



**Clackmannanshire
Council**

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Comhairle Siorrachd
Chlach Mhanann

**Kilncraigs, Greenside Street, Alloa, FK10 1EB
(Tel.01259-450000)**

Regulatory Committee

Tuesday 21 November 2023 at 9.30 am

Venue: Council Chamber, Kilncraigs, Alloa, FK10 1EB



Regulatory Committee

The Regulatory Committee, subject to the Council's approved policies, has responsibility for:

1. Determining applications for the grant or renewal of any licences to be issued under the Civic Government (Scotland) Act 1982, including the imposition of conditions on any licence granted.
2. Determining whether to suspend or alter any licence issued under the Civic Government (Scotland) Act 1982.
3. Determining whether to recall a suspension made pursuant to the terms of the Civic Government (Scotland) Act 1982.
4. Setting, approving and reviewing any policies in respect of the operation of the licensing regime under the Civic Government (Scotland) Act 1982.
5. Discharging the Council's statutory licensing function in respect of all legislation that imposes the duty on the Council as the appropriate authority to determine applications or to grant regulatory consents in respect of any licensable activities prescribed by statute.
6. Holding hearings and determining HMO Licence applications in terms of Schedule 4 of the Housing (Scotland) Act 2006.
7. Dealing with regulatory and enforcement issues arising from matters delegated to or delivered by Community and Regulatory Services related to Environmental Health, Licensing (other than alcohol licensing) and Trading Standards.
8. Taking decisions on suspending or altering a premises approval as provided for under the Marriage (Scotland) Act 2002.
9. Holding hearings for the purposes of paragraph 7 of Schedule 1 of the Smoking Health and Social Care (Scotland) Act 2005 (the SHSCA 2005).
10. Hearing appeals against officers' decisions to refuse or remove a landlord's or agent's registration under part 8 of the Antisocial Behaviour etc (Scotland) Act 2004.

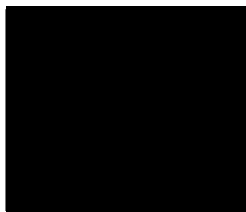
Members of the public are welcome to attend our Council and Committee meetings to see how decisions are made.

Details of all of our Council and Committee dates and agenda items are published on our website at www.clacks.gov.uk

If you require further information about Council or Committee meetings, please contact Committee Services by e-mail at committees@clacks.gov.uk or by telephone on 01259 452006 or 452004.

10 November 2023

A MEETING of the REGULATORY COMMITTEE will be held in the COUNCIL CHAMBER, KILNCRAIGS, ALLOA on TUESDAY 21 NOVEMBER 2023 at 9.30 AM.



LEE ROBERTSON
Clerk to the Regulatory Committee

B U S I N E S S

	Page No.
1. Apologies	--
2. Declaration of Interests Members should declare any financial or non-financial interests they have in any item on this agenda, identifying the relevant agenda item and the nature of their interest in accordance with the Councillors' Code of Conduct. A Declaration of Interest form should be completed and passed to the Committee Officer.	--
3. Street Trader Licensing – Resolution Variation – report by the Civic Licensing Standards Officer (Copy herewith)	05

EXEMPT INFORMATION

It is anticipated (although this is not certain) that the Committee will resolve to exclude the press and public during consideration of these items.

It is considered that the undernoted reports are treated as exempt from the Council's general policy of disclosure of all papers by virtue of Schedule 7A, Part 1, Paragraphs 3 and 6 of the Local Government (Scotland) Act 1973.

4. Minutes of Meetings (Copies herewith):	
(a) Regulatory Committee held on Tuesday 30 May 2023	13
(b) Regulatory Committee held on Tuesday 15 August 2023	19
5. Application for the Renewal of a Taxi Operators and a Taxi Drivers Licence – Michael Eccles Application Form; and Representation from the Civic Licensing Standards Officer (Copy herewith)	21

Regulatory Committee – Committee Members (Membership 8 – Quorum 4)

