



Licensing Committee

Wednesday, 23 March 2022

NOTICE IS HEREBY GIVEN that a Meeting of the **Licensing Committee** is to be held at **Remote Locations via Video Conference**, on **Wednesday, 23 March 2022** at **09:30**.

BUSINESS

1. Sederunt

2. Declaration of Group Decisions and Members Interests *

3. Resolution

Consider, and if so decide, adopt the following resolution:
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 7 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4. Minutes

4a. Minute of Meeting 9 February 2022 5 - 8

4b. Minute of Special Meeting of 2 March 2022 9 - 10

5. Written Questions **

6. Question Time ***

Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.

Item(s) which the Committee may wish to consider with the Press and Public excluded

7. Application for Grant of a Taxi Driver Licence - TD22-002

- Information relating to action taken, or to be taken, in connection with the prevention, investigation or prosecution of crime.

Summary of Licensing Committee functions:

To deal with all aspects of the issue of licenses by Local Authorities as required by Government; to deal with matters of Licensing and registration not falling within the functions of any other Committee.

Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:
http://www.moray.gov.uk/moray_standard/page_43661.html
to watch the meeting live.

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

THE MORAY COUNCIL

Licensing Committee

SEDERUNT

Councillor Gordon Cowie (Chair)
Councillor Louise Nicol (Depute Chair)

Councillor George Alexander (Member)
Councillor James Allan (Member)
Councillor David Bremner (Member)
Councillor Theresa Coull (Member)
Councillor Ryan Edwards (Member)
Councillor Donald Gatt (Member)
Councillor Marc Macrae (Member)
Councillor Maria McLean (Member)
Councillor Ray McLean (Member)
Councillor Derek Ross (Member)
Councillor Amy Taylor (Member)
Councillor Sonya Warren (Member)

| | |
|------------------|---------------------------------|
| Clerk Name: | Lindsey Robinson |
| Clerk Telephone: | 07966 120593 |
| Clerk Email: | committee.services@moray.gov.uk |

Minute of Meeting of the Licensing Committee**Wednesday, 9 February 2022****Remote Locations via Video Conference****PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Theresa Coull, Councillor Gordon Cowie, Councillor Ryan Edwards, Councillor Donald Gatt, Councillor Marc Macrae, Councillor Maria McLean, Councillor Ray McLean, Councillor Louise Nicol, Councillor Derek Ross, Councillor Sonya Warren

APOLOGIES

Councillor James Allan, Councillor Amy Taylor

IN ATTENDANCE

Also in attendance were Sean Hoath, Senior Solicitor, Sana Sarwar, Solicitor, Sergeant Gill Flett, Police Scotland, and Lindsey Robinson, Committee Services Officer as Clerk to the Committee.

1. Chair

Councillor Gordon Cowie, as Chair of the Licensing Committee, chaired the meeting.

2. Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regards to any prior decisions taken on how members will vote on any item on the agenda or any declarations of Member's Interests in respect of any item on the agenda.

3. Resolution

The Committee resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 7 of business on the grounds that it involves the likely disclosure of exempt information of the class describes in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

| Paragraph Number of Minute | Paragraph Number of Schedule 7A and reason |
|----------------------------|--|
| 7 | 14 Information relating to any action taken in connection with the prevention, investigation or prosecution of crime. |

4. Minute of Meeting 8 December 2021

The Minute of the Meeting of the Licensing Committee on 8 December 2021 was submitted and approved.

5. Written Questions **

The Committee noted that no written questions had been submitted.

6. Question Time ***

The Committee noted that no questions had been asked.

7. Application for a Taxi Driver Licence - TD-22-001

A report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Committee to consider an application for the granting of a taxi driver licence received on 18 November 2021 subject to an adverse representation received from a consultee.

The Committee noted that the applicant was in attendance. The Chief Superintendent was represented by Sergeant Gill Flett, Police Scotland.

The Senior Solicitor advised the Committee that there were two preliminary issues to be settled before the main case could be heard. The first being that the representations from Police Scotland were received outwith the specified timescale and therefore the Committee were required to make a decision about whether or not to accept the late submission. The second being that the applicant has spent convictions and Police Scotland would like these to be heard by the Committee. With regard to the late submission, Sergeant Flett advised the Committee that the reason was due to an administration error by a new member of staff. The item was closed off instead of being passed on to Sergeant Flett.

