

ABERDEEN CITY COUNCIL

COMMITTEE LICENSING

DATE 18 March 2014

DIRECTOR Angela Scott

TITLE OF REPORT STANDARD CONDITIONS FOR BOAT HIRE LICENCES

REPORT NUMBER: CG-14-040

1. PURPOSE OF REPORT

The purpose of this report is to outline and approve standard conditions for boat hire licences (small crafts) which may be granted by the Council.

2. RECOMMENDATION(S)

It is recommended that the Committee:

1. approves the standard conditions for boat hire licences (small crafts) (see appendix 1);
2. notes that officers will publish the standard conditions online on the Committee's website as part of the application form for boat hire licences; and
3. delegates power to officers to grant boat hire licences except where an objection to the application is lodged or adverse observations on the application are submitted by an official of a local or central government Department or Agency, or the application involves special circumstances or unusual features in accordance with the Committee's existing scheme of delegation.

3. FINANCIAL IMPLICATIONS

None

4. OTHER IMPLICATIONS

The primary purpose of licensing small boats hired in the course of a business for specified purposes, such as recreation, pleasure, educational and sporting activities, is to provide protection for the health and safety of members of the public who use them.

5. BACKGROUND/MAIN ISSUES

Boat hire forms part of the “miscellaneous” category of licences covered by the Civic Government (Scotland) Act 1982 (“the 1982 Act”). In terms of section 38 of the Act, a boat hire licence is required for the use of a vessel in the course of a trade or business carried on in or from any place within the city for the purpose of (a) letting it on hire; or (b) carrying for reward 12 or fewer passengers for pleasure, recreational, educational or sporting purposes. The provisions are optional and institution of same is at the discretion of each local authority.

In terms of the Minutes of Council of 16th May 1983, Aberdeen City Council made a resolution, in terms of section 9 the 1982 Act, adopting the provisions of section 38. However no boat hire licences have, as yet, been issued by the Council albeit there have been sporadic enquiries from interested parties over the years. Any boat hire licence granted by the Council would require to be accompanied by standard conditions in order to ensure the condition and safety of the boats which are to be the subject of the licence. At present there are no such standard conditions in place.

Boat Hire licences granted in terms of section 38 of the 1982 Act can apply to a very diverse selection of craft including dinghies, yachts, rowing and motor boats, pedaloes, punts, canoes, hovercraft and any other water related craft which carry 12 or fewer passengers.

The Council anticipate receiving applications for boat hire licences in respect of small recreational craft in the near future. Accordingly, a set of draft conditions to be attached to any licence granted has been prepared as outlined at appendix 1. These relate solely to small recreational crafts and are based on the model licence conditions issued by the Scottish Development Department in December 1983. It is intended that the conditions be published on the Council’s website as part of the online application form.

6. IMPACT

Corporate – The approval of standard conditions for boat hire licences supports compliance with the Council’s policy to license this activity in the city and ensure good governance.

The agreement and publication of standard conditions by the Council for boat hire licences supports the corporate aim to be transparent in its regulation of business and ensures consistency of control by the authority.

Public -With the recent development of boating facilities in the city of Aberdeen, there is likely to be increased interest from the public in operating boats for commercial use. The issue of standard conditions

will provide clear guidance as to what will be expected of persons operating small craft. The application process for boat hire licences will be transparent and easily accessible to the public once standard conditions are published online.

An Equality and Human Rights Impact Assessment is not required as the proposal does not disproportionately impact on persons with protected characteristics compared to persons without such characteristics. The aim of this proposal is to ensure the safe condition of the craft to be licensed as a boat for hire for the purpose of protecting all persons using such craft.

7. MANAGEMENT OF RISK

The following risks have been identified:-

Opportunity Risk - The formulation of standard conditions will facilitate applications for this type of licence to move forward. This, together with the delegation of powers to authorized officers, could potentially save time for both the applicant and the Council by allowing non controversial applications to be dealt with efficiently. This could remove the risk of delay in the application process and any potential impact on the applicant's business therefrom. Having the conditions available will assist potential applicants in obtaining knowledge in advance of the necessary requirements attached to such a licence and assist them in the process of making an application. The standard conditions would be made available for applicants on the Council's website together with the online application (Business Risk & Customer/Citizen Risk).

