

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 19 DECEMBER 2018.

Present – Councillors George Paul, Harry Cartmill, Dom McGuire

Apologies – Councillor Peter Heggie (Chair), Chris Horne

As the Chair and Vice Chair were not in attendance at the meeting the remaining members nominated Councillor Dom McGuire to Chair the meeting.

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. ORDER OF BUSINESS

The Chair ruled in terms of Standing Order 11 to change the order of business to consider Agenda Item 8 before Agenda Item 6.

3. MINUTE

The Committee confirmed the Minute of its meeting held on 28 November as a correct record. The Minute was thereafter signed by the Chair.

4. PRIVATE SESSION

The committee resolved under section 50(A)(4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3, 12 and 14 of Part 1 of Schedule 7A of the Act.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 8

Introductions were made by all parties.

The applicant was in attendance and unrepresented and confirmed he was content to continue without representation.

Police Scotland was represented by Inspector Keith Mailer.

The Chair explained the procedures that would be followed.

The applicant disputed part of Police Scotland's letter.

The Committee heard the applicant speak with regard to the disputed section of Police Scotland's letter.

The Committee then heard Inspector Mailer speak in relation to the disputed section of Police Scotland's letter.

The Committee considered the comments made by both parties and agreed that an evidential would not be required.

The applicant requested that the case be adjourned to allow him further time to prepare and gather information.

Inspector Mailer confirmed he had no objection to an adjournment.

Decision

To adjourn to 16 January 2019.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 6

The Committee noted that the licence holder was not in attendance and being satisfied that he had been properly cited agreed to consider the case in his absence.

Police Scotland was represented by Inspector Keith Mailer

The Clerk referred the Committee to the report.

The Clerk advised that the Committee consider whether to deal with the case in relation to the licence holder not being medically certified to drive a private hire car in terms of the DVLA Group 2 standards, and adjourn Police Scotland's request for suspension of the licence to a further meeting or to deal with both at once.

Inspector Mailer had no objection to the case being adjourned in relation to the suspension request by Police Scotland.

Having considered the advice from the Clerk and the comments from Inspector Mailer, the committee agreed to only consider the matter in relation to licence holder not being medically certified in terms of the DVLA Group 2 standards to drive a private hire car vehicle in the interest of public safety.

Decision

1. To adjourn consideration of the request by Police Scotland to suspend the licence to 16 January 2019.
2. To suspend the licence for the unexpired portion of the duration of the licence in terms of Schedule 1 Paragraph 11(2)(c) of the Civic Government (Scotland) Act 1982.

3. To immediately suspend the licence in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, Paragraph 11(10).
4. To delegate authority to the Chief Solicitor to recall the suspension subject to the licence holder being certified by the council's Medical Examiners as being fit to drive in terms of the Standards set out in the DVLA publication entitled "Assessing Fitness to Drive – A Guide for Medical Professionals".

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 7

The Committee noted that the applicant was not in attendance and being satisfied that he had been properly cited agreed to consider the case in his absence in the interest of public safety.

The Clerk referred the Committee to the report.

Decision

1. To suspend the licence for the unexpired portion of the duration of the licence in terms of Schedule 1 Paragraph 11(2)(c) of the Civic Government (Scotland) Act 1982.
2. To immediately suspend the licence in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, Paragraph 11(10).
3. To delegate authority to the Chief Solicitor to recall the suspension subject to the licence holder being certified by the council's Medical Examiners as being fit to drive in terms of the Standards set out in the DVLA publication entitled "Assessing Fitness to Drive – A Guide for Medical Professionals".

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 9

The Committee noted that the applicant was not in attendance and that he had advised by email that he was unable to attend and had requested an adjournment to allow him an opportunity to be present.

Inspector Mailer confirmed he had no objection to the case being adjourned.

Decision

To adjourn to 16 January 2019 to allow the applicant an opportunity to be in attendance.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 10

The Committee noted that the applicant was not present and being satisfied that he had been properly cited agreed to consider the case in his absence as this was the second occasion he had failed to appear before the Committee in relation to his application.

Police Scotland was represented by Inspector Mailer.

The Clerk referred the Committee to the report by the Chief Solicitor advising that an objection had been submitted by Police Scotland.

The Committee heard Inspector Mailer speak in relation to the objection.

The Committee was given an opportunity to question Inspector Mailer.

Inspector Mailer was given an opportunity to sum up.

The Clerk provided the Committee with legal advice.

Inspector Mailer was given an opportunity to comment on the legal advice.

Following deliberations the Committee made its decision.

Decision

To refuse to grant the application for a private hire car driver's licence in terms of the Civic Government (Scotland) Act 1982 Schedule 1, Section 5(3)(a)(ii).