

Draft

Minute of special meeting of the Civic Licensing Committee held in the Municipal Buildings, Falkirk on Thursday 25 April 2019 at 11.00 a.m.

Councillors: David Balfour
Jim Blackwood
Jim Flynn
Gordon Hughes (Convener)

Officers: Bryan Douglas, Licensing Co-ordinator
Rosemary Hoey, Interim Legal Services Manager
Frances Kobiela, Senior Solicitor
Antonia Sobieraj, Committee Services Officer

Also Attending: Sergeant Clare McKenzie, Police Scotland

CL13. Apologies

Apologies were intimated on behalf of Councillor Binnie.

CL14. Declarations of Interest

None.

CL15. Exclusion of Public

RESOLVED in terms of section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the meeting the press and public for the following items of business on the grounds that they would involve the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A to the said Act.

CL16. Suspension Hearing in Relation to Taxi Driver Licence

The licenceholder, Mr S, and his representative, Mr S, together with Sergeant McKenzie, Police Scotland, entered the meeting.

The committee considered a report by the Chief Governance Officer advising of a letter of complaint submitted by Police Scotland in respect of the licenceholder, which had sought an immediate suspension of the taxi driver licence.

Mr S, the agent for the licenceholder, advised that he wished to raise a number of preliminary points on the competency of the complaint which were:-

- (1) whether there was a competent complaint before the committee. There were discrepancies between the report by the Licensing Coordinator which stated that the request for suspension be made in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 11 and that of the Police Scotland letter of objection which referred to suspension under paragraph 12(1). The complaint was lacking in specification and was irrelevant;
- (2) the inadequate prior notice given by Police Scotland for him, as the client's agent (a) to view the CCTV evidence and to discuss the contents with his client; and (b) that the viewing would take place within the offices of Police Scotland; and
- (3) if there was to be elaboration of the complaint including playing the CCTV that was not competent or relevant.

In response, Sergeant McKenzie, the Chief Constable's representative, provided clarification on (a) the notice given for Mr S to view the CCTV and location; and (b) the error on her part when seeking the permission of the Procurator Fiscal for his client to be given prior notice to view the CCTV evidence. She did however consider that the seriousness of the complaint merited that the CCTV should be shown to the committee. Following points of clarification provided by the Senior Solicitor, the committee agreed to circulate the complaint to consider the preliminary points.

The committee agreed to a short adjournment at 11.43 a.m. and reconvened at 12.17 p.m. with all members present as per the sederunt.

Decision

The committee agreed:-

- (a) That the complaint was competent in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 11;**
- (b) That the matter be continued to a future meeting of the committee to allow fair notice to be given to the licenceholder and his representative to view the CCTV; and**
- (c) The committee was unable to decide on the relevance or weight to give to any CCTV evidence until later.**

The committee agreed to a short adjournment at 12.22 p.m. and reconvened at 12.30 p.m., with all members present as per the sederunt.

CL17. Suspension Hearing in Relation to Private Hire Car Driver Licence

The licenceholder Mr J, his wife, Mrs J, and his representative, Mr M, together with Sergeant McKenzie, Police Scotland, entered the meeting.

The committee considered a report by the Chief Governance Officer advising of a letter of complaint submitted by Police Scotland in respect of the licenceholder, which had sought an immediate suspension of the private hire car driver licence.

Mr M, the representative of the licenceholder, advised that he wished to raise a number of preliminary points relating to the licenceholder's good character.

Following consideration by members and confirmation that the licenceholder and his representative, Mr M, had no objections, the letter of complaint from the Chief Constable was circulated.

Sergeant McKenzie, the Chief Constable's representative, was heard in relation to the matter referred to in the letter of complaint.

There were no questions from members, Mr J or his representative, Mr M. Mr M did however request that a letter be circulated to, and read out by, the convener, providing a positive character witness from the licenceholder's employer. This was agreed and the letter was thereby read out.

Both parties summarised their cases.

The committee agreed to a short adjournment at 1.05 p.m. and reconvened at 1.14 p.m., with all members present as per the sederunt.

Decision

The committee agreed to take no further action.