

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 22 MAY 2019.

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

Apologies – Councillor Harry Cartmill

1. DECLARATIONS OF INTEREST

Councillor Chris Horne declared an interest in agenda item 8 in that he had business dealings with Alere Toxicology however, as it was a different branch of Alere, he felt it did not require him to excuse himself from taking part in the consideration of this item of business

2. MINUTE

The Committee confirmed the Minute of its meeting held on 24 April 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

The applicant was in attendance and unrepresented.

The applicant advised he wished to proceed unrepresented.

Also in attendance was Inspector Euan Smith, Police Scotland

Introductions were made by all parties.

The Clerk referred the committee to the report.

The applicant confirmed he had no dispute with the report or the letter of objection submitted by Police Scotland.

The Chair explained the procedure that would be followed.

The committee heard Inspector Smith speak in relation to the report and 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, all parties were given an opportunity to sum up before leaving the room to allow the committee to deliberate in private.

Following private deliberations all parties returned. The committee then made its decision.

Decision

To grant the application with a warning with regard to future conduct and compliance with private hire car driver's licence conditions.

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

The applicant was in attendance and unrepresented.

The applicant advised he wished to proceed unrepresented.

Also in attendance was Inspector Euan Smith, Police Scotland

Introductions were made by all parties.

The Clerk referred the committee to the report.

The applicant confirmed he had no dispute with the report or the letter of objection submitted by Police Scotland.

The Chair explained the procedure that would be followed.

The committee heard Inspector Smith speak in relation to the report and 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, all parties were given an opportunity to sum up before leaving the

room to allow the committee to deliberate in private.

Following private deliberations all parties returned. The committee then made its decision.

Decision

To grant the application with a warning with regard to future conduct and compliance with private hire car driver's licence conditions.

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

The licence holder was not present, however he was represented by his solicitor Mr Sandeman.

The Clerk referred the Committee to the report. He advised that Mr Sandeman had contacted the Licensing Team prior to the meeting and intimated that he would be seeking a continuation.

The Clerk advised that the Committee was required to reach a decision with regard to the continuation and whether or not to suspend the licence.

The Committee heard Mr Sandeman speak with regard to the contents of the report and the perceived difficulties and inaccuracies with regard to this case. The Committee also heard Mr Sandeman speak with regard to his request for a continuation.

Mr Sandeman further submitted that there was no information before the Committee that would allow it to suspend his client's licence in terms of Paragraph 11 Schedule 1 of the Civic Government (Scotland) Act 1982.

The Clerk advised that this was a medical issue and that the licence holder was not in possession of a certificate of fitness to drive. He therefore provided the Committee with legal advice in relation to the requirement for licence holder's to be certified by the Council's Medical Examiners as being fit to drive in terms DVLA Group 2 standards.

Decision

1. To adjourn the case to 19 June 2019 to allow a further medical assessment by the Council's medical advisers to take place
2. To suspend the licence until 19 June 2019 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 9

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 10

The Committee noted that the licence had expired and therefore consideration of this item of business was not required.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 11

Introductions were made by all parties.

The licence holder was in attendance and was unrepresented

The licence holder confirmed he was content to proceed without representation.

The licence holder confirmed he had no dispute with the contents of the report.

The Clerk referred the Committee to the report.

The Committee heard the licence holder speak in relation to the report.

The Committee had an opportunity to question the licence holder.

The Clerk provided the Committee with legal advice in relation to the

requirement for licence holder's to be certified by the Council's Medical Examiners as being fit to drive in terms DVLA Group 2 standards.

The licence holder made no comment on the advice provided to the Committee.

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".

10. NOTE ACTION TAKEN IN TERMS OF STANDING ORDER 31 (URGENT BUSINESS)

- a) The Committee noted the action taken on 23 April 2019 to immediately suspend Private Hire Car Driver's Licence
- b) The Committee noted the action taken on 30 April 2019 to immediately suspend Private Hire Car Driver's Licence
- c) The Committee noted the action taken on 1 May 2019 to immediately suspend Private Hire Car Driver's Licence