

**REPORT TO BUSINESS SERVICES' LICENSING SUB-COMMITTEE –
4 DECEMBER 2020**

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
TAXI/PRIVATE HIRE CAR SIGNS AND ADVERTISING POLICY
APPLICATION FOR APPROVAL OF SIGNS AND ADVERTISING ON PRIVATE
HIRE CAR VEHICLE**

1 Reason for Report/Summary

- 1.1 An application for the approval of signs and advertising on an existing Private Hire Vehicle has been received. This application is outwith policy and therefore requires the Committee to determine the application.

2 Recommendations

- 2.1 **The Licensing Sub-Committee is asked to consider an application for the approval of signs and advertising on a Private Hire Car Vehicle which is outwith policy and determine whether the application should be granted or refused.**

3 Purpose and Decision-Making Route

Purpose – Consideration of an Application for Approval of Signs and Advertising on a Private Hire Car

- 3.1 The Council on 25th August 2000 adopted a policy for signs and advertisements on taxis and private hire cars in order that clear guidelines on advertising and signs will be in place. The policy was amended on 3rd October 2003. The current policy is as follows:

3.1.1 Taxis

The only signs permitted are the roof signs and plate issued by the Licensing Authority. Any advertising on the vehicle must be Consumer Protection and Trading Standards legislation compliant; cannot be on any of the vehicle windows or obscure identification plates, notices or roof sign; and alcohol and tobacco product related advertising is prohibited.

3.1.2. Private Hire Cars

No signs are permitted on private hire cars.

The only form of advertising permitted is the display of the name of the Private Hire Car Firm, telephone number, e-mail address and website on the exterior of the front door panels of the vehicle and/or the exterior rear bodywork of the vehicle, subject to the lettering being no more than 2 inches high and 1½ inches wide.

- 3.2 It is a condition of both Taxi and Private Hire Car Licences that the holder of a licence shall not display on his/her taxi or private hire car any advertisement or any signs for the purpose of advertising its services as a taxi or private hire car other than those approved by the Licensing Authority. Any vehicle
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submitted for testing as a taxi or private hire car, which is found to have breached the terms of the Council's Taxi and Private Hire Car Advertising Policy, will automatically fail the vehicle test.

- 3.3 Any operator who wishes to display an advertisement on either a taxi or private hire car is required to submit his or her request (with full details of the advert proposed, including wording, size of lettering and details of graphics) to the Council for consideration under their adopted policy. It will be for this Committee to determine any such application.
- 3.4 Calum Lockerbie, 47 Bellwood Drive, Aboyne, Aberdeenshire, has submitted an application by way of emails dated 14 August and 16 November, both 2020, for the approval of signs and advertising on an existing private hire car vehicle, a VW Transporter, licenced to drive within Aberdeenshire.
- 3.5 The proposed graphics and lettering relate to his businesses. They would appear across all sides of the vehicle, including front and rear side doors, the bonnet, the rear door and rear window. A copy of the application, and illustrations of the proposed signs and lettering, are attached as Appendix 1(a), (b), (c) and (d) to this Report.
- 3.6 The proposed signs or graphics (and sizes) comprise:-
- 'Bothies & Bannocks TASTE ADVENTURE' logo on the bonnet and rear window (400mm by 300mm or 15" by 12") and both rear side doors (800mm by 700mm or 31" by 27.5").
 - social media icons, on both far sides of the vehicle (450mm by 80mm or 18" by 3") and rear door (300mm by 60mm or 12" by 2.3")
 - rear window landscape 'decal' (1400mm by 500mm or 55" by 20")
- 3.7 The proposed advertising (with lettering sizes) comprises:-
- 'www.bothiesandbannocks.co.uk', the operator's website, across the front and rear side doors (4" by 2") and rear door (2.5" by 1")
 - '*Foodie adventures throughout the North East*' on each far side panel (3" by 1.5")
 - A block of 5 lines of lettering, 'FOOD AND DRINK TOURS', 'ADVENTURE SPORTS TRANSPORT', 'GOLF TRANSPORT', 'AIRPORT TRANSFERS', 'PRIVATE HIRE', on each front side door panel (1.5" by 0.75")
 - 'FOOD AND DRINK TOURS' on rear door (3" by 1.5")

Decision-Making Route

- 3.8 This application has not been presented to the Committee previously.

