

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 5 September 2012 at 2.00 p.m.

Present: Councillors Jim Brown, Jim Finn, Douglas McAllister, Jonathan McColl, Lawrence O'Neill and Tommy Rainey.

Attending: Nigel Ettles, Principal Solicitor; Robert Mackie, Senior Officer (Licensing Services); Martin Keeley, Environmental Health Officer (EHO) and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

Apology: Apologies for absence were intimated on behalf of Councillors Patrick McGlinchey and John Mooney.

Councillor Lawrence O'Neill in the Chair

VARIATION IN THE ORDER OF BUSINESS

The Chair, Councillor O'Neill, apologised to those applicants/licence holders who had been advised of an earlier start time to the meeting and informed everyone present that the business of the meeting would be varied as hereinafter minuted.

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in relation to any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETING

The Minutes of Meetings of the Licensing Committee held on 12 June 2012 (Ordinary) and 15 August 2012 (Special) were submitted and approved as correct records.

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

Name and Address of Applicant

Date Applied

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 facsimile had been received from the Chief Superintendent of the Police authority on 19 July 2012 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;
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (d) that Mr MacDonald had attended a suspension hearing on 7 April 2011 following a request by the Chief Constable of Strathclyde Police and that Members had decided that no action should be taken unless Mr MacDonald was convicted of the charge against him;
- (e) that the pending case which the police referred to at the suspension hearing had been part heard on 28 August 2012 and had been adjourned until 1 October 2012; and
- (f) that the matter could be continued until the meeting of the Committee on 31 October 2012.

The Committee agreed to continue consideration of the application to the next meeting of the Committee.

HEARING REGARDING POSSIBLE SUSPENSION OF 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 the possible suspension of the Taxi Driver/Private Hire Car Driver Licence held by Mr. Mark Harkins.

Following discussion and having heard the Principal Solicitor, it was noted:-

- (a) that on Monday, 27 February 2012, Martin Keeley, EHO and James McArthur, Civic Government Licensing Officer attended at the taxi pick up point in Britannia Way, Clydebank, near to the Asda Supermarket where they observed Mr Harkins smoking a cigarette while sitting in the driver's seat of a stationary taxi;
- (b) that smoking in a licensed taxi is a contravention of Section 2 of the Smoking, Health and Social Care (Scotland) Act 2005.

- (c) Mr Harkins was alone in his vehicle at the time of the offence;
- (d) that a fixed penalty notice was thereafter issued to Mr Harkins by the EHO who thereafter clearly explained to Mr Harkins the options available to him in relation to the fixed penalty notice;
- (e) following the issue of reminder letters to Mr Harkins by WDC Regulatory Services, the fixed penalty notice remained unpaid until 31 August 2012 when it was paid in full;
- (f) that the 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;
- (g) 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;
- (h) that Mr Harkins and Mr Keeley had been invited to attend the meeting in order that a hearing may take place;
- (i) that 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 Harkins was no longer fit and proper persons to hold a taxi driver's licence;
 - (iii) if the Committee was of the opinion that Mr Harkins was no a longer 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 Harkins 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 Harkins and Mr Keeley, EHO, were in attendance.

Thereafter, at the request of the Chair, the Committee heard from the EHO in relation to the circumstances of the enforcement initiative and the offence relating to Mr Harkins.

The Committee then heard from Mr Harkins who provided details on the incident and expressed regret at both the offence and the late payment of the fixed penalty notice, advising that neither would happen again.

Thereafter, the Senior Officer (Licensing) was heard in answer to questions from Members.

Following discussion, it was agreed:-

- (1) that misconduct on the part of Mr Harkins had been established; and
- (2) that a warning letter be issued to Mr Harkins in relation to the contravention of Section 2 of the Smoking, Health and Social Care (Scotland) Act 2005 and in relation to the late payment of the fixed penalty notice.

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 applicant had intimated in advance of the meeting that he was unable to attend the meeting.

The Committee agreed to continue consideration of the application to the next meeting of the Committee.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
------------	---------------------------------------------	----------------------------

Russell Friel
35 New Cordale Road
Renton
G82 4DE

20 July 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:-

- (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 at the meeting of the Committee on 12 June 2012, Members agreed to grant Mr Friel's application for a temporary Taxi Driver's Licence. Members also requested that should Mr Friel submit an application for the grant of a taxi driver's licence then he should be invited to the next meeting of the Committee in order that the outcome of a pending case against the applicant may be known; and
- (c) 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;

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

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

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

After consideration, the Committee agreed:-

- (1) that the application be granted for a period of one year; and
- (2) that the applicant's first Application for Renewal of his Licence should be referred to a meeting of the Committee for consideration and the applicant be invited to attend the meeting.

(c)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Stewart Galloway G/3 5 Dumbarton Road Bowling G60 5AG	6 July 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 the representative of the Police authority, Sergeant Stewart, were in attendance.

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

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

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

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

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	James Murray 348 Halley Street Yoker Glasgow G13	20 April 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 that the applicant and the representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted. The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to questions from Members.

After consideration the Committee agreed that the application be granted for a period of one year and that Mr Murray's application for renewal of his licence next year be referred to the Committee for consideration.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
------------	---------------------------------------------	----------------------------

Kirsty Shaw
4 Hillside Park
Hardgate
Clydebank
G81 6BD

12 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.

After hearing the Principal Solicitor 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, 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 the representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted. The applicant was then given the opportunity to address the Committee in support of her application and was heard in answer to questions from Members.

After consideration 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>
------------	---------------------------------------------	----------------------------

Pirvaze Aziz
66 Robert Burns Avenue
Drumry
Clydebank
G81 2EG

26 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 it was noted that the applicant had intimated in advance of the meeting that he was unable to attend the meeting. The Committee agreed to continue consideration of the application to the next meeting of the Committee.

