

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 22 OCTOBER 2014**

Present: Councillor David Kinniburgh (Chair)

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| Councillor Robin Currie | Councillor Roderick McCuish |
| Councillor George Freeman | Councillor Alex McNaughton |
| Councillor Neil MacIntyre | Councillor James McQueen |
| Councillor Robert G MacIntyre | Councillor Richard Trail |
| Councillor Donald MacMillan | |

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Trainee Solicitor
Sergeant Ferguson, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Blair, Rory Colville, Mary-Jean Devon, Alistair MacDougall and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR
GRANT OF PRIVATE HIRE CAR OPERATOR'S LICENCE (K
CHATTINGTON, DUNOON)**

The Chair welcomed everyone to the meeting and it was noted that the Applicant was not in attendance.

The Head of Governance and Law advised that a late letter of representation had been received from Police Scotland and the Chair invited Sergeant Ferguson to explain why the letter had been submitted late.

Sergeant Ferguson explained that the representation was submitted late due to enquiries that had to be made into a complaint they had received about the Applicant.

The Committee agreed to take the late representation received from Police Scotland into consideration.

The Chair then outlined the procedure that would be followed and invited Sergeant Ferguson to speak in support of the Chief Constable's representation.

Police

Sergeant Ferguson referred to the contents of the Chief Constable's letter and the nature of the representation made in respect of this Application. He confirmed that there had been insufficient evidence to take to the Procurator Fiscal and that Police Scotland had no further issues in respect of the character of the Applicant.

Members' Questions

Councillor Currie sought and received clarification that Police Scotland had not submitted an objection to this application.

Councillor McCuish sought and received clarification from Sergeant Ferguson that there were no ongoing or outstanding investigations in respect of the Applicant.

Councillor Freeman sought and received clarification from Sergeant Ferguson that Police Scotland had no concerns about the Applicant.

Councillor Kinniburgh explained that although there was no objection from Police Scotland, it was his belief that the Chief Constable still wanted the details of the investigation that took place brought to the Committee for attention as the Chief Constable considered that the incident investigated still took place even though there was no report to the Procurator Fiscal.

Sergeant Ferguson confirmed that even although there had been no offence the details of the incident had still been brought to the Committee's attention so that the Members could determine whether or not the application should be granted.

Summing Up

Sergeant Ferguson confirmed that he had nothing further to add to what was already detailed in the Chief Constable's letter.

Debate

Councillor McCuish advised that he felt that the detail of the incident that had taken place was a cause for concern.

Councillor Currie queried why the Chief Constable's representation had been submitted when they had no objection to the application.

Mr Reppke explained that in some cases Police Scotland did not make an objection to an application but still submitted a representation inviting the Committee to make a judgement on the information provided in order to determine whether or not they considered a person to be a fit and proper person to be the holder of a licence.

Councillor Trail stated that he found the behaviour of the Applicant very concerning. He said that if this application was granted the Applicant could be transporting young women late at night in his vehicle and

advised that this set alarm bells ringing for him as the Applicant may not behave properly. He stated that the Committee not only had to consider whether or not the Applicant should hold down this job but should also consider the passengers that he may be carrying.

Councillor Freeman advised that it was important for Members to consider whether or not the Applicant was a fit and proper person to be the holder of the Private Hire Car Operator's licence.

Councillor Currie stated that the Committee had determined that the Applicant was a fit and proper person to continue to be the holder of a taxi driver licence at the earlier suspension hearing and asked how they could now consider him not to be a fit and proper person to be the holder of a Private Hire Car Operator's licence.

Councillor Kinniburgh stated that there was a difference between the two licences. He explained that as the holder of a taxi driver licence he was answerable to his employers and that they would know when he had passengers and where he was taking them. He advised that with a Private Hire Car Operator's licence the Applicant would be out there on his own. He stated that he had concerns about the conduct of the Applicant.

Councillor McCuish referred to the Application form submitted not being signed or dated and it was noted that the form had been submitted via a national portal which meant signatures were done in a different way.

Councillor McCuish stated that if there was any doubt about the Applicant being a fit and proper person then his application for a licence should not be granted.

Councillor Trail asked why the Chief Constable had not supplied this information in respect of the taxi driver licence.

Mr Reppke referred to the comments from the Chair as to the greater control that exists working for someone as opposed to working for yourself.

Decision

In the absence of any submission from the Applicant to address concerns from Members it was unanimously agreed not to grant a Private Hire Car Operator's Licence based on the information provided at it was considered that the Applicant was not a fit and proper person to be the holder of the licence as this type of licence was different to a taxi driver licence whereby the Applicant would be employed by someone else.

(Reference: Report by Head of Governance and Law, submitted)