

BUSINESS SERVICES COMMITTEE

LICENSING SUB-COMMITTEE

**COMMITTEE ROOM 1, WOODHILL HOUSE, ABERDEEN
FRIDAY 18 AUGUST, 2017**

Present: Councillors R Bruce, A Evison, A Forsyth, F C P Hood, D Lonchay, D Robertson, M Roy, and E A Stirling.

Officers: Principal Solicitor (Governance); Senior Solicitor (Governance) (F Stewart); Solicitor (Governance); and Committee Officer (J McRobbie).

In Attendance: Sergeant Gill Flett (Police Scotland).

1. APPOINTMENT OF CHAIR

This being the first meeting of the Licensing Sub-Committee, following its establishment by Business Services Committee on 22 June 2017, the Committee Officer called for nominations to the Chair of the Committee.

Councillor Stirling **moved**, seconded by Councillor Roy, that Councillor Hood be appointed Chair.

There being no further nominations, the Sub-Committee unanimously **agreed** that Councillor Hood Chair the Sub-Committee.

2. DECLARATION OF MEMBERS' INTERESTS

No declarations were made.

3A. 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.

2B. EXEMPT ITEMS

The Sub-Committee **agreed**, in terms of Section 50(A) (4) and (5) of the Local Government (Scotland) Act 1973, as amended, to exclude the public from the meeting during consideration of Items 5 to 16 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.

4. MINUTE OF MEETING OF TEMPORARY LICENSING COMMITTEE OF 16 JUNE, 2017

The Sub-Committee **agreed**, as successor Sub-Committee, to approve the Minute of Meeting of the Temporary Licensing Committee of 16 June, 2017.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR RENEWAL OF TAXI DRIVER’S LICENCE (CASE NO. 900)

There had been circulated a report dated 20 July, 2017, 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 an objection, and (2) detailed information relevant to the application.

The Sub-Committee were advised that, as the applicant had been disqualified from driving due to court convictions, his driving licence would fall and an application for taxi driver’s licence could not be competently granted.

The Sub-Committee **noted** the removal of the application from consideration.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR RENEWAL OF TAXI DRIVER’S LICENCE (CASE NO. 901)

There had been circulated a report dated 24 May, 2017 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, brought before Committee on the basis of the previously approved process in cases in terms of 9 points reported by the DVLA, and (2) detailed information relevant to the application.

Having been advised by officers that the applicant no longer wished the application to be pursued, the Sub-Committee **agreed** to note the withdrawal of the application for renewal.

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 AND IMMIGRATION ACT 2016 – APPLICATION FOR RENEWAL OF TAXI DRIVER’S LICENCE (CASE NO. 902)

There had been circulated a report dated 24 July, 2017, 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 (a) the Chief Constable had made representation and (b) information relating to the applicant’s immigration status had not been provided, and (2) detailed information relevant to the application.

Officers advised that, subsequent to the issuing of the agenda papers, the outstanding immigration checks had been successfully completed.

Having heard from the applicant, his agent, and the Chief Constable’s representative, and considered additional information provided by the applicant in support of his renewal application, the Sub-Committee unanimously **agreed** to renew the application for a taxi driver’s licence on the basis that the applicant was a fit and proper person to hold a licence but that the duration of the licence be restricted to a period of a year.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR TAXI DRIVER’S LICENCE (CASE NO. 903)

There had been circulated a report dated 24 July, 2017, 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 representation, and (2) detailed information relevant to the application.

As a preliminary matter, the Committee discussed protocol for recalling cases to future meetings of the Sub-Committee in the absence of the applicant. Having heard from officers that the timescale for determining the application would allow the matter to be deferred to 5 October:-

Cllr Evison **moved**, seconded by Councillor Robertson, that the Sub-Committee defer determination of the application to the next meeting.

Councillor Stirling **moved as an amendment**, seconded by Councillor Roy, that the Sub-Committee determine the application.

On a division, there voted:

For the Motion: (2) Councillors Evison and Robertson.

For the Amendment: (6) Councillors Bruce, Forsyth, Hood, Lonchay, Roy, and Stirling.

The Amendment was therefore carried and the Sub-Committee **agreed** to proceed to determine the application.

In the absence of the applicant, and having heard from the Chief Constable’s representative, the Sub-Committee unanimously **agreed** to refuse the application for a taxi driver’s licence on the basis that the applicant was not a fit and proper person to hold a licence by reason of his previous convictions and recent behaviour.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR TAXI DRIVER’S LICENCE (CASE NO. 904)

There had been circulated a report dated 24 July, 2017, 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, and having heard from the Chief Constable’s representative, the Committee **agreed**, by a majority, to refuse the application for a taxi driver’s licence on the basis that the applicant was not a fit and proper person to hold a licence by reason of his previous convictions.

