeffer



## Licensing

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**From:** mike.mag@btinternet.com  
**Sent:** 15 December 2015 17:37  
**To:** Licensing  
**Subject:** Firework survey

Regarding the public discussion on changes to licensing rules and regulations on the likes of fireworks as stated in Inverness Courier 20/11/2015 I would like my comments added to the survey. The Council need to take note of the fact that once fireworks have been sold to the public any regulations in force do not continue after point of sale as can be seen by the apparent lack of convictions by the authorities on any damage, whether physical or mental, caused by the setting off of "outdoor" fireworks in household gardens or even in open public areas which is illegal, the evidence is there to be seen. These fireworks are very noisy and frightening if you are not expecting them, rockets attain a great height before they return to the ground which is usually always away from their source of ignition. I have witnessed members of the public being hit, seen the rocket embedded in a neighbour's lawn, landed on and even hit vehicles and houses and all of these are made worse if the rockets have been deflected by trees. The box with the multistage, on average 20 to 30 projectiles being launched indiscriminately without any regard to the well-being or safety of children, adults, especially the elderly not to mention animals, domestic or wild, by members of the public is totally unacceptable. According to the authorities no one can be charged because the perpetrator cannot be identified, does that mean this constitutes the perfect crime? Given that any damage caused by these fireworks is impossible to detect, I strongly object to any increase use of these "outdoor" fireworks and would prefer that they be banned. I object to the Council granting a licence to any business to stock and sell fireworks, especially "outdoor" fireworks to the public at any time of the year. The only time fireworks and only garden fireworks should be sold is one week before 5th November and only used on the 5th November. Over the past few years, this year included, I have had to leave my home with my pets and head for somewhere where the noise cannot be heard because of the public firework display by Highland Council on the 5th November, (the fireworks which are set off actually shake my home) this year due to numerous domestic displays it has taken me till the 10 December to coax my remaining dog (one had to be put to "sleep" last year) to leave the house after dark, that means from dusk till dawn, approximately 15 hours, she has not relieved herself, not even in my garden, goodness knows what it has done to her internal organs and her health. Christmas and New Year also causes her and us distress then just when you think it is all over someone somewhere is celebrating a birthday or whatever and the distress cycle starts all over again. I do believe that under the umbrella of the Human Rights Act my human rights are being violated as are the animals' rights under their Act, I therefor ask Highland Council to act in a proper manner and ban all fireworks and to protect the public and animals from unnecessary suffering.

Mr M Afek

14 Drumdevan Road Inverness IV2 4DB

## Licensing

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**From:** Richard Ardern <rjardern@hotmail.com>  
**Sent:** 18 December 2015 16:43  
**To:** Licensing  
**Cc:** Janet Campbell - Member; Jimmy Gray - Member; Donnie Kerr - Member  
**Subject:** Representation on public entertainment licensing current consultation

To Alaisdair Mackenzie  
Legal Manager (Regulatory Services)  
The Highland Council  
Portree

From Richard Ardern  
Inverness

Re your consultation:

**Civic Government (Scotland) Act 1982**

**Optional Provisions: Public Entertainment - Proposed Extension of Licensing Resolution.**

With regard to your invitation inviting the public to submit written representations (or email) by 18 December 2015, I should like to make the following comments relating to outdoor noise and fireworks.

Para 2

There is a widespread problem with firework displays being given (presumably mostly unlicensed) on disparate dates throughout the year.

The public will expect such displays round about 5 November and on Hogmanay. Pet owners will be expecting these.

May I ask please, that no other displays should be permitted on other dates unless application has been made to yourselves and consent given only if the promoter or individual agrees to advertise the proposed discharge widely and prominently in the local area, this to include the local newspaper (s), the P&J and the local radio station (s).

Paras 5 and 6

There is also a widespread problem with over amplification of music in public places, especially out of doors.

Your use of the word "premises" quite obviously includes out of doors.

Two areas where this is already causing annoyance and sometimes distress to the public are:

1) Inverness High Street and sometimes Falcon Square.

The noise levels on the High Street, often from several competing musicians or groups of musicians, are a deterrent to enjoyment of the shopping experience in Inverness. Noise levels do not seem to be policed and the public are also left wondering how many of the performers even have a licence to be there.

May I suggest that they are required to display their licence on a stand in large enough writing for persons passing to read easily.

May I also suggest that the amplification levels are regularly policed please? There is no need for the music played on the High Street to be audible at the top of Stephens Brae.

When the Council are granting licences, could the performer be asked to justify the need for amplification?

It is questionable whether amplification is needed at all in many cases.

2) Bught and Northern Meeting Park events.

The commentaries on many events, particularly at the Bught, are often carried to the residential areas on the east side of the river on the prevailing south westerly winds such that it is possible to hear the names of the performers being congratulated. This has been a persistent problem for many years but the recent Baxters Loch Ness marathon was particularly bad.

Again it would seem to be a problem caused by over-amplification. Please could the new regulations require sound levels to be reduced and regularly monitored?

I have heard many citizens comment on these problems over the past few years. I, and they, would be pleased if additional safeguards could be put in place.

Thank you for your attention.

Richard Ardern.

[26A Southside Road, Inverness IV2 3BG].