

## REPORT TO THE LICENSING SUB-COMMITTEE - 7 DECEMBER 2018

### RETENTION PERIODS OF LICENSING DOCUMENTS

#### 1. Recommendations

1.1 The Licensing Sub-Committee is recommended to agree the following:

(a) In relation to the Civic Government (Scotland) Act 1982:-

(i) Where an application for the grant of a licence, permit or permission is refused by the Licensing Sub-Committee (or relevant Area Committee), information relating to that licence, permit or permission will be retained for a period of 2 years from the date of refusal and thereafter will be destroyed.

(ii) In any other case, information relating to a licence, permit or permission will be retained for a period of 2 years from the date the licence, permit or permission ceases to have effect and will thereafter be destroyed.

(b) In relation to miscellaneous licences: –

(i) Where an application for the grant of a licence, permit or permission is refused by the Licensing Sub-Committee (or relevant Area Committee), information relating to that licence, permit or permission will be retained for a period of 2 years from the date of refusal and thereafter will be destroyed.

(ii) In any other case, information relating to a licence, permit or permission will be retained for a period of 2 years from the date the licence, permit or permission ceases to have effect and will thereafter be destroyed.

#### 2. Background

2.1 Aberdeenshire Council has recently procured a new licensing software package. One of the purposes of the software will be to retain records of expired licenses. Accordingly, it is appropriate for the Licensing Sub-Committee to reconsider the length of time that information regarding expired licenses is retained.

2.2 The retention of documents is a complex topic with several sources of guidance and information. Aberdeenshire Council currently retains licensing documents in regard to liquor licences for 5 years and civic

licences for 5 years. The retention period commences once a licence ceases to have effect and all documentation relating to live licences is kept. This policy was agreed by the Licensing Sub Committee on 13 February, 2015.

- 2.3 The key legislation relating to civic licences is the Civic Government (Scotland) Act 1982, which does not specify a retention period for licensing documents.
- 2.4 Other relevant acts include the Data Protection Act 1998, the Freedom of Information (Scotland) Act 2002, the Licensing (Procedure) (Scotland) Regulations 2007, the Criminal Justice and Licensing (Scotland) Act 2010 and the Public Records (Scotland) Act 2011. None of those pieces of legislation make any reference to a specific retention period being required for licensing documents.
- 2.5 The Licensing Register (Scotland) Regulations 2007 require liquor licence applications to be retained for 5 years from the date of refusal, or if granted, indefinitely or 20 years after a premises closes. It is important to note that the Licensing Register (Scotland) Regulations 2007 do not extend to licences issued under the Civic Government (Scotland) Act 1982 or to miscellaneous licences.
- 2.6 Retention Schedule 4 of the Scottish Council on Archives Retention Schedules Guidance (2010) recommends that once a licence or registration is lapsed, licensing documents should be retained for two years and should then be destroyed. A summary of the retention requirements under Schedule 4 is attached as Appendix 1 to this report.
- 2.7 It is useful to consider that three local authorities in Scotland (East Lothian Council, Highland Council, and Perth and Kinross Council) have already implemented the guidance provided by the Scottish Council on Archives and are now using this as their document retention policy. This means that they use a 2 year retention period after a file is closed.
- 2.8 The reason for the above recommendations is that Aberdeenshire Council is preparing to transfer all the licensing data from the current licensing system, Northgate, to a new licensing system, supplied by IDOX. The amount of time it would take staff to transfer the large amount of data the Council holds to the new system would be considerable. By reducing the retention periods of documents from 5 years to 2 years, there would be 4,000 fewer licences to retain and transfer to the new system. The effect of this would be a considerable efficiency saving for a project that will be highly labour-intensive for staff.
- 2.9 In addition to this, due to the need to comply with the General Data Protection Regulations, personal data should be held only for the minimum of time required, and no longer. Given that there is no legal requirement to hold this data for a period of more than two years, in

contrast to liquor licenses, it would not be appropriate to retain the documents for a longer period.

- 2.10 The Monitoring Officer within Business Services has been consulted in the preparation of this report and is satisfied that the report complies with the Scheme of Governance and relevant legislation.

### **3. Scheme of Governance**

- 3.1 The Licensing Sub-Committee is able to consider and take a decision on this item in terms of Section C.1.1 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to the Council's licensing functions which are not liquor licensing.

### **4. Implications and Risk**

- 4.1 An equality impact assessment is not required because the recommendations contained within this report will not have a detrimental impact on the protected characteristics of any particular individuals.
- 4.2 There will be positive staffing and financial implications arising from implementing the recommendations in this report. Reducing the retention periods to 2 years will mean that there will be a reduced amount of data that will need to be moved when data is transferred from the old system to the new system. A reduced amount of data to be transferred will equate to less staff hours and financial resources being dedicated to said transfer. As a result, Aberdeenshire Council will save both staff time and financial resources.
- 4.3 The following Risks have been identified as relevant to this matter on a [Corporate Level](#) (ACORP001 Budget Pressures, ACORP008 Data Protection & Cyber Security). The following Risks have been identified as relevant to this matter on a [Strategic Level](#) (BSSR001 Balancing the Books).

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**Director of Business Services**

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Date: 15th November, 2018

**Appendix One**  
**Extract of Schedule Four, Scottish Council on Archives**

Activity/ Records Series	Description/ Example Record Types	Trigger - event that prompts start of retention period	Retention Period	Disposal Action	Authority /Citation
Entertainment licences		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45
Hackney licences		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45, s.10-22
Late hours catering licences		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45, s.42
Private hire licences		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45, s.10-22
Scrap metal licences		Date registration lapses	2 years	Destroy	Scrap Metal Dealers Act 1964. Civic Government Scotland Act 1982 c.45, s.28-34
Sex establishments - register		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45, s.45
Street collections and lotteries licences		Date registration lapses	2 years	Destroy	Civic Government (Scotland) Act 1982 c.45
Street trading licences		Date registration lapses	2 years	Destroy	Civic Government Scotland Act 1982 c.45, s.39
Zoo licences		Date registration lapses	2 years	Destroy	The Zoo Licensing Act 1981.