

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 18 DECEMBER 2019**

Present: Councillor David Kinniburgh (Chair)

Councillor Lorna Douglas Councillor Sandy Taylor
Councillor Donald MacMillan BEM Councillor Richard Trail
Councillor Alastair Redman

Attending: Stuart McLean, Committee Manager
Graeme McMillan, Solicitor
Graham Dempsey, Licence Holder

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER'S LICENCE (NO. 5434) (G DEMPSEY, KILCREGGAN)

The Chair welcomed everyone to the meeting and introductions were made.

As a representative from Police Scotland was not present the Chair ruled, and the Committee agreed, to adjourn the meeting for 5 minutes to clarify whether or not a Police Scotland representative would be attending.

The Committee reconvened at 3.20 pm and the Chair outlined the procedure that would be followed. In the absence of Police Scotland he invited the Licence Holder to speak in support of his licence.

LICENCE HOLDER

Mr Dempsey referred to the reason why the Chief Constable was requesting the suspension of his licence. He advised that the incident described in the Chief Constable's letter did not take place. He said that the person involved turned the case around and the judge found him guilty.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr Dempsey that he had been found guilty in a Court of Law.

Councillor Kinniburgh referred to Mr Dempsey's sentence being deferred until 16 December 2019 and asked if he appeared at Court on that date. Mr Dempsey

confirmed that he had and that he had been sentenced to 100 hours of community service on that date. He said he received no fine. He also said that he had an appointment with his Social Worker on 23 December 2019 in Helensburgh.

Councillor Kinniburgh sought and received confirmation from Mr Dempsey that he had a taxi driver's licence and that he drove taxis from Kilcreggan. He confirmed that this was his main source of income.

Councillor Kinniburgh asked Mr Dempsey how his life would be affected if the Committee decided to suspend his licence. Mr Dempsey replied that his family and friends would support him and that he would just have to accept the consequences.

Councillor Kinniburgh sought and received confirmation from Mr Dempsey that it was his opinion that the assault did not take place.

Councillor Trail referred to the crime of Assault to Injury referred to in the Chief Constable's letter and asked Mr Dempsey if there was an injury and he replied no. He said that there was no evidence of injury presented at Court either.

Councillor Taylor asked what type of taxi work Mr Dempsey did. Mr Dempsey advised that he did local work around Kilcreggan where he lived and that he also did journeys to Glasgow Airport and Glasgow Central Station. He confirmed that he normally worked evenings from 5.00 pm.

Councillor Taylor referred to the Police indicating in the Chief Constable's letter that Mr Dempsey was under the influence of alcohol and he sought comment on that. Mr Dempsey explained that on the night the incident was supposed to have taken place he had taken some alcohol but had stopped drinking by the time the incident had supposedly taken place. He advised that he had gone home for a sleep before the person in question turned up at his property and that when she arrived she was quite intoxicated.

Councillor Douglas sought and received confirmation from Mr Dempsey that he had held a taxi driver's licence for about 17 years. He confirmed that this was his first offence and that there had never been any other incidents.

Councillor Kinniburgh sought and received confirmation from Mr Dempsey that he only worked part time, 2 evenings per week.

SUMMING UP

Licence Holder

Mr Dempsey advised that over all the years he had been a taxi driver this was his first offence. He said that he really enjoyed his job and meeting people. He advised that most of his customers were local people. He said that he was born and bred in Kilcreggan and that he hoped to continue the work that he did for his local community.

Mr Dempsey confirmed that he had received a fair hearing.

DEBATE

Councillor Trail said he did not have a problem with this. He commented that this was a single offence and not particularly serious given the sentence imposed. He advised that he did not think Mr Dempsey would pose a risk to the public and that he was minded to support Mr Dempsey keeping his licence.

Councillor Redman commented that the sentence was very lenient and that Mr Dempsey had been a taxi driver for many years. He said that it would be over zealous of the Committee to take away Mr Dempsey's licence and that he was minded to let him continue to operate as a taxi driver.

Councillor Douglas advised that she echoed the sentiments around the table. She said she felt that Mr Dempsey had been given a punishment with community hours as a consequence of the action and that she would feel uncomfortable suspending his licence.

Councillor Taylor said that what influenced his decision was the fact that it was clear in his mind that the consumption of alcohol was in a social setting as opposed to a work situation which, he advised, he would be concerned about it. He confirmed that he was comfortable with Mr Dempsey keeping his licence.

Councillor Kinniburgh commented that it would have been helpful if a representative from Police Scotland had been present to confirm his thoughts. He said that this appeared to be a domestic incident rather than a threat to the public. He commented that Mr Dempsey only drove his taxi 2 nights per week. He referred to Mr Dempsey appearing at Court for sentencing and said that the other thing in Mr Dempsey's favour was that he had appeared before the Committee today to present his case. He advised that he tended to agree with his fellow colleagues that the Committee should take no action. He pointed out to Mr Dempsey that if he should appear before this Committee again for such a matter or similar the likelihood would be that his licence would be suspended.

DECISION

The Committee unanimously agreed not to suspend Mr Dempsey's Taxi Driver's Licence.

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