

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 18 MARCH 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas Councillor Sandy Taylor
Councillor Donald MacMillan BEM Councillor Richard Trail
Councillor Jean Moffat

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Robin Currie, Mary-Jean Devon, Audrey Forrest, George Freeman, Graham Archibald Hardie, Roderick McCuish and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: CONTINUED REQUEST FOR
SUSPENSION OF TAXI DRIVER'S LICENCE (A MCCUNN, LOCHGOILHEAD)**

This matter was previously considered by the Committee at a Hearing on 21 August 2019. At the conclusion of the hearing it was unanimously agreed to continue consideration until the outcome of the criminal proceedings against Mr McCunn was known. It was confirmed that those Members present today had attended this hearing.

The criminal proceedings against Mr McCunn have now concluded and consideration was given to a report inviting Members to determine whether the Taxi Driver Licence held by Mr McCunn should be suspended using the powers contained in Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

Mr McMillan advised that a representative from Police Scotland would not be present at this meeting as they had been advised by senior management that Officers should not attend external meetings in order to reduce the risk of Operational Officers being exposed to the coronavirus (COVID-19) infection.

In terms of the original letter requesting the suspension and the follow up letter attached at Appendix 2 to the report, Mr McMillan advised that Police Scotland stood by their representation in relation to this matter. He advised that it would be acceptable for the Committee to pick up from point 10 of the procedure note set out at Appendix 3, and debate and determine the question whether to suspend the licence. He advised that there was sufficient grounds to determine the matter if the Committee were minded to do so.

Mr McMillan confirmed that correspondence had been sent to the home address of the Licence Holder by Recorded Delivery and that this had been signed for. The letter invited the Licence Holder or a representative to attend. He was also given the option of submitting his representation in writing for consideration. Mr McMillan advised that he received a phone call on 12 March 2020 from a female residing at the same address as the Licence Holder and she had advised that the Licence Holder was not in a position to attend and that he was not in a position to send a representative or submit a written representation.

DEBATE

Councillor Trail sought and received confirmation from Mr McMillan on the options open to the Committee other than suspension. Mr McMillan explained that the Committee could suspend the licence and this could be for the unexpired portion of the licence. He also referred to the option of revoking the licence and advised that in terms of the legislation this would not be able to take effect for 28 days. Mr McMillan pointed out that there was provision within the Act which would allow for a suspension to take effect immediately.

Councillor Douglas sought and received confirmation from Mr McMillan that the default position was usually to suspend for the unexpired portion of the licence but it could be for a shorter period if justified.

Councillor Kinniburgh sought and received confirmation from Mr McMillan that the licence would expire on 12 January 2022 and it would be open to the Licence Holder before that date to submit a renewal application. He said that if the licence was revoked, at any point a new licence could be applied for.

Councillor Kinniburgh asked if the Licence Holder could be barred from submitting an application. Mr McMillan said this could only be done through criminal proceedings where the Court could disqualify him for holding a licence under the Act in certain circumstances. He confirmed that this had not be done in this case.

Councillor Kinniburgh asked if it would be possible to place a condition that any renewal application would have to come back to the Committee. Mr McMillan advised that it would not be competent to place a condition on a suspension. He explained the checks in place that would flag up previous convictions through the Police Scotland system. He confirmed that the licensing authority would also make further enquiries if convictions were not flagged up in respect of this Licence Holder.

Councillor Douglas asked how far back the Police checked for convictions. Mr McMillan advised that the process was complex in terms of the Rehabilitation of Offenders Act. In terms of a custodial sentence this stayed on record for a lot longer. He advised that in terms of any renewal this would need declared on the form.

DECISION

The Committee unanimously agreed to suspend Mr McCunn's Taxi Driver Licence with immediate effect for the unexpired portion of the Licence as due to the gravity of the misconduct the Licence Holder was no longer a fit and proper person to be the holder of the Licence.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

