



BUSINESS SERVICES COMMITTEE

LICENSING SUB-COMMITTEE

FRIDAY, 15 JUNE, 2018, AT 10.15 A.M

Your attendance is requested at a meeting of the LICENSING SUB-COMMITTEE to be held in the COUNCIL CHAMBER, GORDON HOUSE, INVERURIE, on FRIDAY, 15 JUNE, 2018, at 10.15 A.M.

7th June, 2018

Director of Business Services

To: Councillors FCP Hood (Chair), RE Bruce, AEM Evison, AC Forsyth, D-PLG Lonchay, DG Robertson, MJ Roy and EA Stirling.

Substitute Members: Councillors CC Buchan, MJM Ewenson, JD Hutchison, CR McKail, IW Taylor and LGL Wilson.

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B U S I N E S S

1. Declaration of Members' Interests.

2A. Statement on Equalities

Consider, and if so decided, adopt the following:- "In line with the Council's legal duty under section 149 of the Equality Act 2010, the Sub-Committee, in making decisions on the attached reports, shall have due regard to the need to:-

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (iii) foster good relations between those who share a protected characteristic and persons who do not share it."

2B. Confidential Information

Consider and, if so decided, adopt the following resolution:-

"That under Section 50A (2) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 4 of the business below on account of the likely disclosure of confidential information in breach of the obligation of confidence."

3. Draft Minute of Meeting of the Sub-Committee of 20 April, 2018. (Pages 5-9).

4. Civic Government (Scotland) Act 1982 – Application for Grant of Taxi Driver's Licence (Case No. 945)

(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 10-20).

5. Civic Government (Scotland) Act 1982 - Application for Grant of Taxi Driver's Licence (Case No. 946)

(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 21-34).

6. Civic Government (Scotland) Act 1982 - Application for Grant of Taxi Driver's Licence (Case No. 947)

(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 35-56).

7. Civic Government (Scotland) Act 1982 – Application for Renewal of a Taxi Driver's Licence (Case No. 948)

(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 57-65).

8. Civic Government (Scotland) Act 1982 – Application for Renewal of a Taxi Driver's Licence (Case No. 949)
(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 66-82).
9. Civic Government (Scotland) Act 1982 – Application for Renewal of a Taxi Vehicle Licence (Case No. 950)
(CONFIDENTIAL - By Virtue Of Section 50(A)(2) Of The Local Government (Scotland) Act 1973) (Pages 83-90).

PUBLIC SECTOR EQUALITY DUTY – GUIDANCE FOR MEMBERS

What is the duty?

In making decisions on the attached reports, Members are reminded of their legal duty under section 149 of the Equality Act 2010 to have due regard to the need to:-

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (iii) foster good relations between those who share a protected characteristic and persons who do not share it.

The “protected characteristics” under the legislation are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; and (in relation to point (i) above only) marriage and civil partnership.

How can Members discharge the duty?

To ‘have due regard’ means that in making decisions, Members must consciously consider the need to do the three things set out above. This requires a conscious approach and state of mind. The duty must influence the final decision.

However, it is not a duty to achieve a particular result (e.g. to eliminate unlawful racial discrimination or to promote good relations between persons of different racial groups). It is a duty to have due regard to the need to achieve these goals.

How much regard is ‘due’ will depend upon the circumstances and in particular on the relevance of the needs to the decision in question. The greater the relevance and potential impact that a decision may have on people with protected characteristics, the higher the regard required by the duty.

What does this mean for Committee/Full Council decisions?

Members are directed to the section in reports headed ‘Equalities, Staffing and Financial Implications’. This will indicate whether or not an Equality Impact Assessment (EIA) has been carried out as part of the development of the proposals and, if so, what the outcome of that assessment is.

An EIA will be appended to a report where it is likely that the action recommended in the report could have a differential impact (either positive or negative) upon people from different protected groups. The report author will have assessed whether or not an EIA is required. If one is not required, the report author will explain why that is.

