

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 19 JUNE 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 22 May 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 - LATE HOURS CATERING LICENCE – ITEM 6

Introductions were made by all parties.

The applicant was represented by Jonathan Guy, Anderson Strathern and was accompanied by Mike Hall, Company Director and Raymond Easton, Business Manager.

Police Scotland was represented by PC Tom White.

Mr Guy confirmed he had no dispute with the report and did not have any additional supporting documents to submit.

The Clerk referred the Committee to the report.

The Committee heard PC White speak in relation to the report. PC White confirmed Police Scotland had no objection to the application.

The applicant had an opportunity to question PC White.

The Committee had an opportunity to question PC White.

The Committee heard Mr Guy speak in relation to the report and application.

PC White was given an opportunity to question Mr Guy.

The Committee had an opportunity to question Mr Guy

Finally, all parties were given an opportunity to sum up. The Clerk then provided legal advice to the committee. All parties were given an opportunity to comment on the legal advice before leaving the meeting 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 to vary the opening hours.

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

Introductions were made by all parties.

The applicant was in attendance at the meeting.

Police Scotland was represented by Inspector Euan Smith.

The applicant confirmed he had no dispute with the report or letter of objection submitted by Police Scotland. The applicant also confirmed he had no other supporting documents to submit.

The Clerk referred the Committee to the report.

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.

Both parties were given an opportunity to sum up before leaving the room to allow the Committee to deliberate in private.

During Inspector Smith's summing up he advised that Police Scotland was withdrawing its objection to the application being granted.

Decision

In view of the objection being withdrawn by Inspector Smith the

Committee agreed to grant the application for a Private Hire Car Driver's Licence.

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 she had been properly cited agreed to consider the case in her 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 - PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 9

The Committee noted that the immediate suspension had been recalled as the council's Medical Examiners had certified the licence holder as being fit to drive in terms of DVLA Group 2 conditions.

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

9. The Committee noted the action taken on 16 May 2019 to immediately suspend a Private Hire Car Driver's Licence.

The Committee noted the action taken on 16 May to immediately suspend a Private Hire Car Driver's Licence.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 13

Introductions were made by all parties.

The licence holder was represented by Mr Dickson, Sandeman's Solicitors. The licence holder was in attendance and accompanied by his partner.

The Clerk referred the Committee to the report advising that this case had called before the Committee on 22 May 2019, when the decision was to suspend until 19 June 2019, to await the outcome of a medical examination by the Council's Medical Advisors.

The Clerk advised that Optima, the council's medical advisors, had a policy in place that required the licence holder to submit to a review process before attending a further medical examination. The Clerk further advised that the licence holder had refused to adhere to Optima's policy and therefore, Optima were not in a position to certify the licence holder as being fit to drive in terms of DVLA Group 2 Standards.

The Committee heard Mr Dickson speak in relation to the report and to the reasons his client would not take part in Optima's process.

It was agreed to table two documents submitted by Optima dated 14 May and 3 June 2019

The Committee had an opportunity to question Mr Dickson.

Audrey Watson, Licensing Team, Managing Solicitor, provided the Committee with background information with regard to Optima's policy and the history of the case.

Mr Dickson had no comment to make to the background information provided by Audrey Watson.

Finally, Mr Dickson was given an opportunity to sum up. The Clerk then provided legal advice to the committee. Mr Dickson was given an opportunity to comment on the legal advice before leaving the meeting to allow the Committee to deliberate in private.

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

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".

