

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 15 JANUARY 2020.

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

Apologies – Councillor Harry Cartmill

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. MINUTE

The Committee confirmed the Minute of its meeting held on 18 December 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 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 represented by his Solicitor Mr Sandeman.

Police Scotland was represented by Inspector Alan Struthers.

Introductions were made by all parties and the Chair explained the procedures that would be followed.

The case had called at a previous hearing when Mr Sandeman disputed parts of the contents of Appendix A of Police Scotland's objection. That hearing was adjourned to allow Police Scotland an opportunity to consider the disputed parts of the objection.

Police Scotland having considered the disputed parts of the objection submitted an amended version of Appendix A which was accepted by Mr Sandeman and circulated to the Committee.

The Committee heard Inspector Struthers speak in relation to the report and Police Scotland's objection to the application.

Mr Sandeman was given an opportunity to question Inspector Struthers.

The Committee had an opportunity to question Inspector Struthers.

The Committee heard Mr Sandeman speak in support of his client's application.

Police Scotland was given an opportunity to question Mr Sandeman.

The Committee had an opportunity to question Mr Sandeman.

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

The Clerk provided legal advice to the Committee.

Before leaving the room to allow the Committee to deliberate in private both parties were given an opportunity to comment on the legal advice provided.

Following private deliberations both parties returned. The Clerk explained that no further legal advice was provided during private deliberations.

Decision

To delegate authority to the Chief Solicitor to grant the application with a warning regarding the applicant's future conduct if the applicant was certified by the council's medical advisors as fit to drive in terms of DVLA Group 2 standards prior to 23 April 2020 or otherwise to refuse.

The Chair, Councillor Peter Heggie, having moved an alternative position which did not receive a seconder had his dissent to the decision recorded.

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

The licence holder was present and unrepresented. He confirmed he was content to proceed without representation.

Police Scotland was represented by Inspector Alan Struthers.

The licence holder confirmed he had no dispute with the contents of the report or Police Scotland's letter requesting a suspension or revocation of his private hire car driver's licence.

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

The Committee heard Inspector Struthers speak in relation to the request to revoke or suspend the private hire car driver's licence.

The licence holder was given an opportunity to question Inspector Struthers.

The Committee had an opportunity to question Inspector Struthers.

The Committee heard the licence holder speak in relation to the request by Police Scotland to revoke or suspend his licence.

Inspector Struthers was given an opportunity to question the licence holder.

The Committee had an opportunity to question the licence holder.

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

The Clerk provided the Committee with legal advice.

Before leaving the room to allow the Committee to deliberate in private both parties were given an opportunity to comment on the legal advice provided.

Following private deliberations both parties returned. The Clerk advised that he had not provided the Committee with any further legal advice during private deliberations.

Decision

To issue the licence holder with a warning with regard to future conduct.

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

The Committee noted that the applicant was not present.

The Clerk advised that the applicant had intimated by telephone that he wished to withdraw his application. He was asked to confirm in writing that he wished to withdraw his application.

At the time of the meeting written confirmation of withdrawal of the application had not been received.

Decision

To adjourn to 12 February 2020 to allow the applicant an opportunity to provide written confirmation that he wished to withdraw his application.

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

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

Police Scotland was represented by Inspector Alan Struthers.

Introductions were made by all parties.

Preliminary Matter – Late Submission of Police Scotland's Objection

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 the committee had the discretion to consider a late objection/representation if it was satisfied that there were sufficient reasons as to why it was made outwith the 28-day period.

In relation to the late submission Inspector Struthers provided an explanation and requested that the Committee allow the late objection to be considered.

Mr Sandeman submitted that the explanation provided by Inspector Struthers was not sufficient to allow the Committee to exercise its discretion and consider the late objection.

All parties then left the meeting to allow the Committee to deliberate in private.

Following private deliberations all parties returned and the Committee made its decision.

Decision

The Committee admitted the late objection.

Councillor Chris Horne having an alternative position did not receive a seconder and therefore had his dissent to the decision recorded.

Hearing

Before the late objection was circulated to the Committee, Mr Sandeman advised that he had a dispute with the contents of the objection and requested an adjournment to allow him an opportunity to enter into discussions with Police Scotland.

Inspector Struthers had no objection to an adjournment on these terms.

Decision

To adjourn to 12 February to allow both parties an opportunity to discuss the contents of the objection.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - PRIVATE HIRE CAR DRIVER'S LICENCE - ITEM 10

The applicant was present and unrepresented. He confirmed he was content to proceed without representation.

Police Scotland was represented by Inspector Alan Struthers.

Introductions were made by all parties.

The applicant stated that he disputed the contents of the objection by Police Scotland contained in Appendix A of the Police Scotland's objection.

Decision

To adjourn to 18 March 2020 to allow Inspector Struthers an opportunity to consider the disputed parts of the objection contained in Appendix A.

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

The Committee noted that the licence holder was not in attendance and being satisfied that he had been properly cited agreed to consider the case in his absence.

The Clerk advised that the licence holder had contacted the licensing team by email to advise that he would be unable to attend the hearing and requested an adjournment.

Decision

1. To adjourn to 18 March 2020.
2. To suspend the Private Hire Car Driver's Licence until 18 March 2020 in terms of 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).

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

The Committee noted that the licence holder was not in attendance and being satisfied he had been properly cited agreed to consider the case in his absence in the interest of public safety.

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 if the licence holder was certified by the council's medical advisors as fit to drive in terms of DVLA Group 2 standards.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - MARKET

OPERATOR'S LICENCE - ITEM 12

The Committee noted that the applicant was not in attendance at the meeting and being 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 application that had been submitted and advised that the applicant had not followed the mandatory statutory processes as detailed in the report.

The Clerk provided the Committee with legal advice in line with the contents of the report.

The Committee asked the Clerk a number of questions in relation to the report.

Decision

To determine that the application for the renewal of a market operator's licence was incompetent.

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

- a) To note the action taken on 5 December 2019 to suspend a private hire car driver's licence.
- b) To note the action taken on 24 December 2019 to suspend a private hire car driver's licence.