Consultations

- 3.9 Aberdeenshire Council's Transportation Services' Fleet Manager was consulted on the application.
- 3.10 The Fleet Manager subsequently lodged a representation in respect of the application by email dated 17 November, 2020. A copy of the representation is attached as Appendix 2 to this report.
- 3.11 The representation was intimated to the Applicant by letter dated 20 November, 2020.

3.12 The Applicant and Aberdeenshire Council’s Fleet Manager were requested to attend the meeting on 20 November, 2020. Both parties were given copies of this Report, the legal background and the Guidance Document for Applications and Objections on procedures for licensing hearings.

4. Discussion

Procedure

- 4.1 Each application should be considered on its own merits.
- 4.2 The legal test to be applied is whether or not the requested signs and advertising meet the Council’s Taxi and Private Hire Car Vehicle Signs and Advertising Policy.
- 4.3 Members should follow the procedures outlined at Appendix A of the Committee’s Procedures for Hearings.

5 Council Priorities, Implications and Risk

- 5.1 There are no Council Priorities identified in respect of this matter as the Committee is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 5.2 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities		X	
Fairer Scotland Duty		X	
Town Centre First		X	
Sustainability		X	
Children and Young People’s Rights and Wellbeing		X	

- 5.3 An Equality Impact Assessment is not needed in this case because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 5.4 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.

6 Scheme of Governance

- 6.1 The Monitoring Officer within Business Services has been consulted in the preparation of this report and any comments have been incorporated into this report.
- 6.2 The Business Services Committee is able to consider and take a decision on this item in terms of Section C – Business Services: 1 – Committee Functions: 1.1 (a) of the List of Committee Powers in Part 2A of the Scheme of Governance which enables the Committee to decide on all policy issues and resource matters relating to Civic Government (Scotland) Act 1982 matters with implications across Area boundaries where objections or observations are received. The Committee determined that the licensing function should be delegated to the Business Services Licensing Sub-Committee.

Ritchie Johnson Director of Business Services

Report prepared by: Kirsty Street, Trainee Solicitor and Amanda de Candia, Solicitor
Date: 18 November 2020

References: Bothies and Bannocks PHC Signage Report 4 Dec 2020 Clean Copy.docx
Appendix 1(a), (b), (c) and (d) – Copy Application Form and Related Paperwork
Appendix 2 – Copy Representation
Appendix 3 - Procedure

APPENDIX 1

COPY APPLICATION

Appendix 1 – Application for Approval of Signs and Advertising on Private Hire Car

(a) Email 14 August, 2020 from Calum Lockebie, Bothies and Bannocks, to licapps@aberdeenshire.gov.uk

From: calum@bothiesandbannocks.co.uk <calum@bothiesandbannocks.co.uk>
Sent: 14 August 2020 14:27
To: [licapps](mailto:licapps@aberdeenshire.gov.uk) <licapps@aberdeenshire.gov.uk>
Subject: Vehicle Signwriting

Hi,

My private hire operator licence is S151 and private hire driver licence is 4002.

Having read the below statement in the guidebook, I would like to put forward a proposal for your consideration at your next Sub-Committee meeting which I believe is the 21st August.

“Private Hire Cars

No signs are permitted on private hire cars.

The only form of advertising permitted is the display of the name of the Private Hire Car Firm, telephone number, e-mail address and website on the exterior of the front door panels of the vehicle and/or the exterior rear bodywork of the vehicle, subject to the lettering being no more than 2 inches high and 1½ inches wide.

Any operator who wishes to display an advertisement on either a taxi or private hire car would require to submit his or her request to the Council for consideration under their adopted policy. Full details of the advert proposed, including wording, size of lettering and details of graphics would require to be submitted.

Please retain this information for future use, if you are to submit any requests under the above policy.

Any vehicle submitted for testing as a taxi or private hire car, which is found to have breached the terms of the above advertising policy, will automatically fail the vehicle test.”

I mainly use my vehicle and license for tour guiding under through my business, Bothies & Bannocks, I provide food and drink tours throughout Aberdeenshire and also provide airport transfers, golf & MTB/Kayak transport. I Would like to have my logo and some details on my vehicle which are not covered in the above statement.

I have had my designer put together a mock-up of the proposal and attached it to this email.

Please could you advise the next steps and if you require any more details from me?

