

MINUTES of MEETING of the MIDLOTHIAN COUNCIL GENERAL PURPOSES COMMITTEE held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 19 February 2013 at 2.00pm.

Present:- Councillors Rosie (Chair), Baxter, Beattie, Bryant, Constable, Coventry, Johnstone, Milligan, Montgomery, Rosie, Russell and Wallace.

Apologies for Absence:- Councillors Bennett, Imrie, Muirhead, Pottinger, Thompson and de Vink.

1 Introductory Remarks

With reference to the Minutes of Council of 18 December 2012, the Chair confirmed that the Meeting would be audio recorded save, owing to the ongoing consideration of data protection issues, the Hearing relating to the application for the licence.

2 Order of Business

There was no change in the order of business.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

On a motion by Councillor Wallace, seconded by Councillor Constable, the Minutes of Meeting of 8 January 2013 were approved as a correct record.

5 Civic Government (Scotland) Act 1982

(a) Procedure for Disposing of Applications

There was submitted report, dated 4 February 2013, by the Director, Corporate Resources, concerning the procedure for disposing of applications for licences, in terms of the Civic Government (Scotland) Act 1982.

Decision

To note the report.

(b) European Services Directive - National Applicability of Licences and Tacit Approval

There was submitted report, dated 10 February 2013, by the Director, Corporate Resources, concerning (i) a Consultation by the Department for Business Innovation and Skills about the national applicability of licences in terms of a European Directive; and (ii) the tacit approval of licences.

In his report, the Director confirmed, (1) in respect of the former:-

(a) that the Consultation was being carried out because the European Commission had expressed concern over a potential violation by the UK of the Directive in relation to the national applicability of licences in relation to the provision of services, unless there were good reasons in the public interest otherwise;

(b) the principles governing the applicability of the European legislation in Member States;

(c) that the Consultation appeared to reflect a commercial rather than a regulatory approach; and

(d) that the implications merited further consideration before a response was given; and

(2) in respect of the latter:-

(a) that currently, a form of tacit approval existed eg in terms of the Civic Government legislation where a period of three months was given for the consideration of applications and six months for the determination of these; and

(b) that discussions at Officer level had taken place and further information was awaited.

A summary of the Consultation; and that part of the Directive which related to the concept of Tacit Approval were appended to the report.

Decision

(i) To note the report;

(ii) To remit the submission of a response to the Consultation on the National Applicability of Licences, to the Director, in consultation with the Chair; and

(iii) (1) to await further report(s) as regards the concept of Tacit Approval, pending consultation with other Scottish Local Authorities; and (2) meantime, the presumption be that applications for licences for which no time limits were imposed, be considered and determined within three months and six months, respectively.

(Action – Head of Customer Services)

(c) The Knife Dealers (Licence Conditions) (Scotland) Order 2013 – Dealers in Knives and Swords – Revised Mandatory Conditions of Licensing

With reference to paragraph 3(b) of the Minutes of 2 June 2009, there was submitted report, dated 11 February 2013, by the Director, Corporate Resources, confirming that, on 28 January 2013, the Scottish Government had made the Knife Dealers (Licence Conditions) (Scotland) Order 2013, which introduced revised mandatory conditions for all Knife Dealers and additional conditions relating to sword dealers, requiring, *inter alia*,

(i) the dealer to record the identity of the customer and the means by which the customer's identity was verified, the steps taken to establish that the customer was at least 18 years of age and a full description of the article sold, hired, lent or given to the customer; and keeping the records for three years; and

(ii) the licensing authority to attach additional conditions to knife dealers' licences which permit carrying on business as a dealer in swords ie that the dealer must take all reasonable steps to establish and confirm the intended use of any sword, and must keep a record for 3 years of the enquiries made of the customer as to the intended use of the sword.

The new conditions were shown in an Appendix to the Report.

Decision

To note the new mandatory conditions which were applicable from 29 January 2013.

(Action – Head of Customer Services)

6 Marriage and Civil Partnership Consultation (Scotland) Bill

There was submitted report, dated 6 February 2013, by the Director, Corporate Resources, concerning a consultation by the Scottish Government in respect of Marriages and Civil Partnerships.

In his report, the Director confirmed:-

- (a) that the Government had decided to introduce same sex marriage and the religious registration of civil partnership and was committed to providing protections for those in society who may have concerns about same sex marriage;
- (ii) the key aspects of the Bill; and

- (iii) in respect of Places at which currently civil marriages may be solemnised in the presence of a Registrar, it was proposed that civil marriage ceremonies, whether of same or opposite sex couples, be permitted to take place anywhere, other than in religious premises, agreed by the couple and the registrar, rather than, as currently, at "approved places" vetted by the local authority, in terms of the Regulations;

Decision

- (a) To note the report;
- (b) in relation to the proposed repeal of the regulations relating to the regulation of places where marriages were solemnised in the presence of a registrar, to make representations that the benefits provided by the existing regulations be examined further before a decision was taken to dispense with the need for regulation; and
- (c) to remit the submission of comments to the Director, in consultation with the Chair.

(Action – Head of Customer Services)

7 Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 12 and 14 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973:-

Decision

Street Trader's Licence - Consideration of Application - To refuse to grant an application as the Applicant was no longer considered to be a fit and proper person.

The Meeting terminated at 2.28pm.

