

**LICENSING OF FUNFAIRS IN SCOTLAND - CONSULTATION**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to advise members of the ongoing consultation on a draft proposal submitted to the Scottish Parliament by Richard Lyle MSP. The proposal is for a Bill to exempt travelling funfairs from public entertainment licensing requirements under the *Civic Government (Scotland) Act 1982*, and to create a distinct new licensing system for travelling funfairs in Scotland.

**2.0 RECOMMENDATIONS**

- 2.1 Members are asked to note the contents of this report.
- 2.2 Members are asked to consider whether they wish to make representations to the consultation, and if so, decide on the nature and content of those representations.
- 2.3 If members wish to respond to the consultation, it is further recommended that members authorise the Head of Governance and Law, in consultation with members, to draft an appropriate response within the prescribed timeframe.

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### 1.0 INTRODUCTION

- 1.1 Travelling funfairs in Scotland are currently required to apply for public entertainment licences under the *Civic Government (Scotland) Act 1982* from the relevant local authority for the area that they seek to operate in.
- 1.2 On 4<sup>th</sup> December 2017, Richard Lyle MSP opened a consultation on his draft proposal for a Bill to exempt travelling funfairs from public entertainment licensing requirements and to create a new bespoke licensing system for travelling funfairs in Scotland.
- 1.3 The purpose of this report is to advise members of the ongoing consultation on the draft proposal.

### 2.0 RECOMMENDATIONS

- 2.1 Members are asked to note the contents of this report.
- 2.2 Members are asked to consider whether they wish to make representations to the consultation, and if so, decide on the nature and content of those representations.
- 2.3 If members wish to respond to the consultation, it is further recommended that members authorise the Head of Governance and Law, in consultation with members, to draft an appropriate response within the prescribed timeframe.

### 3.0 DETAIL

- 3.1 Public entertainment licences are optional under the 1982 Act. Each local authority must pass a Resolution if they wish to licence this activity. To date, all 32 local authorities in Scotland have passed Resolutions requiring public entertainment licences for funfairs.
- 3.2 There are currently 3 funfair operators who hold full public entertainment licences issued by Argyll and Bute Council.
- 3.3 On 4<sup>th</sup> December 2017, Richard Lyle MSP issued a consultation paper (**Appendix 1**) relating to a draft proposal that he lodged in the Scottish

Parliament, which is the first stage in the process of introducing a Private Member's Bill. The consultation is intended to inform a Member's Bill that is anticipated to be introduced in the Scottish Parliament later this year.

- 3.4 The proposal is for a Bill to exempt travelling funfairs from public entertainment licensing requirements and create a bespoke new licensing system for travelling funfairs in Scotland.
- 3.5 The consultation outlines that the main issue identified with the current licensing regime is that each local authority has their own individual licensing processes in place. This results in large variations in conditions imposed on funfair operators, fees payable for licences, and times taken to process applications.
- 3.6 The consultation paper also acknowledges that non-statutory best practice *Guidance on Public Entertainment Licences in Respect of Funfairs (Appendix 2)* was published by the Scottish Government in July 2017. However, it was noted that this does not compel local authorities to change their current practices. Each local authority is therefore entitled to consider the guidance and act upon it on an individual basis, not a collective one.
- 3.7 The proposed Bill will seek to exempt funfairs from public entertainment licensing requirements by amending the 1982 Act to this effect. It will also seek to establish a new permissions process for operation and management of travelling funfairs in Scotland. In particular, the new system is intended to reduce the time that local authorities are permitted to consider and decide applications by setting a shorter and fixed timescale; stipulate that any fees charged are proportionate and for administrative purposes only by either capping maximum fees or setting a fixed fee for all local authorities; and creating sufficient flexibility to deal with situations where alternative sites are required at short notice.
- 3.8 The consultation paper highlights that important issues such as health and safety, the maintenance of rides and hygiene of food and drink available at funfairs will not be affected by the proposal as these issues are covered by other legislation.
- 3.9 The consultation paper outlines that the most significant effects of the proposal on local authorities would be a requirement to implement the new process created by the proposal, the shortening of timescales to process and decide on applications, and a duty to ensure that application fees will only cover outlay costs for the local authority.

#### **4.0 CONCLUSION**

- 4.1 The author of the consultation paper states that the purpose of the proposal is to establish a new licensing system that is fair, consistent and proportionate for funfair operators. He also encourages all those with views on funfair licensing to take part in the consultation process to aid understanding of the issues, point to the best way forward and inform a

Private Member's Bill that he intends to introduce in the Scottish Parliament later this year.

- 4.2 The closing date for responses to the consultation is 26<sup>th</sup> February 2018. The consultation questions can be found at pages 17-20 of the consultation paper.

## **5.0 IMPLICATIONS**

- 5.1 Policy: If a Private Member's Bill is subsequently introduced and passed, the Council will need to amend its policies in relation to the licensing of funfairs.
- 5.2 Financial: There will be financial implications if the application fees for funfair licences are required to be revised by the Council, or if they are to be capped or stipulated by the Scottish Ministers.
- 5.3 Legal: The Council will require to implement the changes set out in any legislation that may be introduced at a later date following the consultation process.
- 5.4 HR: None
- 5.5 Equalities: None
- 5.6 Risk: None
- 5.7 Customer Services: None

## **APPENDICES**

1. Consultation Paper: *Licensing of Funfairs (Scotland) Bill*, 4<sup>th</sup> December 2017
2. *Civic Government (Scotland) Act 1982: Guidance on Public Entertainment Licences in Respect of Funfairs*

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