Kind Regards

Calum Lockerbie



T: +44 (0) 7816441205

E: calum@bothiesandbannocks.co.uk



Appendix 1 – Application for Approval of Signs and Advertising on Private Hire Car

(b) Email 16 November, 2020 from Calum Lockerbie, Bothies and Bannocks, to Amanda de Candia, Solicitor, Legal and Governance, Aberdeenshire Council.

RE: Bothies and Bannocks - Vehicle Signwriting

Good morning Amanda,

Many thanks for your email and your time on the phone last week.

As we discussed I am happy to go ahead and seek approval for the attached proposals.

I have moved the social media icons on the rear to the other side to allow room for my private hire plate to sit where it needs to. This new proof has been attached along with another version with exact logo, image and lettering sizes.

This is what I would like to have on the vehicle but there are some things I am willing to compromise on to make it work for both myself and the committee. Things like the social media icons could go and some of the text could be removed if really necessary. The logos could be moved onto the front doors instead of text but I don't think this would look nearly as good. The image on the rear window is obviously see through so will not impact vision when driving.

The graphics will be installed by Intro Creative in Dyce who currently do a lot of private hire and taxi vehicles and will be done to a high standard.

Also as discussed, I will be happy to discuss with the committee why I feel there should be an exception to the policy for my vehicle.

Hope this is enough to finally get this ready to bring to the committee.

