

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 31 October 2012 at 10.00 a.m.

Present: Provost Douglas McAllister and Councillors Jim Brown, John Mooney*, Lawrence O'Neill and Tommy Rainey.

* Arrived later in the meeting.

Attending: Nigel Ettles, Principal Solicitor; Robert Mackie, Senior Officer (Licensing Services); Jim McArthur, Licensing Officer and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

Apology: An apology for absence was intimated on behalf of Councillor Patrick McGlinchey.

Councillor Lawrence O'Neill in the Chair

DECLARATIONS OF INTEREST

Provost McAllister declared a non-financial interest in the item entitled, 'Application for Grant of Taxi/Private Hire Car Driver's Licence' in the name of Mr Mark Burns and advised that he would take no part in the Committee's decision in relation to this item.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 5 September 2012 were submitted and approved as a correct record.

APPLICATIONS FOR GRANT OF TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	George White 6F Queen Elizabeth Gardens Clydebank G81 3BX	14 June 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted that the application had been withdrawn.

DECLARATION OF INTEREST

Having declared a non-financial interest in the following item of business
Provost McAllister left the meeting at this point.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Mark Burns 3 Meldrum Street Clydebank G81 1AN	24 August 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority making a representation in relation to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and representatives of the Police authority, Sergeant George Stewart and Mrs Karen Queen, were in attendance.

The Committee heard from Sergeant Stewart in relation to the representation which had been submitted.

Thereafter, the applicant, Mr Burns, was invited to come forward and addressed the Committee in support of his application.

After consideration, it was agreed that the application be granted.

Note: Provost McAllister returned to the meeting at this point.

**APPLICATIONS FOR RENEWAL OF TAXI/PRIVATE HIRE
CAR DRIVER'S LICENCE**

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
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John MacDonald
40 Whitecrook Street
Clydebank
G81 1QR

23 June 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

Thereafter, the Principal Solicitor provided details from a letter received from Mr MacDonald's solicitor advising of an appeal against conviction and sentence in the case against Mr MacDonald which had been determined on 1 October 2012.

The Committee then heard from Sergeant Stewart in relation to the representation which had been submitted. Sergeant Stewart advised that Mr MacDonald had been found guilty of assault and was fined £200 in the Justice of the Peace Court at Glasgow following the adjourned trial held on 1 October 2012. He then provided a further summary from the case.

Thereafter, the applicant, Mr MacDonald, was invited to come forward and addressed the Committee in support of his application and in answer to questions from Members.

In response to a question from the Provost, the Principal Solicitor advised the Committee that the matter could not be continued to the next meeting due to the statutory timescale for determining such a licence application.

Following discussion, it was agreed that the application be granted for a period of one year and agreed that, should the pending appeal in the case against the applicant be unsuccessful, a report would be submitted to a future meeting of the Committee in order that the Committee could consider the possible suspension of the applicant's licence and the applicant would be invited to attend the meeting.

Note: Councillor Mooney entered the meeting during consideration of this item.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Pirvaze Aziz 66 Robert Burns Avenue Drumry Clydebank G81 2EG	26 June 2012

With reference to the Minutes of Meeting of the Licensing Committee held on 5 September 2012, a report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation in relation to the application;
- (b) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the September meeting of the Committee in order that a hearing may take place;
- (c) that the applicant had intimated in advance of the September meeting that he was unable to attend the meeting and the Committee agreed that consideration of the application be continued to the next meeting in order that the applicant may be given a further opportunity to appear before the Committee; and
- (d) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and the representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

The Committee heard from Sergeant Stewart in relation to the representation which had been submitted and in answer to Members' questions. He advised that a new trial date had been fixed for 21 November 2012.

Thereafter, Mr Aziz was given the opportunity to address the Committee in support of the application and in answer to questions from Members.

Following discussion and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed that the application be granted for a period of one year.

(c)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Neil Brown 57 Lansbury Street Alexandria G83 0SA	18 September 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted and in answer to Members' questions. It was noted that, in respect of a conviction for threatening or abusive behaviour, sentence had been deferred to 7 March 2013.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to a Member's questions.

After discussion, the Committee agreed that the application be granted for a period of one year.

