

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian COUNCIL held within COUNCIL CHAMBERS, WEST Lothian CIVIC CENTRE, on 16 MAY 2018.

Present – Councillors Peter Heggie (Chair), George Paul, Harry Cartmill, Chris Horne, Dom McGuire

Councillor Horne previously advised he would not be in attendance for the first item of business.

1. DECLARATIONS OF INTEREST

Councillor Peter Heggie declared an interest in Agenda Item 6 in that he was a council appointed member of Disability West Lothian and West Lothian Access Group but did not see this as a reason not to take part in the consideration and decision of this item of business.

Councillor Harry Cartmill declared an interest in Agenda Item 6 in that he did know the representative from West Lothian Access group but did not see this as a reason not to take part in the consideration and decision of this item of business.

2. MINUTES

- a) The committee confirmed the Minute held on 21 March 2018 as a correct record. The Minute was thereafter signed by the Chair.
- b) The Committee confirmed the Minute of its meeting held on 18 April 2018 as a correct record. The Minute was thereafter signed by the Chair.

3. 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.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - TAXI VEHICLE LICENCE - ITEM 6

Introductions were made by all parties.

The licence holder was in attendance and represented by his solicitor Mr Sandeman.

Also in attendance was Mr Robert Grieve, Taxi Examination Centre, Maggie Archibald, the council's HR advisor – Equality and Diversity and Mr Gordon Mungall, West Lothian Access Committee.

The application had previously called at a preliminary hearing on 21 March 2018

The Chair explained that the procedure that would be followed would deal with the case in three stages as undernoted:-

Stage 1 - Discrimination

Stage 2 – Reasonable Adjustments

Stage 3 - Conditions

Stage 1 - Discrimination

The committee heard Mr Sandeman speak in relation to the report and that his client had been discriminated against by the terms of the council's policy on suitable taxi vehicles

The committee had an opportunity to question Mr Sandeman.

There then followed a short adjournment to allow the committee to deliberate in private.

Following private deliberations all parties returned.

The Clerk explained that she had provided the committee with legal advice on the powers of the committee and the Equality Act 2010.

Mr Sandeman had no comments to make on the legal advice provided.

The committee then made its decision.

Stage 1 - Decision

The committee agreed that the licence holder had been discriminated against by the terms of the council's policy on suitable taxi vehicles.

Stage 2 – Reasonable Adjustment

The committee then heard Mr Sandeman speak in relation to what he would consider to be reasonable adjustment for his client. Mr Sandeman advised that the best option for his client would be to have his current vehicle licensed as a taxi. He also advised that three other vehicles were considered suitable for his client details of which had been presented to the committee.

The committee then asked questions of Mr Sandeman.

The committee then asked questions of Ms Archibald and Mr Mungall to ascertain their views on what they would consider a suitable vehicle to be

licensed as a taxi in terms of disability access and equality.

There then followed a short adjournment to allow the committee to deliberate in private.

Following private deliberations all parties returned.

The Clerk advised that she had not provided the committee with any additional legal advice.

Stage 2 - Decision

The Committee noted that there was medical evidence that the applicant could access certain types of accessible taxi. In these circumstances the committee decided that to preserve the council's 100% accessible taxi policy, and in taking this into account agreed that reasonable adjustment would be to allow the applicant to licence one of the three alternative vehicles namely the Ford Journey, the Volkswagon Kudos or the Peugeot Premier as a taxi.

Stage 3 – Conditions

The committee heard Mr Sandeman speak in relation to the conditions that could be applied to which ever-vehicle was chosen to be licensed.

The Clerk advised that specific conditions would be required to be applied or disapplied in relation to an alternative vehicle.

Mr Grieve suggested that the chosen vehicle be made available to the Taxi Examination Centre to examine in order to ascertain what conditions would be required.

The Clerk advised that it would be beneficial to adjourn to allow Mr Grieve an opportunity to examine the chosen vehicle following which the committee could decide which conditions should be applied or disapplied.

Stage 3 - Decision

To adjourn to 13 June 2018 to allow the Taxi Examination Centre an opportunity to examine the chosen vehicle prior to the committee setting conditions.