Where an EIA is provided, Members should consider its contents and take those into account when reaching their decision. Members should also be satisfied that the assessment is sufficiently robust and that they have enough of an understanding of the issues to be able to discharge their legal duty satisfactorily.

For more detailed guidance please refer to the following link:-
http://www.equalityhumanrights.com/uploaded_files/EqualityAct/psed_technical_guidance_scotland.doc

BUSINESS SERVICES COMMITTEE

LICENSING SUB-COMMITTEE

GORDON HOUSE, INVERURIE, 20 APRIL, 2018

- Present:** Councillors F C P Hood (Chair), C C Buchan (as substitute for Councillor A E M Evison), A C Forsyth, D-P L G Lonchay, M J Roy and I W Taylor (as substitute for Councillor R E Bruce).
- Apologies:** Councillors R E Bruce, A E M Evison, D G Robertson and E A Stirling.
- Officers:** Senior Committee Officer (Allan Bell) and Solicitor (Iain Meredith), both Legal and Governance.
- In attendance:** Sergeant Kim Wood (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 Roy thereafter declared an interest in respect of Item 4(a), by virtue of the fact that the applicant was a constituent of his and of whose business he was aware. However, having applied the objective test, he concluded the interest was not clear and substantial, and he would remain and participate in the item.

2A. 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 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. CONFIDENTIAL INFORMATION

The Sub-Committee **agreed**, in terms of Section 50A (2) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Item 4 below on account of the likely disclosure of confidential information in breach of the obligation of confidence.

3. SUB-COMMITTEE MEETINGS

There were circulated and **approved** as correct records the Minutes of Meetings of the Sub-Committee of 2 February and 9 March, 2018, the latter subject to the amendment under Item 4 of the word "drunk" being replaced with "drink".

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATIONS FOR DETERMINATION

(a) Application for Renewal of a Taxi Driver's Licence (Case No. 937)

With reference to the Minute of Meeting of the Sub-Committee of 2 February, 2018 (Item 6), there had been circulated a report dated 16 January, 2018, 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 (identified as Case No. 937), in respect of which the Chief Constable had made observations 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.

(b) Application for Renewal of a Taxi Driver's Licence (Case No. 939)

There had been circulated a report dated 4 April, 2018, 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 (identified as Case No. 939) and (2) detailed information relevant to the application.

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

(c) Application for a Taxi Driver's Licence (Case No. 940)

There had been circulated a report dated 4 April, 2018, 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 (identified as Case No. 940), 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, Councillor Lonchay, seconded by Councillor Roy, **moved** that the licence be granted for a period of three years.

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

Members of the Sub-Committee voted as follows:-

for the motion	(2)	Councillors Lonchay and Roy.
for the amendment	(4)	Councillors Hood, Buchan, Forsyth and Taylor.

The amendment was carried in the following terms:-

that the licence be granted for a period of one year.

(d) Application for a Taxi Driver's Licence (Case No. 941)

There had been circulated a report dated 22 March, 2018, 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 (identified as Case No. 941), 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, Councillor Lonchay, seconded by Councillor Forsyth, **moved** that the licence be granted for a period of one year.

As an amendment, Councillor Roy, seconded by Councillor Hood, **moved** that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

Members of the Sub-Committee voted as follows:-

for the motion	(2)	Councillors Forsyth and Lonchay.
for the amendment	(4)	Councillors Hood, Buchan, Roy and Taylor.

The amendment was carried in the following terms:-

that the application be refused on the grounds that the applicant was not a fit and proper person to hold a taxi driver's licence.

(e) Application for a Taxi Driver's Licence (Case No. 942)

There had been circulated a report dated 4 April, 2018, 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 (identified as Case No. 942), in respect of which the Chief Constable had made observations and (2) detailed information relevant to the application.

In the absence of the applicant and having heard from the representative of the Chief Constable, the Sub-Committee **agreed**, by a majority, that the licence be granted for a period of three years.

