

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held BY MICROSOFT TEAMS on WEDNESDAY, 15 DECEMBER 2021**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Kieron Green	Councillor Alastair Redman
Councillor Graham Hardie	Councillor Richard Trail

**Attending:** Patricia O'Neill, Governance Manager  
Graeme McMillan, Solicitor  
James Buchanan, Applicant  
Jane MacLeod, Applicant's Solicitor

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Audrey Forrest, George Freeman, Donald MacMillan BEM and Sandy Taylor.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TAXI DRIVER LICENCE (J BUCHANAN, DUNOON)**

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant opted to proceed by way of audio call and joined the meeting by telephone. The Applicant's Solicitor opted to proceed by way of video call and joined the meeting by MS Teams.

The Council's Solicitor, Mr McMillan, advised that Police Scotland had requested the Committee take into account a number of matters that were considered "protected" in terms of the Rehabilitation of Offenders Act 1974. He explained that it had been Police Scotland's intention to attend the hearing today but a late apology for absence had been received this morning. He advised that Police Scotland did not submit anything further in support of their request for the protected matters to be taken into consideration.

The Chair outlined the procedure that would be followed in this respect and in the absence of Police Scotland, invited the Applicant's Solicitor to address the relevancy of the protected matters.

Mrs MacLeod advised that as far as she and Mr Buchanan were aware from the paperwork they had received, the only matters referred to were 2 convictions and 2 occasions when the Procurator Fiscal decided not to proceed with any charges against Mr Buchanan. She commented on Police Scotland also referring to a medical condition and confirmed that she had lodged a letter with the licensing team to advise that there was no medical condition. She referred to the protected matters and advised that if this was in relation to spent conditions, then she would like to remind the Committee that Mr

Buchanan had held a taxi driver's licence from the 2000s until he had to surrender it in 2017 following an unfortunate conviction. She suggested that the Committee in the past had either treated the protected matters as being spent or considered them not to be relevant. She advised that she would maintain that this position had not changed and that the Committee should not consider the protected matters as relevant to this application. She asked the Committee to proceed with determining the application today without the disclosure of the protected matters.

The Chair then invited comment from Members.

Councillor Colville said that he was confident a decision could be reached today without disclosing the detail of the protected matters.

Councillor Trail asked Mr McMillan if the Committee could arrive at a fair decision today without Police Scotland being present. Mr McMillan advised that the Committee could. He explained that Police Scotland, as well as all other parties, had been given fair notice of today's hearing, with letters issued at least 14 days before the hearing. He advised that Police Scotland were planning to attend but due to resourcing issues, they submitted their apologies this morning. He advised that they did not request a continuation of the hearing. Mr McMillan confirmed that it would be competent under the Act for the Committee to proceed with the hearing today.

Councillor Kinniburgh asked Mr McMillan if the Committee had considered an application from Mr Buchanan in the past. Mr McMillan said it was his understanding that Mr Buchanan had held a Taxi Driver's Licence in the past but he could not confirm if this was granted under delegated powers or following a hearing as it was historical pre 2017.

Councillor Kinniburgh advised that he would not feel comfortable proceeding today without hearing from Police Scotland. He advised that he would like to hear their reasons why the protected matters should be taken into consideration.

### **Motion**

To agree to continue this hearing to a future meeting to enable Police Scotland to attend.

Moved by Councillor David Kinniburgh, seconded by Councillor Jean Moffat.

### **Amendment**

To agree to proceed with the hearing today.

Moved by Councillor Rory Colville, seconded by Councillor Mary-Jean Devon.

A vote was taken by calling the roll.

### Motion

Councillor Green  
Councillor Hardie  
Councillor Kinniburgh  
Councillor McCuish  
Councillor Moffat  
Councillor Redman

### Amendment

Councillor Colville  
Councillor Devon  
Councillor Trail

The Motion was carried by 6 votes to 3 and the Committee resolved accordingly.

## **DECISION**

The Committee agreed to continue consideration of this hearing to a future meeting to enable Police Scotland to attend.

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