In summary the decision of the committee was as follows:-

Decision

1. The committee found that the licence holder had been discriminated against in terms of the council's policy on suitable taxi vehicles.
2. The committee agreed that a reasonable adjustment should be made in the form of allowing the licence holder to choose one of the three alternative vehicles proposed to be licensed as a taxi vehicle.

3. To adjourn to 13 June 2018 to allow the Taxi Examination Centre an opportunity to examine the chosen alternative vehicle. Following which the committee would make its decision on what conditions were to be applied or disapplied.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - TAXI DRIVER'S LICENCE - ITEM 7

The Clerk advised the committee that the licence holder had advised his solicitor that he would not be attending the hearing and he intended to give up his licence.

Police Scotland was represented by Inspector Euan Smith.

The committee considered whether to continue with the case in the absence of the licence holder. The committee asked Inspector Smith for Police Scotland's position in relation to an adjournment.

Inspector Smith advised that Police Scotland considered the matter to be of a serious nature and was not in favour of an adjournment.

Motion

To adjourn the hearing.

- Moved by Councillor Dom McGuire and seconded by Councillor George Paul

Amendment

To proceed with the hearing in the absence of the licence holder.

- Moved by Councillor Chris Horne and seconded by Councillor Peter Heggie

Decision

On a vote taken the amendment was successful by 3 votes to 2 and agreed accordingly.

Consideration of Case

The Committee heard Police Scotland speak in relation to the report and Police Scotland's request to suspend the licence.

The committee had an opportunity to question Inspector Smith.

The Clerk provided the committee with legal advice on corroboration.

Inspector Smith had no comments to make on the legal advice provided.

Inspector Smith was given an opportunity to sum up, before leaving the room to allow the committee to deliberate in private.

Following private deliberations Inspector Smith returned.

The Clerk advised that she had provided legal advice to the committee regarding its powers to immediately suspend a licence.

Inspector Smith had no comment to make on the legal advice provided.

Decision

1. To suspend the licence for the unexpired portion in terms of Schedule 1 Paragraph 11 (2)(c) of the Civic Government (Scotland) Act 1982; and
2. To immediately suspend the licence in terms of Schedule 1 of the Civic Government (Scotland) Act 1982, Paragraph 11(10) for the unexpired portion.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - WINDOW CLEANER'S LICENCE - ITEM 8

The applicant was in attendance at the meeting and unrepresented. The applicant confirmed he was content to proceed without representation.

Police Scotland was represented by Inspector Ian Williamson.

Introductions were made by all parties.

The applicant confirmed he had did not dispute the contents of the report.

The Clerk advised that there was a preliminary matter that was required to be dealt with before proceeding with the case. It was advised that Police Scotland had submitted two late letters dated 10 January 2018 and 22 February 2018 providing information that had not been presented at the time of submitting the objection.

Preliminary Matter

In relation to the late submissions Inspector Williamson requested that the committee allow the information that was contained in the late letters to be circulated and considered.

The applicant was given an opportunity to comment on whether he objected to the late letters being distributed.

At this stage the applicant was unsure of the process that was taking place.

The applicant was asked if he wished to reconsider and have the case adjourned to allow him an opportunity to obtain representation to assist him.

The applicant agreed to this course of action.

Inspector Williamson had no objection to this course of action.

Decision

To adjourn to 13 June 2018 to allow the applicant an opportunity to obtain representation.

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

The committee noted that the Licence Holder was not in attendance and having been satisfied that he had been properly cited agreed to consider the case in his absence.

The Clerk referred the committee to the report and the request for immediate suspension in terms of public safety.

The committee deliberated before making its decision.

Decision

1. To suspend the licence for the unexpired portion 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) for the unexpired portion.
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 10

The committee noted that the Licence Holder was not in attendance. The Clerk advised that all efforts to contact the licence holder had failed. Police Scotland advised the Clerk that the licence holder was no longer at the address supplied.

The committee agreed to consider the case in the licence holder's absence

The Clerk referred the committee to the report and the request for immediate suspension in terms of public safety.

The committee deliberated the case before making its decision.

Decision

1. To suspend the licence for the unexpired portion 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) for the unexpired portion.
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.