

## **LICENSING COMMITTEE**

At a Special Meeting of the Licensing Committee held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 21 November 2012 at 10.07 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; James McArthur, Enforcement Officer and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

**Apologies:** Apologies for absence were intimated on behalf of Councillors Jim Finn, Jonathan McColl and Patrick McGlinchey.

**Councillor Lawrence O'Neill in the Chair**

### **DECLARATIONS OF INTEREST**

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

### **EXCLUSION OF PRESS AND PUBLIC**

Having heard the Chair, Councillor O'Neill, the Committee approved the following resolution:-

"That under Section 50A(4) of the Local Government (Scotland) Act, 1973 the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 1 of Schedule 7A to the Act."

### **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 following a complaint which has been submitted by Strathclyde Police.

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 a Taxi Driver's/Private Hire Car Driver's Licence 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 in addition to the grounds at (a) above, the letter from the Chief Constable had requested the immediate suspension of the Taxi Driver's/Private Hire Car Driver's Licence in terms of Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety;
- (c) that on receipt of the letter from the Chief Constable, Mr Andrew Fraser, the Head of Legal, Democratic and Regulatory Services had been consulted and had advised that immediate suspension was not appropriate at that stage and was of the view that the Chief Constable had failed to provide evidence that, based on the details referred to in the Police letter, there was likely to be a serious threat to public order or public safety and therefore no immediate suspension was put in place by officers;
- (d) that the licensing authority may order a 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;
- (e) that a licensing authority may also order suspension of a licence if, in its opinion, the carrying on of the activity to which the licence relates is causing or is likely to cause undue public nuisance or threat to public order or public safety;
- (f) that the licensing authority must, before deciding to suspend a licence, give the holder of the licence and the Chief Constable an opportunity of being heard;
- (g) that in view of the request for suspension of the licence received from the Police, 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;
- (h) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (i) that the matters which the Committee was required to consider in relation to paragraph (d) above 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, the licence holder was no longer a fit and proper person, to hold a taxi driver's licence;
- (iii) if the Committee was of the opinion that the licence holder 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 the licence holder an opportunity of being 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 the licence holder and representatives of the Police authority, Sergeant Stewart and Mrs Karen Queen, were in attendance.

Note: Councillor Mooney entered the meeting at this point in the proceedings and confirmed that he did not require any further explanation of what was contained in the report.

The Committee heard from Sergeant Stewart who provided details of the offences allegedly committed by the licence holder in relation to the request for suspension of the licence. After hearing Sergeant Stewart in answer to Members' questions, it was noted that the case had been reported to the Crown Office and might proceed by way of petition.

Thereafter, the licence holder was invited to come forward. He was given the opportunity to address the Committee on the circumstances relating to the alleged offences reported to the Procurator Fiscal, as detailed in the letter from the Police authority. The licence holder then answered questions from Members.

Thereafter, both Mr McArthur and Sergeant Stewart were heard in answer to questions from Members. It was noted that the licence was due to expire on 26 June 2013.

After consideration and having heard the Legal Officer, Mr McArthur and Sergeant Stewart in answer to questions from Members, the Committee agreed:-

- (1) that the alleged misconduct was historical and had not been established; and
- (2) that no action be taken at this time in relation to the request for possible suspension of the taxi driver's licence.

The meeting closed at 10.53 a.m.