HEARING REGARDING POSSIBLE SUSPENSION OF A TAXI DRIVER'S/PRIVATE HIRE CAR DRIVER'S LICENCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services in relation to a request from the Chief Constable for suspension of a Taxi Driver's/Private Hire Car Driver's Licence held by Mr Colin Wilson.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Constable of Strathclyde Police requesting the suspension of the Taxi Driver's Licence held by Mr Colin Wilson under paragraph 11(2)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the licence holder was no longer a fit and proper person to be the holder of a Taxi Driver's/Private Hire Car Driver's Licence;
- (b) that a licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity to be heard;
- (c) that in view of the request for suspension of the licence received from the Police, the licence holder and a representative from the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (d) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting; and
- (e) that the matters which the Committee were required to consider were as follows:-
 - (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, Mr Wilson was no longer a fit and proper person to hold a taxi driver's licence;
 - (iii) if the Committee was of the opinion that Mr Wilson was no longer a fit and proper person, then the Committee must consider whether his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give Mr Wilson an opportunity to be heard on the length of the suspension and the date from which the suspension should commence;
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension; and

It was noted that the licence holder, Mr Wilson and representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

It was noted that the applicant was accompanied by his solicitor, Mr Boyle.

The Committee heard Sergeant Stewart who provided details of the offence allegedly committed by Mr Wilson and in relation to the request for suspension of the licence which had been submitted. It was noted that the matter was still sub-judice.

Thereafter, the licence holder and his representative were invited to come forward and Mr Boyle addressed the Committee on the circumstances relating to the complaint which had been received in relation to Mr Wilson.

After discussion and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed that no action be taken in relation to the possible suspension of Mr Wilson's taxi driver's licence at this time.

APPLICATION FOR GRANT OF A TAXI PARTNERSHIP LICENCE

Names and Addresses of Applicants

Date Applied

Mr Colin Wilson
9a Craigpark Street
Clydebank
G81 5BS

Ms Emma Davies
4B Langside Street
Clydebank
G81 5HJ

13 September 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Taxi Partnership Licence by the above named persons.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority making an objection in relation to the application;
- (b) that in view of the objection which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

The Committee heard from Sergeant Stewart in relation to the objection which had been submitted.

Thereafter, the applicants' solicitor, Mr Boyle, addressed the Committee in support of the application.

After consideration and having heard the Principal Solicitor in answer to Members' question, it was agreed:-

- (1) that the application be granted for a period of 3 years; and
- (2) to note that a report on the possible suspension of the Partnership Licence would be submitted to a future meeting of the Committee should Mr Wilson be convicted of the charge pending against him.

HEARING REGARDING POSSIBLE SUSPENSION OF A TAXI DRIVER'S/PRIVATE HIRE CAR DRIVER'S LICENCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of a possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence held by Mr David Barry Jackson following a complaint which was submitted by a member of the public.

Having heard the Principal Solicitor, it was noted:-

- (a) that on 6 August 2012, a complaint was received by email from a member of the public in relation to several incidents involving Mr Jackson over the weekend of 3-5 August 2012;
- (b) that the email had been submitted by the father of the person involved and she was therefore visited in person at her place of work on 7 August 2012 by Mr James McArthur, Licensing Officer and Mrs Carol Ann Anderson, Administrative Assistant, Licensing Team;
- (c) that having consulted with Mr Andrew Fraser, Head of Legal, Democratic and Regulatory Services, it was decided that due to the nature of the complaint, a hearing should take place to consider the possible suspension of Mr Jackson's taxi driver's licence;
- (d) that the email from the father had been attached as the appendix to the report;
- (e) that a licensing authority must, before deciding to suspend a licence, give the holder of the licence, any complainer and the Chief Constable an opportunity to be heard;
- (f) that Mr Jackson, the complainer and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (g) that the matters which the Committee was required to consider were as follows:-
 - (i) whether the alleged misconduct had been established;

- (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, Mr Jackson was no longer a fit and proper person to hold a taxi driver's licence;
- (iii) if the Committee was of the opinion that Mr Jackson was no longer a fit and proper person, then the Committee must consider whether his licence should be suspended;
- (iv) if the Committee was satisfied that Mr Jackson's licence should be suspended, the Committee must give Mr Jackson an opportunity to be heard on the length of the suspension and the date from which the suspension should commence; and
- (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

It was noted that Mr Jackson was in attendance and was accompanied by his representative, Mr Billy Neeson. Representatives of the Police authority, Sergeant Stewart and Mrs Queen were also in attendance at the meeting. It was also noted that the complainer was not in attendance at the meeting.

At the request of the Chair and having heard from Sergeant Stewart in response, it was noted that the Police authority had no comment to make in relation to the Hearing.

Thereafter, with the permission of the Chair, copies of a detailed report compiled by the Licensing Officer were then distributed to Members of the Committee and to Mr Jackson. Thereafter, the Licensing Officer was heard in relation to the report summarising the complaint and the subsequent investigation into the complaint.

The Committee then heard from Mr Neeson on behalf of Mr Jackson and thereafter from Mr Jackson himself. In his submission, Mr Jackson responded to some of the points included in Mr McArthur's report advising that he was suspended by Dumbarton and Alexandria TOA for a period of 2 weeks after the incident.