Kind Regards

Calum Lockerbie



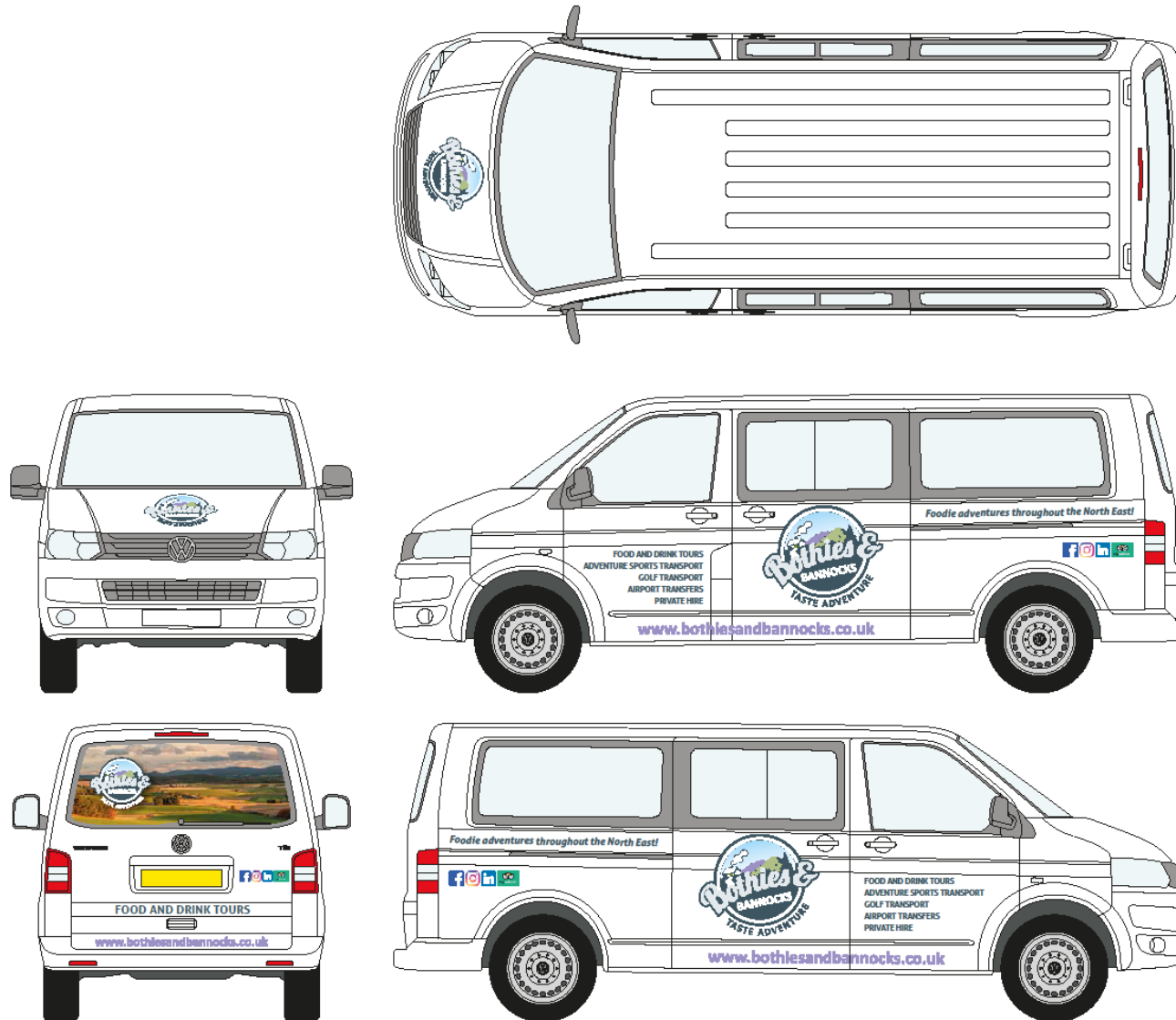
T: +44 (0) 7816441205

E: calum@bothiesandbannocks.co.uk



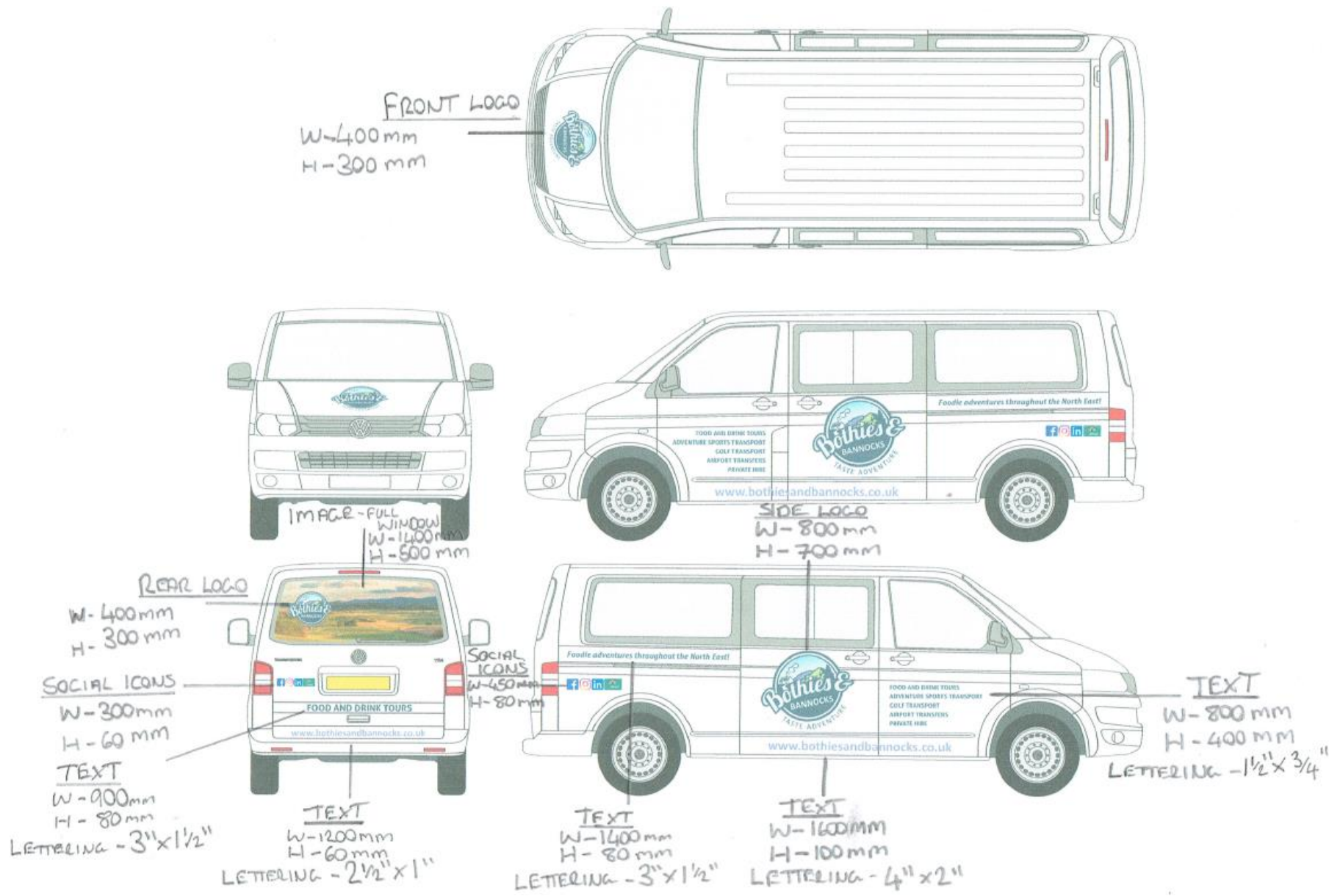
Appendix 1 - Application for Approval of Signs and Advertising on Private Hire Car