Councillors

Wards

Councillor	Darren Lee (Chair)	1	Clackmannanshire West	CONSERVATIVE
Councillor	Kenneth Earle (Vice Chair)	4	Clackmannanshire South	LABOUR
Councillor	Martha Benny	2	Clackmannanshire North	CONSERVATIVE
Councillor	Phil Fairlie	1	Clackmannanshire West	SNP
Councillor	Wendy Hamilton	3	Clackmannanshire Central	SNP
Councillor	Scott Harrison	5	Clackmannanshire East	SNP
Councillor	Kathleen Martin	5	Clackmannanshire East	LABOUR
Councillor	Jane McTaggart	3	Clackmannanshire Central	SNP

Report to Regulatory Committee

Date of Meeting: 23 November, 2023

Subject: Street Trader Licensing –Resolution Variation

Report by: Civic Licensing Standards Officer

1.0 Purpose

- 1.1. The Civic Government (Scotland) Act 1982 (the “1982 Act”), at Section 9 sets out that a Licensing Authority may resolve to licence the activity of Street Trading.
- 1.2. Clackmannanshire Council first resolved to licence such activity in the late 1980s.
- 1.3. Since the initial resolution records show that the licence conditions have been amended, but the general nature of the resolution has not changed.
- 1.4. Since the last amendment to the licence conditions and since the passing of the current resolution much has changed in relation to the practice of street trading in Clackmannanshire.
- 1.5. Many traditional Street Traders are now operating from fixed locations, from kiosks, stalls or moveable vehicles that remain on site from day to day.
- 1.6. There has also been a great deal of confusion amongst traders attending large scale public entertainment events as to whether or not a Street Traders Licence is required to trade at these events.
- 1.7. Many of the large scale public entertainment events attract traders from outside of the Clackmannanshire Council area, these individuals or companies are not licensed to trade within Clackmannanshire although many of them are licenced for street trading in other parts of Scotland.
- 1.8. The system of licensing street traders hoping to attend events covered by a public entertainment licence is cumbersome and bureaucratic. It is often a barrier to permitting small local traders operating at local events.
- 1.9. The proposed variation to the resolution will simplify the rules in Clackmannanshire in relation to street trading at licensed public entertainment events, and will place a responsibility on the holder of a public entertainment licence to manage traders and notify the Council in advance of their attendance.

- 1.10. The proposed changes to the resolution amounts to a reduction of the scope of the licensing requirements and as such can take effect on any date suggested

2.0 Recommendations

- 2.1. That the Committee approves the variation to the existing resolution relating to Street Trader licensing, and adopts the wording for that variation as detailed in appendix A to this report
- 2.2. That the Committee approves Licence Standard Conditions – Street Traders as detailed in appendix B to this report.

3.0 Considerations

Under the terms of the 1982 Act the Licensing Authority may vary or rescind by a subsequent resolution, a resolution under this section 9. In varying a resolution under this section so as to reduce its scope; or rescinding a resolution under this section it can take effect on such date as may be specified in it, being any date subsequent to the making of the resolution.

- 3.1. The Regulatory Committee are therefore asked to consider the information before them and having done so to determine a date for taking effect of the variation
- 3.2. It is suggested that 1 February, 2024 would be an appropriate date to allow the administrative process of notifying existing licence holders of the changes to the Licence Standard Conditions to take place.

4.0 Sustainability Implications

- 4.1. None

5.0 Resource Implications

5.1. Financial Details

- 5.2. There are no financial implications arising from the recommendations in this report.

5.3. Staffing

- 5.4. There are no staffing implications as a result of the recommendations in this report

Exempt Reports

- 5.5. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

- Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
- Our families; children and young people will have the best possible start in life
- Women and girls will be confident and aspirational, and achieve their full potential
- Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

None

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

10.2 Method and Timeline Proposal (Appendix A)

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)


Yes (please list the documents below) No

Report Amending licence Conditions dated 15 May 2018

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Paul Fair	Civic Licensing Standards Officer	2091

Approved by

NAME	DESIGNATION	SIGNATURE
Lee Robertson	Legal Services Manager	

Appendix A

Proposed Resolution – Street Trader

"Clackmannanshire Council, in being the Licensing Authority for the Clackmannanshire Council area, hereby resolves under section 9 of the Civic Government (Scotland) Act 1982 ("the 1982 Act"):-