Following discussion and having heard from both the Principal Solicitor and Mr Jackson in answer to questions from Members, it was agreed that misconduct on the part of Mr Jackson had been established.

Having heard from both Mr McArthur and the Principal Solicitor in answer to Members' questions, the Committee agreed:-

- (1) not to suspend Mr Jackson's taxi driver's licence given that he had received a 2 week suspension from his Dumbarton and Alexandria TOA; and
- (2) to caution Mr Jackson for his actions in respect of the complaint; and
- (3) that a letter of apology would be issued to the complainer by the Licensing Officer on behalf of Mr Jackson.

HEARING REGARDING POSSIBLE SUSPENSION OF A STREET TRADER'S LICENCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of a possible suspension of a Street Trader's Licence held by Mr Peter Brown.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that Mr Brown was granted a licence on 10 March 2011 to act as a street trader, licensed to sell ice cream, minerals, confectionery and tobaccos, etc. from vehicle registration number N452 EAT within specified locations in Dalmuir, Mountblow, Old Kilpatrick, Linnvale and various other surrounding locations;
- (b) that the Licensing Team had been made aware that Mr Brown was not operating as a street trader within these locations around December 2011 by another trader;
- (c) that a letter was sent to Mr Brown on 16 August 2012 by the Senior Officer (Licensing Services) reminding him of one of the conditions of holding a Street Trader's Licence as undernoted:-

'The licence holder must ensure that the area granted to him is serviced regularly on the dates and times specified in the licence.'

- (d) that a licensing authority may order the suspension of a licence if in its opinion a condition of the licence has been contravened;
- (e) that the matters which the Committee was required to consider were as follows:-
 - (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, a condition of the licence had been contravened;
 - (iii) if the Committee was of the opinion that a condition of the licence had been contravened, then the Committee must consider whether Mr Brown's licence should be suspended;
 - (iv) if the Committee was satisfied that Mr Brown's licence should be suspended, the Committee must give Mr Brown an opportunity to be heard on the length of the suspension and the date from which the suspension should commence; and
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

It was noted that Mr Brown and representatives of the Police authority, Sergeant Stewart and Mrs Queen were also in attendance at the meeting.

At the request of the Chair and having heard from Sergeant Stewart in response, it was noted that the Police authority had no comment to make in relation to the Hearing.

Thereafter, the Senior Officer (Licensing Services) was heard in relation to the terms of the report.

Thereafter, the licence holder was invited to address the Committee on the circumstances relating to the non-operation of his ice cream van. Mr Brown was then heard in answer to questions from Members. It was noted that Mr Brown had sustained a broken leg in May 2012 and had experienced problems with his ice cream van which had prevented him from operating his street traders licence. He advised that he had since acquired a new vehicle and intended resuming operation of his licence in the near future.

Following discussion, it was agreed:-

- (1) that misconduct on the part of Mr Brown had not at this stage been established;
- (2) that no action be taken at present in relation to the request for possible suspension of the licence;
- (3) that the licence holder be instructed to take immediate steps to have the ice cream van inspected by the Environmental Health Section to enable him to resume operation by a date set by Licensing Officers; and
- (4) that, if no action was taken by Mr Brown, a report should be submitted to the next meeting of the Committee in order that the Committee could give further consideration to the possible suspension of Mr Brown's licence.

HEARING REGARDING POSSIBLE SUSPENSION OF A SECOND HAND DEALER'S LICENCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services in relation to a request from the Chief Constable for suspension of a Second Hand Dealer's Licence held by Mr Daniel McDade.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that on 28 August 2012, a letter was received from the Chief Constable of Strathclyde Police requesting the suspension of a Second Hand Dealer's Licence held by Mr Daniel McDade under Paragraph 11(2)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the licence holder was no longer a fit and proper person to be the holder of a Second Hand Dealer's Licence;

- (b) that a further letter had been received from the Police authority detailing convictions against the applicant that were considered “spent” in terms of the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the separate letter detailing the spent convictions should be disclosed and taken into consideration;
- (c) that in view of the objection that had been received from the Police authority, the licence holder and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (d) that the spent convictions could not be considered by the Committee unless there was no other way of justice being done;
- (e) that the licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity to be heard; and
- (f) that the licence holder, Mr Daniel McDade, was in attendance and was accompanied by Mr Bill Cairns, Cairns Brown Solicitors.

It was noted that the representatives of the Police authority, Sergeant Stewart and Mrs Queen, were in attendance.

Having heard the Principal Solicitor with regard to the number, age, degree of seriousness and relevance of the licence holder’s spent convictions, the Committee agreed that the letter from the Police authority providing details of the licence holder’s spent convictions should be circulated and taken into account.