10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR TAXI DRIVER’S LICENCE (CASE NO. 905)

There had been circulated a report dated 24 July, 2017, 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 late representation, and (2) detailed information relevant to the application.

As a preliminary matter, the Sub-Committee, having heard from the Chief Constable’s representative of the reasons for the late submission, unanimously **agreed** to accept the letter of representation. Accordingly the letter was tabled for Members’ consideration.

The Sub-Committee began to hear from the applicant but in early course, it became clear that the applicant's English was limited and that understanding would be increased by the presence of an interpreter. Officers confirmed that the timescale for determining the application would allow the matter to be deferred to 5 October, 2017.

The Sub-Committee unanimously **agreed** to defer consideration of the application to the next meeting to allow for the presence of an appropriate interpreter.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982– APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 906)

There had been circulated a report dated 26 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for 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, and having heard from the Chief Constable's representative, the Sub-Committee unanimously **agreed** to refuse the application for a taxi driver's licence on the basis that the applicant was not a fit and proper person to hold a licence by reason of his previous convictions.

12. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 907)

There had been circulated a report dated 24 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for 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, and having heard from the Chief Constable's representative, the Sub-Committee unanimously **agreed** to refuse the application for a taxi driver's licence on the basis that the applicant was not a fit and proper person to hold a licence by reason of his previous convictions and his recent conduct.

13. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – IMMIGRATION ACT 2016 - APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 908)

There had been circulated a report dated 24 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for a taxi driver's licence, and (2) detailed information relevant to the application in terms of the Immigration Act 2016.

In the absence of the applicant, the Sub-Committee were advised that, as the immigration check had not been completed, it would not be competent to consider the award of a taxi driver's licence.

The Sub-Committee **agreed** to note that the licence could not be competently granted because of non-compliance with immigration requirements.

14. CIVIC GOVERNMENT (SCOTLAND) ACT 1982– APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 909)

There had been circulated a report dated 24 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for a taxi driver's licence, in respect of which the Chief Constable had made representation, and (2) detailed information relevant to the application.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee unanimously **agreed** to grant the application for a taxi driver's licence on the basis that the applicant was a fit and proper person to hold a licence, but that the duration of the licence be restricted to a period of a year.

15. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – IMMIGRATION ACT 2016 - APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 910)

There had been circulated a report dated 4 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for a taxi driver's licence, in respect of which (a) the Chief Constable had made representation and (b) advising that information relating to the applicant's immigration status had not yet been provided, and (2) detailed information relevant to the application.

In the absence of the applicant, the Sub-Committee were advised that, as the immigration check had not been completed, it would not be competent to consider the award of a taxi driver's licence.

The Sub-Committee **agreed** to note that the licence could not be competently granted because of non-compliance with immigration requirements.

16. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR TAXI DRIVER'S LICENCE (CASE NO. 911)

There had been circulated a report dated 25 July, 2017, by the Director of Business Services, which (1) requested that consideration be given to an application for a taxi driver's licence, in respect of which the Chief Constable had lodged an objection, and (2) detailed information relevant to the application.

Members were advised that the report should have indicated that, at the time of submission, the immigration checks had not been completed, but that the applicant had that day produced satisfactory evidence of his immigration status, and so the application could be competently heard.

Having heard from the applicant and the Chief Constable's representative, the Sub-Committee unanimously **agreed** to grant the application for a taxi driver's licence on the basis that the applicant was a fit and proper person to hold a licence but that the duration of the licence be restricted to a period of a year.

17. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – AUTHORITY TO REFUSE LICENCES WHERE IMMIGRATION CHECKS NOT CARRIED OUT

There had been circulated a report dated 17 July, 2017, by the Director of Business Services, which (1) provided information on the new requirement to satisfy immigration checks, in terms of the 2016 Immigration Act, in respect of licences for activity covered by the Civic Government (Scotland) Act 1982, and (2) requested consideration of delegating powers to Officers to refuse applications for Taxi and Private Hire Car Driver licences where no satisfactory evidence had been provided of the applicant's right to work in the United Kingdom.

After discussion, and having heard further from officers that the immigration checks would also soon apply to other licensed activities, the Sub-Committee **agreed:-**

- (1) to delegate authority to officers to refuse applications for taxi driver and private hire car driver licences where no satisfactory evidence had been provided, after two reminders, to demonstrate the applicant's right to work in the United Kingdom; and

(2) to delegate authority, when pending legal provisions are implemented, to officers to refuse applications for late hours catering licences where no satisfactory evidence had been provided, after two reminders, to demonstrate the applicant's right to work in the United Kingdom.