

POLICY AND RESOURCES COMMITTEE

LICENSING SUB-COMMITTEE

COUNCIL CHAMBER, GORDON HOUSE, INVERURIE, 15 APRIL 2016

- Present:** Councillors R Cowling (Chair), E H Chapman, A Hendry, F C P Hood, S W Pratt, W A C Shand and I S Tait
- Officers:** Senior Solicitor (Fiona Stewart) and Area Committee Officer (Alison Cumming)
- In Attendance:** Sergeant Gavin Jardine (Police Scotland).
- Apologies** Councillors A Evison, A S Grant (ex officio) and H W Vernal (ex officio)

At the commencement of the meeting the Chair was not in attendance.

Councillor Shand, seconded by Councillor Hood, moved that Councillor Pratt be the pro tem Chair.

As an amendment, Councillor Tait, seconded by Councillor Chapman, moved that Councillor Hendry be the pro tem Chair.

The Sub-Committee voted:-

- For the motion (4) Councillors Hendry, Hood, Pratt and Shand
- For the amendment (2) Councillors Chapman and Tait

Therefore the motion was carried and Councillor Pratt took the Chair. He moved a motion to adjourn the meeting, which was carried by a majority on a show of hands. The substantive Chair arrived and Councillor Pratt relinquished the position of pro tem Chair.

1. DECLARATION OF MEMBERS' INTERESTS

In terms of the Councillors' Code of Conduct Councillor Hendry declared an interest with respect of item 4a as he had intimated a view on the application at the meeting of 12 February 2016. Councillor Hendry left the Council Chamber whilst the application was determined.

2A. PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted items of business, the Sub-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 of 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.

3. MINUTES OF MEETING

The Sub-Committee **agreed** to note the Minutes of Meeting of the Sub-Committee of 12 February, 2016.

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - Applications for determination previously deferred by the Sub-Committee

(a) Application for a Taxi Driver's Licence (Case No. 829)

As previously indicated Councillor Hendry declared an interest and left the Council Chamber whilst the application was determined.

A report by the Director of Business Services had been circulated requesting the Sub-Committee consider an application by Case No. 829 in terms of Civic Government (Scotland) Act 1982 for a Taxi Driver's Licence.

The Chief Constable had been consulted and had lodged a letter of objection dated 31 December 2015 in relation to the application.

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

(b) Application for a Private Hire Car Driver's Licence (Case No. 830)

A report by the Director of Business Services had been circulated requesting the Sub-Committee consider an application by Case No. 830 in terms of Civic Government (Scotland) Act 1982 for a Private Hire Car Driver's Licence.

The Chief Constable had been consulted and had lodged a letter of objection dated 28 December 2015 in relation to the application.

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

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – Applications for determination

a) Application for a Taxi Driver's Licence (Case No. 836)

A report by the Director of Business Services had been circulated requesting the Sub-Committee consider an application by Case No. 836 in terms of Civic Government (Scotland) Act 1982 for a Taxi Driver's Licence.

The Chief Constable had been consulted and had lodged a letter of representation dated 29 February 2016 in relation to the application.

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

b) Application for a Taxi Driver's Licence (Case No. 837)

A report by the Director of Business Services had been circulated requesting the Sub-Committee consider an application by Case No. 837 in terms of Civic Government (Scotland) Act 1982 for a Taxi Driver's Licence.

The Chief Constable had been consulted and had lodged a letter of representation dated 8 March 2016 in relation to the application.

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

**6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982
CONSIDERATION OF SUSPENSION OF A WINDOW CLEANER'S LICENCE
(Case No. 835)**

A report by the Director of Business services had been circulated requesting the Sub-Committee consider a request from the Chief Constable to suspend the window cleaner's licence for Case No. 835 in terms of Civic Government (Scotland) Act 1982.

The Chief Constable had been consulted and had lodged a letter dated 25 January 2016 citing reasons for the request for the suspension of the licence.

The Sub-Committee heard from the representative of the Chief Constable and the licence holder.

The committee **agreed** by a majority that the conditions of the licence held by Case No. 835 had not been breached by the applicant.

Councillor Shand, seconded by Councillor Hood, moved that the actions of the licence holder will not cause public nuisance or a threat to public order or safety.