(c) Proposed Signs and Advertising



Appendix 1 - Application for Approval of Signs and Advertising on Private Hire Car

(d) Proposed Signs and Advertising with dimensions



APPENDIX 2

COPY OF LETTER OF REPRESENTATION

Appendix 2

Representation from Aberdeenshire Council's Transportation Services Fleet Manager

Email dated 17 November, 2020 from Paul Gray, Fleet Manager, Aberdeenshire Council to Amanda de Candia, Solicitor, Legal and Governance, Aberdeenshire Council

RE: Bothies and Bannocks - Vehicle Signwriting

Hi Amanda,

The policy on advertising on private hire vehicles is clear, what is proposed is out with the agreed terms.

The proposed graphics are advertising more than just the Bothies and Bannocks business (airport transfers, golf transport, private) along with social media logos, and with a proportion of the lettering being larger than allowed.

I think that until such time when the policy is updated we should stick with the guidance we have for private hire vehicle advertising.

This will be one for the committee to decide.

Regards

Paul Gray
Fleet Manager
Aberdeenshire Council

APPENDIX 3 – Procedure for remote Licensing Hearings (APPLICATIONS)

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) If there are no spent convictions, go to (h) below.

SPENT CONVICTIONS

- (d) Where the applicant has spent convictions the Chair should:-
 - (i) Invite the representative of the Chief Constable to satisfy the Committee that justice cannot be done unless the spent convictions are taken into account. (In the undernoted case, it is indicated that it would be improper to invite the applicant to make comment on the spent convictions)
 - (ii) The Chair should invite members of the Committee to ask questions;

NOTE: In the case of O’Docherty v Renfrewshire Council 1998 SLT 327, it is suggested that “at the least some sort of inquiry as to the age and general nature of the convictions would be essential to any proper decision.
- (e) The Committee then has to determine whether or not it is satisfied that there is no other way of doing justice than to look at the spent convictions in considering the application. The Committee **MAY** go into private session to consider the submissions made. It is recommended, however, that the Committee not reach any decision during the retiral.

NOTE TO PARTIES

If the Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted

- (f) Thereafter, the Chair should:
 - (i) Call for a motion regarding the spent convictions
 - (ii) Call for a seconder to the motion
 - (iii) Call for any amendment to the motion
 - (iv) Call for a seconder to any amendment proposed.
 - (v) If there is no amendment, the Chair should confirm with the Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
 - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.

- (g) If the Committee has determined to consider the spent convictions, they will then be circulated to Members separately by email for the Committee's perusal.

NOTE FOR PARTIES

Where the hearing is in public, the recording of the meeting will be paused until the Chair is satisfied that all members have read and understood the document circulated, at which point the recording will be restarted

THEREAFTER:

- (h) Invite the applicant to speak to his application (outline to the Committee why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (i) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (j) Give the applicant an opportunity to address any issues raised by the Objector(s).

NOTE TO PARTIES

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof;**
 - **Cross Examination by the parties is not generally permitted**
 - **Hearsay evidence is admissible.**
- (k) Members MAY then question all parties present.
- (l) Chair should invite concluding remarks (objector(s) then applicant), but no new evidence, before considering the application.

NOTE TO PARTIES

Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Committee Member.

- (m) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

NOTE TO PARTIES

If the Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted

- (n) Thereafter, the Chair should confirm with Members that they have sufficient evidence upon which to make a decision.

- If the Committee determines that there is not sufficient evidence upon which to make a decision, the application will be **deferred** to a future meeting of the Committee for further evidence to be obtained.
- If the Committee determines that there is sufficient evidence upon which to make a decision, the Chair will then:
 - (i) Call for a motion
 - (ii) Call for a seconder to the motion
 - (iii) Call for any amendment to the motion
 - (iv) Call for a seconder to any amendment proposed.
 - (v) If there is no amendment, the Chair should confirm with the Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
 - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (o) The Legal Officer will confirm the decision taken by the Committee

NOTE TO PARTIES

The parties will then be asked to leave the meeting, failing which the Committee Officer will remove the parties from the meeting.