

**THE MORAY COUNCIL**  
**MINUTE OF MEETING OF THE LICENSING COMMITTEE**  
**12 DECEMBER 2007**  
**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors R Shepherd (Chair), G Coull, J Cree, J Divers, J Hamilton, F Murdoch, M McConachie, A McDonald, A McKay, I Ogilvie, D Ross, J Russell and D Stewart.

**IN ATTENDANCE**

Mrs K Wiles, the Principal Solicitor (Litigation & Licensing), and Mrs S Kennedy, Committee Services Officer who acted as Clerk to the meeting.

**APOLOGIES**

Apologies for absence were intimated on behalf of Councillors A Bisset and G McIntyre.

**1. DECLARATION OF GROUP DECISIONS**

In terms of the relevant Standing Order 20 and the Councillor's Code of Conduct the meeting noted that Councillor D Stewart declared a personal interest in Item 9 and took no part in the relevant discussion or decision.

**2. EXEMPT INFORMATION**

The Meeting agreed, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, that the public and media representatives be excluded from the Meeting during consideration of the items of business appearing at the relevant paragraphs of this Minute as specified below so as to avoid disclosure of exempt information of the class described in the appropriate paragraph of Part I of Schedule 7A of the Act.

Para No. of Minute  
12

Para No. of Schedule 7A  
3

**3. COUNCILLOR A BISSET**

On behalf of the Committee the Chair extended best wishes to Councillor Bisset's family at this time.

**4. WRITTEN QUESTIONS**

In response to a written question from Councillor Ross about what consultations had been held with the taxi operators in Moray prior to the introduction of a late-night bus service, the Meeting noted the response which stated:

"The Principal Solicitor (Litigation & Licensing) attended the first of a series of multi agency meetings convened to discuss Scottish Government Funding awarded to tackle alcohol fuelled violence over the festive season on Wednesday 24th October 2007. This was the first suggestion of the pilot of a late-night bus service during the festive season. The minute of that meeting reflects the concern for the potential loss of income that taxi companies were likely to have at this suggestion. The Principal Solicitor was tasked with advising the trade via the Moray Taxi Association.

The Principal Solicitor contacted the Vice-President (in the absence of a President) Graham Ritchie by telephone given the short timescale until the next multi agency meeting was due to be held 2 weeks later. She advised him of the proposals both for late-night buses and separately for taxi

marshals and asked him to canvass the views of the trade. He agreed to convene a meeting and respond prior to the next in the series of multi-agency meetings on 6<sup>th</sup> November 2007.

Graham Ritchie, Vice-president of the Moray Taxi Operators Association contacted the Principal Solicitor by telephone on the morning of 6<sup>th</sup> November 2007 and expressed the views of the taxi trade as to the suggestion of late night buses and taxi marshals. He indicated that he had not been able to organise a meeting as such but that he had spoken to the Committee of the Association and also to a few operators "on the rank". He expressed the opposition of the trade to the late night buses on account of a likely loss in profit for them and that it would simply move the problem out to outlying towns where there was in fact less Police presence rather than deliver the public to their doors such as they would be by taxi. He approved of the use of taxi marshals and also suggested the use of temporary barriers along the length of the taxi rank on the High Street in Elgin to keep order. The Principal Solicitor agreed to share these views at the meeting.

The Principal Solicitor shared the views as expressed by the Moray Taxi Operators Association at the meeting on 6<sup>th</sup> November 2007.

In response to a supplementary question from Councillor Ross asking for an update after the pilot period to see how well it has done, the Principal Solicitor (Litigation & Licensing) advised that the Community Safety Partnership would reflect and evaluate the pilot and she had given an undertaking to meet with the taxi trade in January 2008, along with the Chair, Councillor Divers and Councillor Stewart and would submit a noting report updating Members' on the outcome of the pilot to a future meeting of this Committee.

#### **5. LICENCES DEALT WITH UNDER DELEGATED POWERS**

There was submitted and noted a report by the Chief Legal Officer informing the Committee of Licences, which had been dealt with under delegated powers in terms of the legislation as detailed in the report.