As an amendment, Councillor Chapman, seconded by Councillor Hendry, moved that the actions of the licence holder will cause public nuisance and a threat to public safety.

The Sub-Committee voted:-

For the motion (4) Councillors Cowling, Hood, Pratt and Shand

For the amendment (3) Councillors Chapman, Hendry and Tait

Therefore the motion was carried and the Sub-Committee **agreed** that the actions of the licence holder would not cause public nuisance or a threat to public safety.

Councillor Shand, seconded by Councillor Pratt, moved that the licence holder remained a fit and proper person to hold a window cleaner's licence.

Councillor Hendry, seconded by Councillor Chapman, moved that the licence holder was no longer a fit and proper person to hold a window cleaner's licence.

The Sub-Committee voted:-

For the motion (3) Councillors Cowling, Pratt and Shand

For the amendment (4) Councillors Chapman, Hendry, Hood and Tait

Therefore the amendment was carried and the Sub-Committee **agreed** that the licence holder was no longer a fit and proper person to hold a window cleaner's licence

Councillor Chapman, seconded by Councillor Hendry, moved that the window cleaner's licence for Case No. 835 be suspended.

As an amendment, Councillor Shand, seconded by Councillor Pratt, moved not to suspend the window cleaner's licence for Case No. 835.

The Sub-Committee voted:-

For the motion (5) Councillors Cowling, Chapman, Hendry, Hood and Tait

For the amendment (2) Councillors Pratt and Shand

Therefore the motion was carried and the Sub-Committee **agreed** that the window cleaner's licence for Case No 835 be suspended.

The Sub-Committee unanimously **agreed** to suspend the window cleaner's licence for Case No 835 for a period of 3 months

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE (Case No. 838)

A report by the Director of Business services had been circulated requesting the Sub-Committee consider a request from the Chief Constable to suspend the window cleaner's licence for Case No. 838 in terms of Civic Government (Scotland) Act 1982.

The Chief Constable had been consulted and had lodged a letter dated 10 February 2016 citing reasons for the request for the suspension of the licence.

The Sub-Committee heard from the Senior Solicitor that e-mail correspondence had been received from the licence holder indicating that he was on holiday and requesting that consideration of the suspension of the licence be deferred until the next meeting of the Sub-Committee. The Senior Solicitor indicated that the complainant had not requested an immediate suspension.

The Sub-Committee heard from the representative of the Chief Constable regarding the appropriateness of deferring consideration of the complaint.

Councillor Pratt, seconded by Councillor Shand, moved that consideration of the complaint be deferred until the next meeting of the Sub-Committee.

As an amendment, Councillor Hood, seconded by Councillor Tait, moved that the Sub-Committee continue considering the complaint.

The Sub-Committee voted:-

For the motion (3) Councillors Cowling, Pratt and Shand

For the amendment (4) Councillors Chapman, Hendry, Hood and Tait

Therefore the amendment was carried and the Sub-Committee **agreed** to continue considering the complaint.

In the absence of the licence holder, the Sub-Committee heard only from the representative of the Chief Constable.

The Sub-Committee **agreed** unanimously:-

1. that the licence holder for Case No. 838 had not breached the conditions of the licence; and
2. that the actions of the licence holder for Case No. 838 had caused public nuisance and a threat to public safety.

Councillor Hood, seconded by Councillor Chapman, moved that the licence holder for Case No. 838 was no longer a fit and proper person to hold a taxi driver's licence.

As an amendment, Councillor Pratt, seconded by Councillor Shand, moved that the licence holder for Case No. 838 remained a fit and proper person to hold a taxi driver's licence.

The Sub-Committee voted:-

For the motion (4) Councillors Chapman, Hendry, Hood and Tait

For the amendment (3) Councillors Cowling, Pratt and Shand

Therefore the motion was carried and the Sub-Committee **agreed** that the licence holder for Case No. 838 was no longer a fit and proper person to hold a taxi driver's licence.

Councillor Hendry, seconded by Hood, moved that the taxi driver's licence held by Case No. 838 be suspended for its unexpired portion.

As an amendment, Councillor Pratt, seconded by Councillor Shand, moved not to suspend the taxi driver's licence held by Case No. 838.

