

MORAY COUNCIL

Minute of Meeting of the Licensing Committee

Wednesday, 20 February 2019

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor James Allan, Councillor Theresa Coull, Councillor Gordon Cowie, Councillor Paula Coy, Councillor John Divers, Councillor Ryan Edwards, Councillor Donald Gatt, Councillor Louise Laing, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Amy Patience

APOLOGIES

Councillor Ron Shepherd

IN ATTENDANCE

Also in attendance were Police Constable Ray Walker on behalf of Police Scotland, Sean Hoath, Senior Solicitor and Tracey Sutherland, Committee Services Officer.

1. Chair

The meeting was chaired by Councillor Amy Patience.

2. Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillor's 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. Minute of Previous Meeting held on 5 December 2018

The minute of the meeting of the Licensing Committee dated 5 December 2018 was submitted and approved.

4. Written Questions **

The Committee noted that no written questions had been submitted.

5. Change of Agenda Order

The Chair advised the Committee that the applicant for case TD/19/002 had been held up but was on his way so therefore as the applicant for case STD/19/001 was in attendance, this case would be heard first.

6. Civic Government (Scotland) Act 1982 - Possible Suspension of a Taxi Driver Licence (Case No. STD/19/001)

A report by the Corporate Director (Corporate Services) invited the Committee to consider a request by the Chief Constable to suspend the license of a current taxi driver licence holder.

The Committee noted that the applicant was in attendance. The Chief Constable of Police Scotland was represented by Constable Ray Walker, Police Scotland.

Constable Walker, Police Scotland addressed the Committee and responded to questions raised by the Committee.

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

Following consideration, the Chair asked Constable Walker and the applicant if they were happy with the proceedings and if they felt that had received a fair hearing.

Constable Walker and the applicant advised that they were both happy with proceedings and confirmed that they felt they had had a fair hearing.

Councillor Gatt, seconded by Councillor Edwards moved to refuse Police Scotland's application to suspend the applicant's taxi driver licence.

Councillor Coy proposed an amendment to support Police Scotland's application to suspend the applicant's taxi driver licence.

Councillor Macrae proposed a further amendment, seconded by Councillor M McLean, to support Police Scotland's application to immediately suspend the applicant's taxi driver licence for a 12 month period.

Following consideration, Councillor Divers further added that the applicant had indicated he had not worked for 12 months following the incident and Councillor Divers felt that the applicant had already served his punishment. The applicant had not been brought to the attention of Police Scotland in that time.

In considering Councillor Divers statement Councillor Coy then withdrew her amendment.

On the division there voted:

For the motion Councillors Gatt, Edwards, Allan, Coull, Cowie, Coy, Divers,
(10) Laing, A McLean and Patience

For the Amendment Councillor Macrae and M McLean
(2)

Abstentions (0)

Accordingly the motion became the finding of the meeting and Committee agreed to refuse Police Scotland's application for the suspension of the taxi driver licence.

7. Civic Government (Scotland) Act 1982 - Application for Grant of a Taxi Driver Licence (Case No. TD/19/002)

A report by the Corporate Director (Corporate Services) invited the Committee to consider an application for the grant of a taxi driver licence received on 17 January 2019 subject to an adverse representation received from a consultee.

The Committee noted that the applicant was in attendance. The Chief Constable of Police Scotland was represented by Constable Ray Walker, Police Scotland.

The Senior Solicitor advised the Committee that a further representation had been received from Police Scotland regarding protected spent convictions of the applicant and the Committee must determine, as a preliminary issue, whether the further convictions should be heard on the basis that justice could not be done without hearing the evidence.

The Senior Solicitor then read out the number, general nature and age of protected convictions. The Committee then heard from the parties on the preliminary issue. The Committee was then invited to consider whether justice could only be done by admitting the additional evidence.

In response, Councillor A McLean proposed that the Committee should hear the protected spent convictions of the applicant on the basis that justice could not be done by admitting the evidence.

Councillor Coull further added that the applicant is still coming to the attention of the police.

As there was no one else otherwise minded the Committee agreed to hear the applicant's further convictions and the Senior Solicitor then circulated details of the additional convictions to the Committee.

Constable Walker, Police Scotland addressed the Committee and responded to questions raised by the Committee.

The applicant advised the Committee that he had no further information to add to his application and responded to questions raised by the Committee.

Following consideration, the Chair asked Constable Walker and the applicant if they were happy with proceedings and if they felt they had received a fair hearing.

Constable Walker and the applicant advised that they were both happy with proceedings and confirmed that they felt they had had a fair hearing.

Councillor A McLean moved that having regard to all the evidence the applicant was not a fit and proper person to hold a taxi driver licence and therefore the Committee should refuse the application. The evidence was clear, relevant and consistent.

As there was no one else otherwise minded the Committee agreed to refuse the application for a Taxi Driver licence in respect of Case TD/19/002 as they were satisfied that the applicant is not a fit and proper person to hold the licence due to a disregard for the law. There being a ground for refusal the Committee were obliged to refuse the application.

8. Question Time ***

There were no further questions.