

**THE MORAY COUNCIL**  
**MINUTE OF SPECIAL MEETING OF THE LICENSING COMMITTEE**

**WEDNESDAY 17 JUNE 2009**

**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors R Shepherd (Chair), D Ross (Depute Chair), J Cree, J Hamilton, M McConachie, A McDonald, E McGillivray, G McIntyre, A McKay, M Shand, and D Stewart

**IN ATTENDANCE**

Mrs R Gunn, Senior Solicitor (Litigation & Licensing), Mr T Haynes, Litigation & Licensing Officer, Inspector E Strachan (Grampian Police), and Mrs S Kennedy, Committee Services Officer, who acted as Clerk to the meeting.

**APOLOGIES**

Apologies were intimated on behalf of Councillors J Divers, J Sharp and A Wright (Ex-Officio).

**1. DECLARATION OF GROUP DECISIONS**

In terms of Standing Order 20 and the Councillors' Code of Conduct the meeting noted that there were no declarations from group leaders or spokespersons with regard to any prior decisions taken on how Members will vote on any item on the Agenda or any declarations of Members Interest in respect of any item on the Agenda.

**2. WRITTEN QUESTIONS**

There were no written questions at this meeting.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - POSSIBLE SUSPENSION OF LATE HOURS CATERING LICENCE (CASE NO SLHC/09/001)**

There was submitted a report by the Chief Legal Officer advising the Committee of a letter of complaint received on behalf of the Chief Constable in respect of Ms Kalsum Akhtar, Natural Spice, 187C High Street, Elgin holder of a current late hours catering licence.

The Committee noted that the licence-holder was not present. The Committee noted that Mr Akram, Manager of the premises was in attendance and was represented by his solicitor, Mrs L May.

Mrs R Gunn, Senior Solicitor (Litigation and Licensing) advised the meeting that she had received a complaint from Grampian Police and in response had convened a hearing to consider suspension of the licence holder's licence in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982. The complaint focussed on information received by Grampian Police concerning the premises upon which the management had been found to be employing illegal immigrants; on this basis the Chief Constable was of the opinion that the licence-holder was not a fit and proper person to hold this licence.

On the invitation of the Chairman, Inspector E Strachan reiterated the terms of Grampian Police's letter of complaint. He further advised that a civil fine of £20,000 had been imposed on the employer, Mr Mohammed Akram, Manager of the premises who has the responsibility for employees. The Committee noted that the employer had lodged an appeal to the fine, which was still ongoing.

On the invitation of the Chairman the licence-holder's solicitor, Mrs May addressed the meeting and advised that the licence-holder could not be present as she was currently sitting exams. She added that her client had however sent an e-mail in support of her case.

The Committee agreed to accept the e-mail and the Clerk circulated copies to the Committee. This revealed that the licensee had sold the business to Mr Akram in October 2007 and had had no involvement with the business since that date.

Mrs May updated the Committee on the background to the case including the immigration issues and thereafter responded to members' questions.

The Committee took the opportunity to question the licence-holder's solicitor.

Mrs R Gunn reminded the Committee that taking into account the ground on which the suspension hearing had been convened and what they had heard at today's hearing, the issue to decide was whether the licensee was a fit and proper person to be the holder of a late hours catering licence rather than whether the activity to which the licence related was being managed by or carried on for the benefit of another person who would have been refused a licence had he applied.

Thereafter, Councillor McIntyre seconded by Councillor Hamilton moved that the licence-holder's late hours catering licence (in Case No SLHC/09/001) be suspended.

As an amendment Councillor Cree seconded by Councillor McConachie moved that the case be deferred to allow the licence-holder the opportunity to make a personal appearance.

On a division there voted:-

For the Motion (5)

Councillors McIntyre, Hamilton, McGillivray, Ross and Shepherd

For the Amendment (6)

Councillors Cree, McConachie, A McDonald, A McKay, Shand and Stewart

Abstentions (0)

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The Amendment became the finding of the meeting and it was agreed to defer consideration of Case No SLHC/09/001 to allow the licence-holder the opportunity to make a personal appearance.