

POLICY AND RESOURCES COMMITTEE

LICENSING SUB-COMMITTEE

GORDON HOUSE, INVERURIE, 17 APRIL, 2015

- Present:** Councillors R Cowling (Chair), E H Chapman (for Items 4(b) and 5(a), (f), (g), (i), (j) and (k) only), A Hendry, F C P Hood, S W Pratt (for Items 4(b) and 5(a), (f), (g), (i), (j) and (k) only), W A C Shand and I S Tait (for Items 4(b) and 5(a), (f), (g), (i), (j) and (k) only).
- Apologies:** Councillor A Evison.
- Officers:** M Ingram, Senior Solicitor; A Nicol, Principal Committee Officer; and R MacQueen, Clerical Assistant.
- In attendance:** Sergeant Gavin Jardine, Police Scotland.

1. DECLARATION OF MEMBERS' INTERESTS

The Chair asked members if they had any interests to declare in terms of the Councillors' Code of Conduct. Councillor Shand declared an interest in Item 4(c) as he knew the applicant and stated that he would leave the Chamber during discussion of that item.

2. RESOLUTIONS

A PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) to have due regard to the need to:-
 - (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it, and
- (2) to consider, where an equality impact assessment has been provided, its contents and to take those into consideration when reaching a decision.

B. EXEMPT INFORMATION

The Committee **agreed**, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Item 4(a) below so as to avoid disclosure of exempt information of the class described in paragraph 6 of Part 1 of Schedule 7A of the Act.

3. MINUTE OF MEETING OF 13 FEBRUARY, 2015

There had been circulated and was **noted** the Minute of Meeting of the Sub-Committee of 13 February, 2015.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATIONS FOR DETERMINATION DEFERRED FROM PREVIOUS MEETING

(a) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 746)

With reference to the Minute of Meeting of 13 February, 2015 (Item 4(c)), there had been circulated a report dated 25 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed** unanimously that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

(b) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 748)

With reference to the Minute of Meeting of 13 February, 2015 (Item 4(e)), there had been circulated a confidential report by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the licence be granted for a period of two years.

(c) APPLICATION FOR A PRIVATE HIRE CAR DRIVER'S LICENCE (CASE NO. 753)

With reference to the Minute of Meeting of 13 February, 2015 (Item 4(j)), there had been circulated a confidential report dated 9 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a private hire car driver's licence, in respect of which the Chief Constable had made representations, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed** unanimously that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATIONS FOR DETERMINATION

(a) APPLICATION FOR RENEWAL OF A TAXI DRIVER'S LICENCE (CASE NO. 755)

There had been circulated a confidential report dated 27 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the renewal of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

Having heard from the applicant's representative and the representative of the Chief Constable, Councillor Hendry, seconded by Councillor Chapman, moved that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

As an amendment, Councillor Pratt, seconded by Councillor Shand, moved that the licence be granted for a period of one year.

The members of the Sub-Committee voted:-

for the motion (3) Councillors Chapman, Hendry and Hood.

for the amendment (4) Councillors Cowling, Pratt, Shand and Tait.

The **amendment was carried** and the Sub-Committee **agreed** that the licence be granted for a period of one year.

(b) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 756)

There had been circulated a confidential report dated 2 April, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee **agreed** that consideration of the application be deferred to the next meeting of the Sub-Committee to allow the applicant an opportunity to attend.

(c) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 757)

There had been circulated a confidential report dated 9 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee **agreed** that consideration of the application be deferred to the next meeting of the Sub-Committee to allow the applicant an opportunity to attend.

(d) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 758)

There had been circulated a confidential report dated 2 April, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed** unanimously that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

(e) APPLICATION FOR A TAXI LICENCE (CASE NO. 759)

There had been circulated a confidential report dated 2 April, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed** unanimously that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

(f) APPLICATION FOR RENEWAL OF A TAXI DRIVER'S LICENCE (CASE NO. 760)

There had been circulated a confidential report dated 25 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the

renewal of a taxi driver's licence, in respect of which the Chief Constable had made a representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, Councillor Hood, seconded by Councillor Hendry, moved that the licence be granted for a period of one year.

As an amendment, Councillor Chapman, seconded by Councillor Pratt, moved that the licence be granted for a period of three years.

The members of the Sub-Committee voted:-

for the motion (3) Councillors Hendry, Hood and Tait.

for the amendment (4) Councillors Chapman, Cowling, Pratt and Shand.

The **amendment was carried** and the Sub-Committee **agreed** that the licence be granted for a period of three years.

(g) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 761)

There had been circulated a confidential report dated 30 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** by a majority that the licence be granted for a period of one year.

(h) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 762)

There had been circulated a confidential report dated 30 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee **agreed** that consideration of the application be deferred to the next meeting of the Sub-Committee to allow the applicant an opportunity to attend.

(i) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 763)

There had been circulated a confidential report dated 27 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the licence be granted for a period of one year.

(j) APPLICATION FOR A TAXI DRIVER'S LICENCE (CASE NO. 764)

There had been circulated a confidential report dated 30 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** by a majority that the licence be granted for a period of one year.

(k) APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE (CASE NO. 765)

There had been circulated a confidential report dated 25 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to an application for the grant of a private hire driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the licence be granted for a period of three years.