The Sub-Committee voted:-

For the motion (4) Councillors Chapman, Hendry, Hood and Tait

For the amendment (3) Councillors Cowling, Pratt and Shand

Therefore the motion was carried and the Sub-Committee **agreed** that the taxi driver's licence held by Case No. 838 be suspended for its unexpired portion.

Councillor Hendry, seconded by Councillor Hood, moved that the taxi driver's licence held by Case No. 838 be suspended with immediate effect on the grounds that the licence holder is considered to be a threat to public order and safety.

As an amendment, Councillor Pratt, seconded by Councillor Shand, moved that the taxi driver's licence held by Case No. 838 should not be suspended with immediate effect.

The Sub-Committee voted:-

For the motion (4) Councillors Chapman, Hendry, Hood and Tait

For the amendment (3) Councillors Cowling, Pratt and Shand

Therefore the motion was carried and the Sub-Committee **agreed** that the taxi driver's licence held by Case No. 838 be suspended with immediate effect on the grounds that the licence holder is considered to be a threat to public order and safety.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE (Case No. 839)

A report by the Director of Business services had been circulated requesting the Sub-Committee consider a request from the Chief Constable to suspend the window cleaner's licence for Case No. 839 in terms of Civic Government (Scotland) Act 1982.

The Chief Constable had been consulted and had lodged a letter dated 29 February 2016 citing reasons for the request for the suspension of the licence.

The Sub-Committee heard from the representative of the Chief Constable and the licence holder.

The Sub Committee agreed by a majority that the licence holder for Case No. 839 had not breached the conditions of the licence.

Councillor Pratt, seconded by Councillor Shand, moved that the actions of the licence holder for Case No. 839 had not caused public nuisance nor a threat to public safety.

As an amendment, Councillor Hendry, seconded by Councillor Chapman, moved that the actions of the licence holder for Case No. 839 had caused public nuisance and a threat to public safety.

The Sub-Committee voted:-

For the motion (3) Councillors Cowling, Hood and Pratt

For the amendment (4) Councillors Chapman, Hendry, Shand and Tait

Therefore the amendment was carried and the Sub-Committee **agreed** that the actions of the licence holder for Case No. 839 had caused public nuisance and a threat to public safety.

The Sub-Committee **agreed** by a majority that:-

1. the applicant remains a fit and proper person to hold a taxi driver's licence; and
2. the taxi driver's licence held by Case No. 839 should not be suspended.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 CONSIDERATION OF SUSPENSION OF A TAXI DRIVER'S LICENCE (Case No. 840)

A report by the Director of Business services had been circulated requesting the Sub-Committee consider a request from the Chief Constable to suspend the window cleaner's licence for Case No. 840 in terms of Civic Government (Scotland) Act 1982.

The Chief Constable had been consulted and had lodged a letter dated 10 February 2016 citing reasons for the request for the suspension of the licence.

In the absence of the licence holder, the Sub-Committee heard only from the representative of the Chief Constable.

The Sub-Committee **agreed**:-

1. unanimously that conditions 21 and 22 of the taxi driver's licence held by Case No. 840 had been breached;
2. by a majority that the actions of the licence holder for Case No. 840 are a threat to public order and safety;
3. unanimously that the licence holder for Case No. 840 was no longer a fit and proper person to hold a taxi driver's licence; and
4. unanimously that the taxi driver's licence for Case No. 840 be suspended for its unexpired portion.

Councillor Hood, seconded by Councillor Hendry, moved that the taxi driver's licence for Case No. 840 be suspended with immediate effect.

As an amendment, Councillor Pratt, seconded by Councillor Shand, moved that the taxi driver's licence held by Case No. 840 should not be suspended with immediate effect.

The Sub-Committee voted:-

For the motion (5) Councillors Cowling, Chapman, Hendry, Hood and Tait

For the amendment (2) Councillors Pratt and Shand

Therefore the motion was carried and the Sub-Committee **agreed** that the taxi driver's licence for Case No. 840 be suspended with immediate effect.

At the close of the meeting, the Sub-Committee unanimously **agreed** that all future meetings of the Licensing Sub-Committee should commence at 10.15 am