

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 13 FEBRUARY 2019.

Present – Councillors Peter Heggie (Chair), George Paul, Harry Cartmill, David Dodds, Chris Horne

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The Committee confirmed the Minute of its meeting held on 16 January 2019 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 - PRIVATE HIRE CAR DRIVER'S LICENCE -ITEM 6

Introductions were made by all parties. The Chair explained the procedure that would be followed.

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

Police Scotland was represented by Inspector Kevin Smith.

The applicant confirmed he had no dispute with the contents of the report and letter of objections by Police Scotland and provided the Committee with additional information.

Police Scotland confirmed the additional information was accurate.

The Clerk referred the Committee to the report and the additional information provided by the applicant.

The Committee heard Inspector Smith speak in relation to the objection by Police Scotland.

The applicant was given an opportunity to question Inspector Smith.

The Committee had an opportunity to question Inspector Smith.

The Committee heard the applicant speak in support of his application.

Inspector Smith was given an opportunity to question the applicant.

The Committee had an opportunity to question the applicant.

Finally, both parties were given an opportunity to sum up.

The Clerk provided the Committee with legal advice. Both parties were given an opportunity to comment on the legal advice before leaving the room to allow the Committee to deliberate in private.

Following private deliberations both parties returned. The Clerk advised that he had not provided any further legal advice to the Committee in the private session. The Committee then made its decision.

Decision

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

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

Introductions were made by all parties. The Chair explained the procedure that would be followed.

The applicant was in attendance at the meeting and was unrepresented.

Police Scotland was represented by Inspector Kevin Smith.

The applicant advised that he disputed the contents of Police Scotland's objection and provided the Committee with additional information.

Following the additional information being circulated to all parties Inspector Smith requested an adjournment to carry out further investigations.

The applicant confirmed he had no objection to the case being adjourned.

Decision

To adjourn to 24 April to allow Police Scotland an opportunity to carry out further investigations.

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

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".

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - WINDOW CLEANER'S LICENCE - ITEM 10

Introductions were made by all parties. The Chair explained the procedure that would be followed.

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

Police Scotland was represented by PC Tom White

The applicant confirmed he had no dispute with the contents of the report and the information provided in Police Scotland's letter of objection and provided the Committee with additional documents which were circulated to all parties.

The Clerk referred the Committee to the report.

The Committee heard PC White speak in relation to the objection by Police Scotland.

The applicant was given an opportunity to question PC White.

The Committee had an opportunity to question PC White.

The Committee heard the applicant speak in support of his application.

Inspector Smith was given an opportunity to question the applicant.

The Committee had an opportunity to question the applicant.

Finally, both parties were given an opportunity to sum up.

The Clerk provided the Committee with legal advice. Both parties were given an opportunity to comment on the legal advice before leaving the

room to allow the Committee to deliberate in private.

Following private deliberations both parties returned. The Clerk advised that he had not provided any further legal advice to the Committee in the private session. The Committee then made its decision.

Decision

To refuse to grant the application for a Window Cleaner's Licence in terms of the Civic Government (Scotland) Act 1982 Schedule 1, Section 5(3)(a)(ii) as it was the opinion of the Committee that the applicant was not a fit and proper person to hold such a licence.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - ITINERANT METAL DEALER'S LICENCE - ITEM 9

Councillor Cartmill had left the meeting prior to consideration of this item of business.

Introductions were made by all parties. The Chair explained the procedure that would be followed.

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

Police Scotland was represented by PC Tom White.

Preliminary Matter – Late Submission of Police Scotland Letters

The report advised that in terms of the Civic Government (Scotland) Act 1982 paragraph 3(1)(e) an objection/representation should be lodged within 28 days of the date the application was made. The objection from Police Scotland was received outwith the 28 day period.

The report further advised that paragraphs 3(2) gave the committee the discretion to consider a late objection/representation if it was satisfied that there was sufficient reasons as to why it was outwith the 28 day period.

In relation to the late submission PC White provided an explanation and requested that the committee allow the late objection that was contained in the two late letters from Police Scotland. PC White requested that the later letter from Police Scotland be substituted for the earlier letter.

The applicant confirmed he had no objection to the late letters being circulated and considered.

Decision

The Committee exercised its discretion to admit the late objection.

Consideration of Application

The Clerk referred the Committee to the report.

The applicant advised that he disputed one of the convictions stated in Police Scotland's objection and part of the wording surrounding one of the other convictions.

PC White agreed to remove the disputed wording and provided some information regarding the nature of the conviction that was disputed.

The applicant confirmed he was content to continue on the basis of the removal of the disputed wording and was content to withdraw his challenge to the disputed conviction in light of the information provided by Police Scotland.

The Committee heard PC White speak in relation to the objection by Police Scotland.

The applicant was given an opportunity to question PC White.

The Committee had an opportunity to question PC White.

The Committee heard the applicant speak in support of his application.

Inspector Smith was given an opportunity to question the applicant.

The Committee had an opportunity to question the applicant.

Finally, both parties were given an opportunity to sum up.

The Clerk provided the Committee with legal advice. Both parties were given an opportunity to comment on the legal advice before leaving the room to allow the Committee to deliberate in private.

Following private deliberations both parties returned. The Clerk advised that he had not provided any further legal advice to the Committee in the private session. The Committee then made its decision.

Decision

To refuse to grant the application for an Itinerant Metal Dealer's Licence in terms of the Civic Government (Scotland) Act 1982 Schedule 1, Section 5(3)(a)(ii) as it was the opinion of the Committee that the applicant was not a fit and proper person to hold such a licence.

9. NOTE ACTION TAKEN IN TERMS OF STANDING ORDER 31 (URGENT BUSINESS) - ITEM 11

The Committee noted the action taken on 10 January to suspend a private hire car driver's licence.