

## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by the Head of Legal, Democratic and Regulatory Services**

#### **Licensing Committee – 31 October 2012**

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**Subject:      Hearing regarding possible suspension of a Second Hand Dealer's Licence**

#### **1.      Purpose**

- 1.1**      To consider a request from the Chief Constable of Strathclyde Police for the suspension of a Second Hand Dealer's Licence held by Mr. Daniel McDade, 76 Cook Road, Haldane, Balloch, G83.

#### **2.      Recommendations**

- 2.1**      That the Committee considers the terms of this report, the terms of the letter from the Chief Constable and the terms of any evidence presented at the hearing and thereafter determines whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof.

#### **3.      Background**

- 3.1**      On 28 August 2012, a letter was received from the Chief Constable of Strathclyde Police requesting the suspension of the Taxi Driver'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.
- 3.2**      It will also be a matter for the Committee to decide whether the applicant's spent convictions should be disclosed and taken into consideration. It should be noted that spent convictions cannot be considered unless there is no other way of doing justice.

#### **4.      Main Issues**

- 4.1**      A licensing authority may order the suspension of a licence if in its opinion the holder of the licence is not, or is no longer, a fit and proper person to hold the licence.
- 4.2**      The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.
- 4.3**      Where a licensing authority decides to order the suspension of a licence, the suspension generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension (28 days from the date of the decision to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the

suspension. However, if the licensing authority determines that the circumstances of the case justify immediate suspension, it may order that the licence be suspended immediately.

**4.4** A licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity of being heard.

**4.5** The licence holder and a representative of the Police authority have been invited to attend the meeting of the Committee on 31 October 2012 in order that a hearing may take place with regard to the possible suspension of the licence.

**4.6** In considering whether to suspend a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence.

**4.7** The matters which the Committee will require to consider are as follows:-

- (a) Whether the alleged misconduct has been established.
- (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, Mr McDade is no longer a fit and proper person to hold a second hand dealer's licence.
- (c) If the Committee is of the opinion that Mr McDade is no longer a fit and proper person, the Committee must consider whether his licence should be suspended.
- (d) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr McDade an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
- (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.

## **5. People Implications**

**5.1** There are no personnel issues.

## **6. Financial Implications**

**6.1** There are no financial implications

## **7. Risk Analysis**

**7.1** There is no increased risk to the Council associated with the contents of this report.

**8. Equalities, Health & Humans Rights Impact Assessment**

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

**9. Strategic Assessment**

- 9.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Head of Legal, Democratic and Regulatory Services

Date: 1/10//2012

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**Appendices:** N/A.

**Background Papers:**

- 1.** Letter dated 16 August 2012 from the Chief Superintendent, Strathclyde Police, 'L' Divisional Headquarters, Stirling Road, Clydebank.
- 2.** Letter to Mr McDade dated 12 October 2012.
- 3.** Letter to the Chief Superintendent dated 12 October 2012.

**Wards Affected:** N/A.