#### **6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – REVIEW OF TAXI FARE STRUCTURE**

There was submitted a report by the Chief Legal Officer inviting the Committee to consider the responses received to the formal consultation in terms of Section 17(3)(b) of the Civic Government (Scotland) Act 1982, on the review of taxi fares and charges within Moray;

The Principal Solicitor (Litigation & Licensing) advised the meeting that the two stage legal process had been carried out; the preliminary consultations with taxi operators in Moray followed by a formal consultation, with only one response being received from the Fleet Services Manager, the Moray Council in regard to the tariff wording. She suggested to the Committee that in light of that consultation there be no change to the scales for the fares and other charges applicable for the hire of taxis in Moray and that it be delegated to the Chief Legal Officer to make changes to the wording of the tariff card.

Councillor Hamilton fully supported the suggestion made by the Principal Solicitor (Litigation & Licensing) and advised that he was pleased with the response from the Taxi Trade that the fares in Moray were already too high, a view fully supported by himself. He also took the opportunity to remind operators that the Council in consultation with the Taxi Trade set the maximum fare but the Taxi Drivers are able to charge less than the maximum fare at their discretion.

Thereafter the Committee agreed to make no change to the scales for the fares and other charges and to delegate power to the Chief Legal Officer to change the wording of the tariff card as appropriate.

**7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A TAXI DRIVER LICENCE (CASE NO TD/07/012)**

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a Taxi Driver Licence submitted by Case No TD/07/012.

The Committee noted that the Applicant was present.

On the invitation of the Chairman, Sergeant J Davidson addressed the meeting and advised that she had nothing further to add to Grampian Police's letter of representation.

On the invitation of the Chairman, the Applicant addressed the Committee.

The Committee took the opportunity to question the Applicant.

The Chair moved that the application be refused as the Applicant was not a fit and proper person to hold a Taxi Driver Licence on account of his criminal conviction.

There being no one otherwise minded the Committee agreed to refuse a taxi driver licence to the Applicant in respect of Case No TD/07/012.

**8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A TAXI DRIVER LICENCE (CASE NO TD/07/013)**

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On the invitation of the Chairman, Sergeant J Davidson addressed the meeting and advised that she had nothing further to add to Grampian Police's letter of representation.

On the invitation of the Chairman, the Applicant addressed the Committee.

The Committee took the opportunity to question the Applicant.

The Chair moved that the application be refused as the Applicant was not a fit and proper person to hold a Taxi Driver Licence on account of his criminal conviction.

There being no one otherwise minded the Committee agreed to refuse a taxi driver licence to the Applicant in respect of Case No TD/07/012.

**9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A LICENCE TO ACT AS A STREET TRADER – MR DAVID HAMILTON-SMITH, 8 WEST END DRIVE, LOSSIEMOUTH**

Councillor D Stewart declared a personal interest in this Item and left the meeting taking no part in the relevant discussion or decision.

There was submitted a report by the Environmental Health Manager advising the Committee of a letter of objection received in respect of Mr David Hamilton-Smith, 8 West End Drive, Lossiemouth in respect of his application for a street trader's licence.

The Committee noted that the Applicant and his representative were present.

On the invitation of the Chairman, Inspector D Spark addressed the meeting. He referred to page two of Grampian Police's letter of representation in regard to 3 charges, noting that the first one was of no real concern but that charges 2 and 3, an attempt to defeat the ends of justice and an attempt to pervert the course of justice gave him cause for concern.

On the invitation of the Chairman, the Applicant's representative addressed the Committee.

The Committee took the opportunity to question the Applicant.

The Chair moved that the application be refused as the applicant was not a fit and proper person to be the holder of the licence on account of his lack of integrity as demonstrated by the offences which had wasted so much Police and DVLA time and public money. Councillor Cree seconded the motion noting that due to the nature of offences and the lengths that the applicant had gone to confuse the issues clearly demonstrated deceit and called into question his integrity. Also in light of the repeated attempts made to remind the applicant to renew his licence by the authority that the applicant had ignored he had demonstrated that he took the matter lightly and didn't regard the licence as a valuable asset.

There being no one otherwise minded the Committee agreed to refuse a Street Trader Licence to the Applicant.

On the conclusion of this Item Councillor Stewart rejoined the meeting.