Thereafter, copies of the letter from Strathclyde Police, detailing the licence holder’s spent convictions were accordingly circulated to Members of the Committee.

The Committee then heard from Sergeant Stewart in relation to both the objection which had been submitted and in relation to the licence holder’s spent convictions. Thereafter, Sergeant Stewart was heard in response to both Members’ questions and to points made by Mr Cairns. It was noted that the Chief Constable was of the view that there was a direct link between Mr Daniel McDade junior and the business given that Mr McDade junior had become a director of the business on 9 August 2011 and was therefore making a direct profit from the business.

Thereafter, Mr Cairns, on behalf of the licence holder, was invited to address the Committee on the circumstances that had led to the request for a suspension hearing. In doing so, Mr Cairns advised that there was no evidence to suggest that Mr McDade junior would have greater involvement in the business. He further advised that Mr McDade junior had no involvement in the business since February 2012.

With the permission of the Committee, copies of two completed forms from Companies House, entitled Termination of Appointment of Director and Change of Registered Office Address were distributed to Members of the Committee for information. Members noted that Mr McDade junior's date of termination of appointment as a director of the company entitled 'Phone Zone Limited' was dated 17 October 2012. Thereafter, Sergeant Stewart was heard in answer to questions from Members concerning the removal of Mr McDade junior as a director of the business. In response, Sergeant Stewart advised that the Police were of the view that Mr McDade junior was linked to serious and organised crime given the evidence

Following discussion and having heard the Principal Solicitor in answer to questions from Members, it was agreed that there were no grounds for suspending the licence as it had not been established, in terms of paragraph 11(2)(b) of Schedule 1 to the Civic Government (Scotland) Act 1982, that the business was being managed by, or carried on for the benefit of, Mr McDade junior.

ADJOURNMENT

Having heard the Chair, Councillor O'Neill, it was agreed that the meeting should be adjourned for a short period.

The meeting resumed at 12.45 p.m. with all those Members on the sederunt in attendance.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 REVIEW OF TAXI FARES AND CHARGES – CLYDEBANK TAXI LICENSING ZONE

A report was submitted by the Head of Legal, Democratic and Regulatory Services on the proposed review of fares and charges applicable to taxis operating within the Clydebank Taxi Licensing Zone.

Having heard the Principal Solicitor in further explanation of the report, it was noted:-

- (a) that there was still a division of opinion within the taxi trade in respect of this matter; and
- (b) that representatives of both Clydebank Taxis Operators Liaison Group and Clydebank Public Hire Association were in attendance and wished to address the Committee.

Thereafter, Mr Martyn Hambley of Clydebank Taxis was invited to come forward and addressed the Committee in support of the request from Clydebank Taxis Operators Liaison Group for increases in the current fare chart for the Clydebank Taxi Licensing Zone. It was noted that Mr Hambley had requested that the flagfall be increased by 30 pence on all tariffs. Mr Hambley and the Senior Officer (Licensing Services) were then heard in answer to Members' questions.

Mr Allan MacLeod, a representative of Clydebank Public Hire Association, was then invited to come forward and addressed the Committee in support of his Association's request that taxi scales not be increased at this time and was heard in answer to Members' questions.

After discussion and having heard the Principal Solicitor in answer to Members' questions, the Committee agreed:-

- (1) to authorise Officers to arrange for the advertisement of the proposal not to alter the existing fares and charges;
- (2) to note that if representations or objections to the proposal were received, a further report on the matter would be considered at a future meeting of the Committee; and
- (3) that should no representations be received in relation to the proposal, to delegate authority to the Head of Legal, Democratic and Regulatory Services, in consultation with the Chair of the Licensing Committee, to conclude the review without the requirement for the Committee to consider a further report on the matter.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 REVIEW OF TAXI FARES AND CHARGES – DUMBARTON TAXI LICENSING ZONE

A report was submitted by the Head of Legal, Democratic and Regulatory Services on the proposed review of fares and charges applicable to taxis operating within the Dumbarton Taxi Licensing zone.

Mr David Thompson of the West Dunbartonshire Area Taxi Trade Association was invited to come forward and addressed the Committee in support of his Association's request that there be no increase to the current fare structure at this time.

Following discussion and having heard the Principal Solicitor in further explanation of the report, it was agreed:-

- (1) that officers be authorised to arrange for the advertisement of the proposal not to alter the existing fares and charges;
- (2) to note that if representations or objections to the proposal were received, a further report on the matter would require to be considered at a future meeting of the Committee; and
- (3) that should no objections or representations be received in relation to the proposal, to delegate authority to the Head of Legal, Democratic and Regulatory Services, in consultation with the Chair of the Licensing Committee, to conclude the review without the requirement for the Committee to consider a further report on the matter.

The meeting closed at 1.08 p.m.