Hazard Risk - The purpose of a Boat Hire licence is to ensure that the craft are fit for purpose in order that they are safe to carry members of the public. It is therefore in the interest of public safety that the Council, as Licensing Authority, impose suitable licence conditions in support of that interest. If the Council do not impose suitable licence conditions there may be a potential risk in failing to protect the public who may use such craft from the hazards and risks the licensing scheme was designed to control. The Council could therefore be at risk of possible legal challenge in this regard. The Council have therefore considered its statutory duties and the model conditions previously issued by the Scottish Development Department in 1983 and have devised standard conditions to ensure the suitability and safety of craft which wish to operate in the City. (Legal Risk & Customer/Citizen Risk) .

8. BACKGROUND PAPERS

The Civic Government (Scotland) Act 1982, section 38
Model Licence Conditions issued by the Scottish Development Department

9. REPORT AUTHOR DETAILS

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Appendix 1

ABERDEEN CITY COUNCIL

CONDITIONS FOR BOAT HIRE LICENCES – Small Recreational boats/vessels

1. The licence holder shall ensure that the maximum number of persons to be carried in each boat or vessel at any one time (including any person in charge of any boat or vessel or any other crew) does not exceed that shown on the licence (Schedule II attached).
2. The licence holder shall only use or permit to be used each boat/vessel within (specify location to be stated here).....
3. The licence holder shall take out and maintain in force with a reputable company a policy of insurance with an indemnity limit not less than £5,000,000 which insures such person, persons or class of persons as may be specified in the policy in respect of any liability which may be incurred by him/her in respect of the death of or bodily injury to any person caused by, or arising out of, the use of any boat/vessel, such policy to be in force at all times before undertaking the activities to which this licence relates. Any change in policy must be notified to and approved by Aberdeen City Council and the licence holder must comply with any requirements by Aberdeen City Council to produce his/her policy document.
4. The licence holder shall ensure that the registered number allotted to each boat/vessel by Aberdeen City Council is clearly marked or painted on the outside of each bow of the boat/vessel in a conspicuous position in plain figures of not less than 50mm in height and of a corresponding breadth. (If the vessel is more than 3 tones, figures shall be not less than 75mm in height and of a corresponding breadth).
5. The licence holder shall ensure that the hull, and any oars, spars and, rigging, and of each boat/ vessel be rendered at all times complete and in sound and safe condition to the satisfaction of Aberdeen City Council.(delete as appropriate)
6. The licence holder shall at all times to the satisfaction of Aberdeen City Council keep any slipways, jetties, piers and other landing places at his/her boat station, so far as under his/her control, in good and sufficient order and repair for the safe embarking and disembarking of passengers.
7. The licence holder shall not let any boat/vessel to any person whom the licence holder considers is not fit to handle the boat/vessel properly and would thereby be a danger to themselves or others (whether on the vessel or not).
8. The licence holder shall ensure that each boat/vessel shall at all times be kept supplied and equipped with suitable and sufficient oars and rowlocks or rowing pins, baling dish, and (except skiffs) rudder with tiller or yoke and lines, as is required for the safe use of the boat/vessel of the particular class(es)of the boats/vessels operated.
9. The licence holder shall ensure that any sailing boat operated shall at all times be kept supplied and equipped with all suitable and sufficient sails, spars, rudder, tackle, fittings and appliances as well as with (at least 2) serviceable life buoys and a baling dish
10. The licence holder shall ensure that any sailing boat operated carries 2 paddles.
11. The licence holder shall ensure that each person before boarding a boat/vessel is issued with a suitable life jacket which is to the approved standard currently in force.

Schedule II

Vessel Name/Number

Maximum Number of Persons to be carried