

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 AUGUST 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Roderick McCuish
Councillor Robin Currie	Councillor Alex McNaughton
Councillor Robert G MacIntyre	Councillor James McQueen
Councillor Donald MacMillan	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Kate Connelly, Trainee Solicitor
Sergeant McGhee, Police Scotland
Constable Brown, Police Scotland
Ms Murray, Police Scotland
Mr McDougall, Licence Holder

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - TAXI DRIVER LICENCE (S MCDOUGALL, HELENSBURGH)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Police to speak in support of the Chief Constable's complaint.

Police

Sergeant McGhee advised that the Chief Constable requested in terms of paragraph 11 (1) of Schedule 1 of the Act that the Licensing Committee suspend Mr McDougall's licence. In support of the Chief Constable's request Sergeant McGhee explained the circumstances surrounding an incident which took place on 20 April 2014 between Mr MacDougall and a male passenger while Mr McDougall was operating as a taxi driver. He advised that following the incident Mr MacDougall had left the scene and was traced a short time later and issued with a Fixed Penalty Notice for a Breach of the Peace.

As there were no questions from Mr McDougall the Chair invited him to

speak in support of his licence.

Licence Holder

Mr McDougall referred to the contents of a statement which he had submitted to Legal Services and which was contained within the paperwork presented to Members of the Committee. He confirmed that he had picked up a passenger who had sat behind him in the taxi and then started to stroke his neck and then placed his hands around his neck and starting choking him. Mr McDougall advised that he feared for his life and was not thinking straight. He confirmed that when the passenger pushed him in the street he pushed him back and did not mean for him to fall and get injured. He referred to the passenger being intoxicated and that he did not realise he was injured when he fell. He referred to being shaken by the incident and that he panicked and regretted driving away.

When asked Sergeant McGhee confirmed he had no questions.

Members' Questions

Councillor Colville sought and received clarification from Mr McDougall that he drove a saloon car.

Councillor Colville sought and received clarification from Sergeant McGhee that Mr McDougall was traced by the Police the morning after the incident took place.

Mr McDougall confirmed to Councillor McCuish that the Police had contacted him by phone and asked him to come to the Police Station.

Councillor McCuish asked why Mr McDougall had not reported the incident or sought assistance on this taxi radio. Mr McDougall advised that he had been in a blind panic and that if he was able to go back in time that is what he would have done.

Mr McDougall confirmed to Councillor Trail that he was not aware of anyone being nearby when he left the scene of the incident.

Councillor Currie sought and received clarification from both Mr McDougall and Sergeant McGhee that Mr McDougall had not been charged with assault. He had received a £40 fine for breach of the peace and that the case did not go to Court.

Mr McDougall confirmed to Councillor Colville that he did not realise the passenger was unconscious when he fell. Sergeant McGhee advised that Ambulance staff had established that the passenger was unconscious.

Councillor McCuish sought and received clarification from Sergeant McGhee that the male passenger had also received a £40 fine and that under these circumstances of breach of the peace both parties were dealt with the same way.

Councillor Kinniburgh sought and received clarification from Mr McDougall

that the passenger was not known to him and that he had never seen him before. Mr McDougall advised that the passenger was known to other taxi drivers and that he lived in Shandon.

Councillor Kinniburgh sought and received clarification from Mr McDougall that he believed the passenger to be the aggressor in this situation as he was being choked by the passenger and thought he was going to die which Mr McDougall stated was a horrendous feeling.

Mr McDougall confirmed to Councillor Trail that he had never been in trouble with the Police before.

Councillor MacDougall asked Sergeant McGhee how intoxicated the passenger was and if this could have contributed to his fall. Sergeant McGhee advised that he was not present at the incident so could not advise how intoxicated the passenger was. He acknowledged that his condition may have contributed to his fall.

Councillor Kinniburgh sought and received clarification from Mr McDougall that if the same incident happened tomorrow he would deal with the situation differently.

Summing Up

Police

Sergeant McGhee referred to the serious nature of the case and the fact that Mr McDougall had driven away leaving the gentleman lying unconscious on the carriageway. He stated that Mr McDougall had the opportunity to come and report the incident to the Police and he had not.

Licence Holder

Mr McDougall advised that he was ashamed to have been brought before the Committee under these circumstances. He advised that the incident had been a terrifying situation and that he was sorry for what had happened. He stated that he had been driving taxis for 27 years and had never done anything else. He advised that this was his only source of income and that he supported his wife and 3 children. He asked the Committee not to take his licence away.

The Chair asked both parties to confirm if they had received a fair hearing and they both confirmed this to be the case.

Debate

Councillor Colville referred to the injured passenger leaving the hospital before receiving treatment. He stated that due to the reasons given by Mr McDougall he was inclined to support the retention of Mr McDougall's licence.

Councillor Trail advised that allowing Mr McDougall to keep his licence did not mean the Committee condoned the action taken by Mr McDougall and

that he had been totally irresponsible.

Councillor Kinniburgh agreed that Mr McDougall had been irresponsible but due to the situation Mr McDougall found himself in he understood why he took that course of action. He noted that Mr McDougall has been a taxi driver for a long time with an unblemished record and stated that it was his view that he should retain his licence.

Decision

Agreed not to suspend Mr McDougall's taxi driver licence and noted that Mr McDougall would be notified in writing of the Committee's decision within 7 days.

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