The applicant had no comment on the first preliminary issue.

Following consideration, the Committee agreed that they would like to see the Police Scotland representation letter as the administration error was made by a new member of staff and as such was an adequate reason to allow the submission.

The letter was emailed to the Committee and they were given time to read the contents.

Cllr Warren joined the meeting at this juncture and, following consideration, was only an observer and did not take part in any decision making.

With regard to the spent convictions, Sergeant Flett addressed the Committee and sought agreement that the spent conviction should be heard as it was relevant to road safety and that justice could not be done without hearing it.

The applicant had no comment on the second preliminary issue.

Following consideration, the Committee agreed that they would hear the details of the spent conviction due to the relevancy to road safety and how recent it was. The Committee agreed that justice could not be done without hearing the evidence.

The letter was emailed to the Committee and they were given time to read this.

Sergeant Flett addressed the Committee and gave details of the spent conviction.

The applicant addressed the Committee and responded to questions raised by the Committee.

Following consideration, Councillor Alexander moved that the licence be granted as, in his opinion, the applicant had learned from his mistake. This was seconded by Councillor Edwards.

As there was no one otherwise minded, the licence was granted.

The Committee joined the Chair in thanking Sergeant Flett for her work with the Committee as this would be her last meeting, due to her retirement from Police Scotland and wished her all the best for the future.

Minute of Special Meeting of the Licensing Committee**Wednesday, 02 March 2022****Remote Locations via Video Conference,****PRESENT**

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Theresa Coull, Councillor Gordon Cowie, Councillor Ryan Edwards, Councillor Donald Gatt, Councillor Marc Macrae, Councillor Maria McLean, Councillor Ray McLean, Councillor Derek Ross, Councillor Amy Taylor

APOLOGIES

Councillor Louise Nicol, Councillor Sonya Warren

IN ATTENDANCE

Also in attendance at the above meeting were Sergeant Neil Grant, Police Scotland, Sean Hoath, Senior Solicitor, Sana Sarwar, Solicitor and Tracey Sutherland, Committee Services Officer, all Moray Council.

1. Chair

The meeting was chaired by Councillor Gordon Cowie.

2. Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's Interests in respect of any item on the agenda.

3. Resolution

The Meeting resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 3 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

| Paragraph Number of the Minute | Paragraph Number of Schedule 7A and reason |
|--------------------------------|--|
| 4 | 14 Information relating to any action taken in connection with the prevention, investigation or prosecution of crime. |

4. Possible Suspension of Taxi Driver License - STD22-001

A report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Committee to consider a letter of complaint that had been received on behalf of the Chief Constable in respect of the holder of a current taxi driver licence in which the Chief Constable requested the suspension of the licence.

The Committee noted that the licence holder was not in attendance. The Senior Solicitor confirmed that the licence holder had been sent a Notice of Hearing and the notice was sent recorded delivery and duly signed for. He further added that it was for the Committee to decide whether to continue with the hearing or to defer and give the licence holder the opportunity to attend.

The Chair advised that he was happy for the Committee to carry on in the absence of the Licence Holder and there being no one otherwise minded the Committee continued.

On the invitation of the Chair, Sergeant Grant addressed the Committee and responded to questions from Members.

Councillor Edwards stated that, in his opinion on hearing all the information presented, the tests had been met, and the licence holder was not a fit and proper person to hold a taxi driver licence and the carrying on of the activity has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety. Accordingly Cllr Edwards moved to revoke the licence with immediate effect, being satisfied that the circumstances and threat justified the immediate order. This was seconded by Councillor Bremner.

Councillor Alexander, seconded by Councillor Coull, agreed the tests had been met and agreed that immediate effect as justified but instead proposed suspending the licence for the remainder of the licence period or until the court case had taken place whichever was the soonest.

On the division there voted:

For the Motion (7) Councillors Edwards, Gatt, Macrae, M McLean, R McLean, Taylor and Ross

For the Amendment (5) Councillors Alexander, Coull, Allan, Bremner and Cowie.

Abstention (0)

Accordingly the motion became the finding of the meeting and the Committee agreed to revoke the licence with immediate effect on the grounds the applicant not being a fit and proper person to be the holder of a Taxi Driver Licence.