The Sub-Committee unanimously **agreed** to suspend Standing Order 20(8)(c) in order to allow the meeting to continue beyond 12.45 pm.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - CASES FOR DETERMINATION

**(a) CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE
(CASE NO. 766)**

There had been circulated a confidential report dated 31 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to written representations by the Chief Constable against the holder of a taxi driver's licence, and (2) detailed other information relevant to the request.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed**:-

- (1) unanimously, that the licence holder had not breached a condition of the licence,
- (2) unanimously, that the actions of the licence holder had caused nuisance and presented a threat to public safety,
- (3) unanimously, that the licence holder was no longer a fit and proper person to be the holder of a taxi driver's licence,
- (4) unanimously, that the taxi driver's licence be suspended,
- (5) unanimously, that the period of suspension be the unexpired portion of the duration of the licence, and
- (6) unanimously, that the circumstances of the case justified the immediate suspension of the licence.

**(b) CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE
(CASE NO. 767)**

There had been circulated a confidential report dated 25 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to a written representation by the Chief Constable against the holder of a taxi driver's licence, and (2) detailed other information relevant to the request.

Having been advised that the Chief Constable had withdrawn his complaint against the applicant, the Sub-Committee **agreed** to take no action.

**(c) CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE
(CASE NO. 768)**

There had been circulated a confidential report dated 2 April, 2015, by the Director of Business Services, which (1) requested that consideration be given to a written representation by the Chief Constable against the holder of a taxi driver's licence, and (2) detailed other information relevant to the request.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed:-**

- (1) unanimously, that the licence holder had not breached a condition of the licence,
- (2) unanimously, that the actions of the licence holder had caused nuisance and presented a threat to public safety,
- (3) unanimously, that the licence holder was no longer a fit and proper person to be the holder of a taxi driver's licence,
- (4) unanimously, that the taxi driver's licence be suspended,
- (5) unanimously, that the period of suspension be the unexpired portion of the duration of the licence, and
- (6) unanimously, that the circumstances of the case justified the immediate suspension of the licence.

**(d) CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE
(CASE NO. 769)**

There had been circulated a confidential report dated 30 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to a written representation by the Chief Constable against the holder of a taxi driver's licence, and (2) detailed other information relevant to the request.

Having heard from the applicant and the representative of the Chief Constable, the Sub-Committee **agreed:-**

- (1) unanimously, that the licence holder had not breached a condition of the licence,
- (2) unanimously, that the actions of the licence holder had not caused a threat to public order or safety, and
- (3) unanimously, that the licence holder remained a fit and proper person to be the holder of a taxi driver's licence.

**(e) CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE
(CASE NO. 770)**

There had been circulated a confidential report dated 25 March, 2015, by the Director of Business Services, which (1) requested that consideration be given to a written representation by the Chief Constable against the holder of a taxi driver's licence, and (2) detailed other information relevant to the request.

In the absence of the applicant, the Sub-Committee heard only from the representative of the Chief Constable and **agreed**:-

- (1) unanimously, that the licence holder had not breached a condition of the licence,
- (2) unanimously, that the actions of the licence holder had caused nuisance and presented a threat to public safety,
- (3) unanimously, that the licence holder was no longer a fit and proper person to be the holder of a taxi driver's licence,
- (4) unanimously, that the taxi driver's licence be suspended,
- (5) unanimously, that the period of suspension be the unexpired portion of the duration of the licence, and
- (6) unanimously, that the circumstances of the case justified the immediate suspension of the licence.

Thereafter, reference was made to the decision of the Sub-Committee on 22 August, 2014 (Item 4, Page 1085 refers) to write to the Area Procurator Fiscal to raise concerns about cases not proceeded with by the Procurator Fiscal and to request the provision of the guidelines used by the Procurator Fiscal to determine whether to proceed with a case.

The Sub-Committee **agreed** to request officers to provide an update on whether a reply had been received from the Area Procurator Fiscal.

7. PROPOSED CHANGE TO GUIDANCE BOOKLET FOR LICENSING OF TAXIS AND PRIVATE HIRE CARS

There had been circulated a report dated 8 April, 2015, by the Director of Business Services referring to the Council's guidance booklet on licensing of taxis and private hire cars to provide information for applicants and operators of taxis and private hire cars and proposing that the booklet be updated to allow for the potential inclusion of licensing vehicles being powered by means other than petrol or diesel fuel such as electricity. The report stated that if members were minded to support the inclusion of electrical vehicles, the reference to engine capacity in the guidance booklet would require to be updated. Officers would investigate suitable alternative methods of evaluating a vehicle's performance capabilities and revert to the Sub-Committee with detailed recommendations in due course.

During discussion, some concern was expressed that electric car technology was not sufficiently far advanced for the range of a car powered solely by electricity to be compatible with the capacity and reliability of a petrol or diesel fuelled vehicle and that it would be preferable to require the use of dual-fuel vehicles.

Thereafter, the Sub-Committee:-

- (1) **agreed** in principle to licence taxis and private hire cars powered by dual-fuel means including electricity, and
- (2) **instructed** officers to investigate any appropriate technical considerations and to engage in any necessary consultation and thereafter report back to the Sub-Committee with an updated guidance booklet for approval.