(f) Application for a Taxi Driver's Licence (Case No. 943)

There had been circulated a report dated 4 April, 2018, 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 (identified as Case No. 943), in respect of which the Chief Constable had made observations and (2) detailed information relevant to the application.

Thereafter, the Sub-Committee **agreed** unanimously that consideration of the application be deferred to the next meeting to allow time for further information to be provided on the progression of suggested criminal proceedings against the applicant.

(g) Application for a Private Hire Car Driver's Licence (Case No. 944)

There had been circulated a report dated 8 March, 2018, 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 (identified as Case No. 944), 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 representative of the Chief Constable, the Sub-Committee **agreed** unanimously that the application be refused on the grounds that the applicant was not a fit and proper person to hold a private hire car driver's licence.

5. TAXI FARES REVIEW

With reference to the Minute of Meeting of the Sub-Committee of 2 December, 2016 (Item 9), when it had been agreed to approve a taxi fare scale to take effect from 1 February, 2017, there was circulated a report dated 9 April, 2018, by the Acting Head of Legal and Governance (1) which explained the background to the process of reviewing taxi fare scales and (2) to which was appended the current scale to assist with a review of fares, as required every eighteen months by the Civic Government (Scotland) Act 1982.

After consideration, the Sub-Committee:-

- (1) **approved** the fare scale set out within the appendix to the report as a proposal for the purposes of consultation with the taxi trade,
- (2) **agreed** to nominate the Chair, together with Councillors Forsyth and Lonchay, to attend a meeting with the taxi trade on 4 May, 2018, for the purposes of agreeing a proposed fare scale, to be the subject of public consultation, in accordance with legislative requirements, and
- (3) **authorised** officers to co-ordinate the process for reviewing the fare scale.

6. UPDATE OF GUIDANCE IN RESPECT OF THE LICENSING OF TAXIS AND PRIVATE HIRE CARS

With reference to the Minute of Meeting of the Sub-Committee of 2 October, 2015 (Item 5), when approval had been given to the authority's guidance in respect of the licensing of taxi and private hire cars, there was circulated a report dated 9 April, 2018, by the Acting Head of Legal and Governance (1) which advised that the existing guidance had been reviewed and detailed the parts which had been amended since it had last been updated, particularly in respect of the provisions of the Immigration Act 2016, power output requirements, vehicle testing, signs and medical examinations and (2) to which was appended a copy of the updated taxi and private hire car guidance document.

After consideration, the Sub-Committee **approved** the attached guidance document, subject to clarification from officers on the provision of medical certification by drivers over the age of 70 and specifying the date of testing of all vehicles having taxi meters.

7. ADVERTISING OF KNIFE DEALER APPLICATIONS

With reference to the Minute of Meeting of the Sub-Committee of 5 June, 2009 (Item 6), when members had approved procedures for the processing and advertising of knife dealers' licences in terms of the Civic Government (Scotland) Act 1982, including the use of the "Press and Journal" as the relevant newspaper for advertising all applications for knife dealers' licences, there was circulated and **noted** a report dated 22 March, 2018, by the Acting Head of Legal and Governance, which explained the background to arrangements for advertising knife dealer licence applications.

Thereafter, the Sub-Committee **agreed** to delegate authority to officers to use relevant local newspapers to advertise future applications made for knife dealers' licences.

8. CIVIC LICENSING SCHEME OF DELEGATION

Consideration was given to a circulated report dated 9 April, 2018, by the Acting Head of Legal and Governance (1) which advised that, as part of the review of the Scheme of Governance, it was proposed to include a section on civic government licensing delegations to officers and

to the Licensing Sub-Committee and (2) to which was appended a draft list of the relevant delegations.

Having **noted** the contents of the report, the Sub-Committee **agreed** the appended draft Scheme of Delegation, subject to incorporating specific reference to the legislative authority for granting, revoking, refusing, varying or renewing all miscellaneous licences and registrations for the area, in respect of explosives.

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