(Firstly) as from (...insert date...) Street Traders remain required to be licensed in accordance with the provisions of section 39 and Schedule 1 to the 1982 Act and they remain subject to those provisions;

(Secondly) that this resolution shall apply to the whole of the Clackmannanshire Council area in being the area of the Licensing Authority; and

(Thirdly) nothing in this resolution shall require a Street Trader to have a Street Traders' Licence for trading within the licensed area of an event covered by a Public Entertainment Licence granted by Clackmannanshire Council if the holder of the Public Entertainment Licence has notified Clackmannanshire Council of the Street Traders' intention to trade at the event and provided Clackmannanshire Council is satisfied that the Street Trader has and will adhere to the relevant provisions of the 1982 Act.

The notification of intent by a Street Trader to trade at an event covered by a Public Entertainment Licence as referred to in the third part of this resolution must:-

- (1) be made in writing and where such writing can be by e-mail;
- (2) include the full name, date of birth, address, telephone number, and e-mail address of the Street Trader along with descriptions of the vehicle, kiosk or moveable stall being used by the Street Trader.
- (3) Include details of the nature of any articles being offered or exposed for sale by the Street Trader, and where if such articles are food items, the provision of details for a certificate granted by a food authority; and
- (4) be received with all such written details by Clackmannanshire Council no less than three working days before the Public Entertainment Licence event."

Appendix B

CLACKMANNANSHIRE COUNCIL
CIVIC GOVERNMENT (SCOTLAND) ACT 1982
LICENCE STANDARD CONDITIONS
STREET TRADERS

LICENCE STANDARD CONDITIONS

The licence holder must read and sign these conditions on receipt.

The licence holder will at all times whilst acting as a street trader conspicuously wear on their person, or conspicuously display the identification badge supplied by the licensing authority.

The licence holder whilst acting as a street trader shall have with them their licence and signed copy of the licence standard conditions which they shall keep at all times clean and legible.

On being required to do so by any Civic Licensing Standards Officer, Authorised Officer of the Licensing Authority or any Police Constable, the licence holder must produce their licence for examination.

If the licence or identification badge becomes defaced or illegible the licence holder must notify the licensing authority. An administration fee will be charged for a replacement licence or identification badge.

Where any goods or articles which are offered for sale by a street trader are of a perishable nature, or are intended for human consumption, the licence holder shall not store such goods or articles in any dwellinghouse or other place or vehicle until the said dwellinghouse or other place or vehicle has been approved by an officer of the Environmental Health department

Any street trader trading at a particular location for a period exceeding 10 minutes must ensure that all refuse, and food waste is removed from the area.

Any street trader trading at a particular location for a period exceeding 10 minutes must place a litter bin or other receptacle suitable for the collection of refuse, within 5 metres of the trading unit, for the use of customers.

Every street trader shall at all times when street trading keep himself and his clothing clean and must keep and maintain any moveable structure, vehicle or receptacle used for the purpose of street trading in a clean condition and maintained so as to be fit for the purpose it serves.

Every person engaged or employed in street trading within Clackmannanshire shall comply with any reasonable order or instruction given by any Civic Licensing Standards Officer or any Police Officer in uniform.

No street trader shall engage in street trading within 50 metres of any establishment or premises in which there are sold or offered for sale any goods or articles or services of the same or similar class and description as those to be sold or offered for sale by the street trader.

A street trader who ceases to act as such must, within seven days, deliver his licence and badge to the Licensing Authority.

LOCAL CONDITIONS TO BE APPLIED TO ALL STREET TRADERS

- 1 The Trader shall be permitted to sell: (*list commodities*) and no other commodities.
- 2 The Trader shall be permitted to operate only at the location(s) and only from the vehicle or from the kiosk, moveable structure, structure/receptacle approved by the Licensing Authority and described in the Schedule attached.
- 3 The licence holder must comply with any relevant legislation, current code of practice or guidance relating to the sounding of musical chimes.
- 4 No trading is permitted within 500 metres of the boundary of any secondary schools in Clackmannanshire between the hours of 11:45am and 2.15pm Monday to Friday. This condition will not apply when the schools are not in session.