**APPLICATION FOR GRANT OF TEMPORARY TAXI/PRIVATE HIRE
CAR DRIVER'S LICENCE**

Name and Address of Applicant

Date Applied

William Currie
160 Braehead
Bonhill
Alexandria
G83 9ND

3 July 2012

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

After hearing 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 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;
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting; and
- (d) that Mr Currie was in attendance at the meeting and was accompanied by Mr Neeson.

It was noted that the applicant and the representative of the Police authority, Sergeant Stewart, was also in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted. Mr Neeson, on behalf of the applicant, was then given the opportunity to address the Committee in support of Mr Currie's application and was then heard in answer to questions from Members.

After consideration the Committee agreed that the application be granted for a period of six weeks and agreed that, should the applicant apply for a full licence, the application would be referred to a meeting of the Committee for consideration and the applicant would be invited to attend that meeting.

APPLICATION FOR GRANT OF WINDOW CLEANER'S LICENCE

Name and Address of Applicant

James McLaughlin
4D Burnside Street
Dumbarton
G82 1DS

Date Applied

9 August 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence submitted 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 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;
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (d) that letters in support of Mr McLaughlin's application had been received from Jackie Baillie MSP and Mr Ross Macdonald, Mental Health Practitioner; and
- (e) that Mr McLaughlin was in attendance at the meeting and was accompanied by his counsellor, Ms Rachel Mullen.

It was noted that the representative of the Police authority, Sergeant Stewart, was also in attendance.

It was agreed that copies of the letters received in support of Mr McLaughlin's application be circulated to Members of the Committee.

Thereafter, the Committee heard Sergeant Stewart in relation to the representation which had been submitted. It was noted that summary hearing in respect of the alleged offence was scheduled to be heard on 19 September 2012.

Ms Mullen, on behalf of the applicant was then given the opportunity to address the Committee in support of Mr McLaughlin's application and was then heard in answer to questions from Members.

After discussion the Committee agreed that the application be granted.

HEARING REGARDING POSSIBLE SUSPENSION OF 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 the possible suspension of the Taxi Driver/Private Hire Car Driver Licence held by Mr Stuart Farmer.

Following discussion and having heard the Principal Solicitor, it was noted:-

- (a) that on 17 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 Stuart Farmer 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 the licensing authority must, before deciding to suspend such a licence, give the holder of the licence and the Chief Constable an opportunity to be heard;
- (c) that Mr Farmer and the representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (d) that 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 Farmer was no longer a fit and proper person to hold a taxi driver's licence;
 - (iii) that if the Committee was of the opinion that Mr Farmer was no longer a fit and proper person, then the Committee must consider whether the licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give Mr Farmer 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 Farmer was in attendance and that representatives of the Police authority, Sergeant Stewart and Mrs Queen, were also in attendance.

The Committee then heard from Sergeant Stewart in relation to the request for the suspension of the licence.

Mr Farmer was then given the opportunity to address the Committee and thereafter was heard in answer to Members' questions.

Following discussion it was agreed that misconduct on the part of Mr Farmer had been established.

Thereafter, having heard both Mr Farmer and Sergeant Stewart in answer to questions from Members, the Committee agreed that a warning letter be issued to Mr Farmer and that the Police could submit a further request for a suspension if there were further convictions or incidents.

APPLICATION FOR PERMISSION TO CARRY OUT AN ACTIVITY

<u>Name and Address of Applicant</u>	<u>Date Applied</u>
Mr Gordon McCulloch 80 Glenfruin Road Blantyre G72 9RF	17 July 2012

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting permission to carry out the activity of busking within Sylvania Way South by the above named person.

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

- (a) that Mr McCulloch had submitted the application to carry out the activity of busking to the Council on 17 July 2012;
- (b) that a letter had been received from the Chief Superintendent of the Police authority on 25 July 2012 advising that the Chief Constable had a representation to make in relation to the application; and
- (c) that copies of the letter from the Police authority referred to at (b) above had been circulated to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Sergeant Stewart, were in attendance.

The Committee heard Sergeant Stewart in relation to the representation which had been submitted. Mr McCulloch was then given the opportunity to address the Committee in relation to the representation and thereafter answered questions from a Member.

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

APPLICATION FOR GRANT OF WINDOW CLEANER'S LICENCE

Name and Address of Applicant

Date Applied

David Henry
'Rosa'
Ferry Loan
Alexandria
G83 0UW

15 March 2012

With reference to the Minutes of Meeting held on 12 June 2012, a report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Window Cleaner's Licence submitted by the above named person.

It was noted that the applicant and a representative of the Police authority had been invited to the meeting. It was further noted that Mr Henry was not present at the meeting.

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 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;
- (c) that copies of the letter from the Police had been issued to Members of the Committee in advance of the meeting; and
- (d) that at the meeting on 12 June 2012, the Committee had noted that the applicant was not present and had 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.

It was agreed that the application be determined in the absence of the applicant.

After deliberation the Committee agreed that the application be refused on the grounds that the applicant was not a fit and proper person to hold a Window Cleaner's Licence having regard to the information provided by the Police and the fact that the applicant had failed to attend meetings of the Committee for hearings on two occasions.

PROPOSED CHANGES TO THE TAXI TOPOGRAPHICAL TEST FOR TAXI DRIVER/PRIVATE HIRE CAR DRIVER LICENCE APPLICATIONS

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of the possible change to the method of testing potential applicants for a Taxi Driver/Private Hire Car Driver's Licence from a verbal test to a multiple choice written test in order to improve the transparency of the examination.

The Committee agreed to approve the implementation of the new method of testing potential applicants, the introduction of a test fee and the compulsory attendance at an introductory advice session.

The meeting closed at 3.56 p.m.