

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian Council held within Council Chambers, West Lothian Civic Centre, Livingston, on 19 November 2014.

Present – Councillors Tony Boyle (Chair), George Paul, Tom Conn, Dave King, Anne McMillan, John Muir

Apologies – Councillor Martyn Day

1. DECLARATIONS OF INTEREST

Councillor Dave King declared a non-financial interest in agenda item 7 as he was acquainted with the operator who would employ the applicant should a licence be granted.

2. MINUTE

The committee confirmed the Minute of its meeting held on 31 October 2014 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 Schedule 7A of the Act.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – SKIN PIERCING AND TATTOOING LICENCE – CASE A

The committee noted that the applicant was not present but was represented by his Solicitor. It was also noted that the applicant's wife was in attendance.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an objection had been submitted by Police Scotland.

The report recommended that the committee determine the application in light of the objection by Police Scotland.

The report advised that in terms of the Civic Government (Scotland) Act 1982, paragraph 3(1)(e) an objection should be lodged within 28 days of the date the application was made.

The report further advised that paragraph 3(2) gave the committee the discretion to consider the objection if it was satisfied that there were

sufficient reasons as to why it was out with the 28 day period. As the current objection was out with the 28 day period allowed for lodging an objection the committee requested an explanation from Police Scotland.

As the current objection was out with the 28 day period allowed for lodging an objection the committee requested an explanation from Police Scotland.

The committee noted that the applicant's Solicitor objected to the late objection being considered, however the committee accepted the reasons given for the late submission of the objection and exercised its discretion to hear the objection in relation to a pending court case.

The committee heard the council's Solicitor speak in relation to the report and Police Objection.

The applicant's Solicitor advised that his client was disputing the facts of the pending case.

Following a lengthy discussion on how to take this case forward it was agreed to adjourn to a date yet to be set to allow the council's Solicitor to consider all options and to liaise with the applicant's Solicitor.

Decision

To adjourn to a future date yet to be set to allow the council's Solicitor to consider all options and to liaise with the applicant's Solicitor.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – CASE C

The committee noted that the applicant was not present and being satisfied that she had been properly cited agreed to consider the case in her absence.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that Police Scotland had submitted a representation.

The report recommended that the committee determine the application in light of the representation received.

The committee heard the Council's Solicitor and Police Scotland speak in relation to the report. Police Scotland advised that the reasons for the initial representative were no longer applicable.

The committee then questioned the Council's Solicitor and Police Scotland.

Finally, the council's Solicitor summed up before the committee deliberated the merits of the case.

Decision

To grant the application for a private hire car driver's licence.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – CASE D

The committee considered a report (copies of which had been circulated) by the Chief Solicitor advising that Police Scotland had submitted an objection to the application.

The report recommended that the committee refuse the application in light of the objection from Police Scotland.

Following questions from the committee the applicant indicated that he would require an interpreter.

Decision

To adjourn to 17 December 2014 for an interpreter to be in attendance to assist the applicant.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – CASE E

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that an objection to the application had been submitted by Police Scotland.

The report recommended that the committee determine the application in light of the objection received from Police Scotland.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The applicant was given an opportunity to question the council's Solicitor and Police Scotland.

The committee had an opportunity to question the council's Solicitor and Police Scotland.

The committee heard the applicant speak in relation to the report.

The council's Solicitor and Police Scotland were given the opportunity to question the applicant.

The committee had an opportunity to question the applicant.

Finally, each side summed up before the committee deliberated the merits of the case.

Decision

To refuse to grant the application for a private hire car driver's licence in

terms of the Civic Government (Scotland) Act 1982, paragraph 5(3)(a) as it was of the opinion that the applicant was not a fit and proper person to hold such a licence due to the nature of his previous convictions and failure to declare them.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – CASE B

The committee noted that the applicant had appeared at the Civic Centre but had not waited until his case called. It was also noted that a voice message was left on the applicant's mobile phone advising that the case would be taken at the end of the meeting and had requested him to return to the Civic Centre.

The committee noted that the applicant had not returned to the Civic Centre as requested and therefore agreed to hear the case in his absence as this was the third time the case had called.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor advising that Police Scotland had submitted an objection to the application.

The report recommended that the committee refuse to grant the application in light of the objection by Police Scotland.

The report advised that in terms of the Civic Government (Scotland) Act 1982, paragraph 3(1)(e) an objection should be lodged within 28 days of the date the application was made.

The report further advised that paragraph 3(2) gave the committee the discretion to consider the objection if it was satisfied that there were sufficient reasons as to why it was out with the 28 day period. As the current objection was out with the 28 day period allowed for lodging an objection the committee requested an explanation from Police Scotland.

As the current objection was out with the 28 day period allowed for lodging an objection the committee requested an explanation from Police Scotland.

The committee accepted the reasons given for the late submission of the objection and exercised its discretion to hear the objection.

The committee heard the council's Solicitor and Police Scotland speak in relation to the report.

The committee had an opportunity to question the council's Solicitor and Police Scotland.

Finally, the council's Solicitor summed up before the committee deliberated the merits of the case.

Decision

To refuse to grant the application for a private hire car driver's licence in terms of the Civic Government (Scotland) Act 1982, paragraph 5(3)(a) as it was of the opinion that the applicant was not a fit and proper person to hold such a licence due to the applicant having been issued with an Alternative to Prosecution which was similar in nature to his previous convictions.