#### **10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – POSSIBLE SUSPENSION OF A TAXI DRIVERS LICENCE**

There was submitted a report by the Chief Legal Officer advising the Committee of a lack of co-operation in administrative matters by Mr Euan Reid, The Kennels, Gordon Castle, Fochabers, holder of a current taxi driver licence and inviting the Committee to consider whether they would wish to hold a suspension hearing in that regard.

On the invitation of the Chairman, the Principal Solicitor (Litigation & Licensing) advised the meeting that numerous attempts had been made to ensure that the applicant returned crucial administration documents but that these had proved unsuccessful. He had also been warned that this was a serious matter and could result in a suspension of his licence.

The Chair moved that a suspension hearing should be held in respect of the licence granted to the applicant.

Members' expressed concern at the lack of regard shown to the Committee by the applicant and felt that a time limit of 21 days should be imposed for returning administration documents.

The Principal Solicitor (Litigation & Licensing) advised the meeting that the conditions document that had proved problematic had been re-issued to all taxi drivers along with a return slip and in future any new licence would be checked after 14 days and a report would be submitted to a future meeting of this Committee.

There being no one otherwise minded the Committee agreed to hold a Suspension Hearing in respect of the licence granted to the applicant.

#### **11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – POSSIBLE SUSPENSION OF A TAXI DRIVERS LICENCE**

There was submitted a report by the Chief Legal Officer advising the Committee of a lack of co-operation in administrative matters by Mr Norman Shilling, 115 Milton Drive, Buckie, holder of a current taxi driver licence and to consider whether they would wish to hold a suspension hearing in that regard.

On the invitation of the Chairman, the Principal Solicitor (Litigation & Licensing) advised the meeting that numerous attempts had been made to ensure that the applicant returned crucial administration documents but that these had proved unsuccessful. He had also been warned that this was a serious matter and could result in a suspension of his licence.

The Chair moved that a suspension hearing be held in respect of the licence granted to the applicant.

Members' expressed concern at the lack of regard shown to the Committee by the applicant and felt that a time limit of 21 days should be imposed for returning administration documents.

The Principal Solicitor (Litigation & Licensing) advised the meeting that the conditions document that had proved problematic had been re-issued to all taxi drivers, along with a return slip and in future any new licence would be checked after 14 days and a report would be submitted to a future meeting of this Committee.

There being no one otherwise minded the Committee agreed to hold a Suspension Hearing in respect of the licence granted to the applicant.

## 12. QUESTION TIME

There were no questions asked at this meeting.

### 13. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICANT FOR TAXI DRIVER LICENCE SUFERING FROM MEDICAL CONDITION (PARA 3)

There was submitted a report by the Chief Legal Officer advising the Committee that a taxi driver licence application has been submitted by Case Number T/D 07/014.

The Committee noted that the Applicant was present.

On the invitation of the Chairman, the Principal Solicitor (Litigation & Licensing) outlined the background to the application advising that until such time as an echocardiogram had been carried out the applicant's Doctor could not advise whether the applicant would meet DVLA Group 2 Standards.

On the invitation of the Chairman, the Applicant addressed the Committee and advised that he could see no reason why he could not drive on a part time basis as an echocardiogram had been carried out approximately 8 months ago. He also advised that if the Committee felt that it was necessary to have another echocardiogram carried out he was happy to do so.

The Committee took the opportunity to question the Applicant.

The Chair moved that clarification be sought from the applicant's Doctor on the situation and if the Clerk received a letter confirming that the applicant had an echocardiogram within the last twelve months that achieved DVLA Group 2 standards and there have been no further medical incidents in the intervening period then delegated power be given to the Chief Legal Officer to issue the applicant with a temporary Taxi Driver Licence.

There being no one otherwise minded the Committee agreed that the Clerk seek clarity and written confirmation from the Applicant's Doctor that he meets DVLA Group 2 Standards. If the applicant meets the required standard then delegated authority be granted to the Chief Legal Officer to issue a Temporary Taxi Driver Licence to the applicant in respect of Case No TD/07/014. But otherwise to defer the matter of the grant of a full Taxi Drivers Licence until a future meeting of the Committee or an up to date echocardiogram is available.