

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 22 JUNE 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Rory Colville	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor Alistair MacDougall	Councillor Sandy Taylor
Councillor Robert G MacIntyre	Councillor Richard Trail

Attending: Patricia O'Neill, Central Governance Manager
Kate Connelly, Solicitor
Sergeant MacNicol, Police Scotland
Heather Murray, Police Scotland
Daniel Langford, Licence Holder

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors George Freeman, Roderick McCuish and Neil MacIntyre.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING -
PRIVATE HIRE DRIVER LICENCE (D LANGFORD, TOBERMORY, ISLE OF
MULL)**

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

Police Scotland

Sergeant MacNicol read out the contents of a letter which stated that the Chief Constable complained, in terms of Paragraph 11 (2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982 that Mr Langford was no longer a fit and proper person to hold the Private Hire Driver licence. In support of this submission reference was made to an incident which took place on 16 December 2015 which led to Mr Langford being charged with theft and fined following appearance at Oban Sheriff Court on 26 April 2016. Sergeant MacNicol advised that the Chief Constable requested, in terms of Paragraph 11 (1) of Schedule 1 of the Act that the Committee suspend Mr Langford's Private Hire Driver Licence.

Licence Holder

Mr Langford advised that he has realised that he made a grave mistake. He confirmed that he had paid all the money back that he had taken and that he had

paid his fine. He stated that he would like the Committee to consider not suspending his Licence so that he can work further down the line. He confirmed that he was not using his Licence at the moment but planned to use it if the Licence was not suspended.

Members' Questions

Councillor Trail sought and received confirmation from Mr Langford that he had paid the money back and his fine in full.

Councillor MacDougall sought and received confirmation from Mr Langford that he was not an official carer of the gentleman he had taken money from. He advised that he was just a friend.

Councillor Colville asked Mr Langford if there were any extenuating circumstances which led to him committing the offence. Mr Langford advised that he had been short of money. He said he had went to the bank to withdraw money for the gentleman and he also used the gentleman's card to withdraw money for himself. He stated that on hindsight he realised that he had made a grave mistake and he paid the money back within 48 hours. He confirmed that this had been a one off event.

Councillor Currie asked Sergeant MacNicol if they could confirm that the money had been paid back within 48 hours of the offence taking place or 48 hours after Mr Langford had been charged with the offence. Sergeant MacNicol advised that from the information he held the money was not paid back within 48 hours. He advised that when Mr Langford was charged he had stated that he had paid back £50 into the gentleman's bank account but the bank statement produced by the gentleman had no transaction recorded showing that the money had been paid back. Sergeant MacNicol said that he was not aware if the money had been paid back since Mr Langford's conviction.

Councillor Currie asked Mr Langford to confirm if the money had been paid back. Mr Langford replied that he had paid the £50 back before going to Court and at Court he was to pay back a total of £80 and that he paid £30 after his appearance at Court.

Councillor Blair asked the Police to confirm how many transactions were made in respect of the inappropriate use of the bank card. Sergeant MacNicol confirmed that there were 3 transactions, one for £300, one for £50 and one for £30. He stated that Mr Langford was charged with theft of £180 and a report went to the Procurator Fiscal. He confirmed that at Court he was convicted of stealing £80.

Councillor Blair sought and received confirmation from Mr Langford that he paid back £50 in December and £30 after his conviction. Mr Langford also confirmed that so far he had paid £200 of his £300 fine as he had been ordered to pay it back in weekly instalments of £25.

Councillor Kinniburgh sought and received confirmation from Mr Langford that he had paid back the £80.

Councillor Kinniburgh sought clarification from the Police on what had been paid back. Sergeant MacNicol confirmed that when Mr Langford was charged there was

no record of the £50 having been paid back and that he was 100% sure that no money had been paid back at that time.

Councillor Trail sought and received confirmation from Mr Langford that he had learnt from his mistake and that he had no intention of appearing in front of this Committee again if he was allowed to retain his Licence.

Councillor MacIntyre asked the Police why Mr Langford was only convicted of stealing £80. Sergeant MacNicol advised that some of the withdrawals that Mr Langford had made were permissible by the gentleman. He advised that an explanation was given for the withdrawal of £300 and Mr Langford was charged with theft of £180. He stated that at Court Mr Langford was convicted of theft of £80 and suggested that an agreement must have been reached between the Prosecution and Defence.

Councillor MacIntyre asked Mr Langford what he would do for a living if his Licence was suspended. Mr Langford confirmed that he was currently working full time for a local cheese company and that it was his intention to purchase a vehicle to use for wildlife tours and private hire.

Councillor Currie stated that a mistake meant that someone inadvertently did something they had not meant to do. He asked Mr Langford to confirm if he knew what he was doing when he took the money. Mr Langford advised that he has since realised the error of his ways and wanted to apologise for that.

Councillor Colville asked how long the arrangement was in place for him to withdraw money for his friend. Mr Langford confirmed this was about 3 months and that there were other transactions during this time. Sergeant MacNicol confirmed that other transactions were made which were permissible.

Councillor Colville asked whose idea it was to enter into this arrangement. Mr Langford advised that it was a mutual arrangement. He explained that his friend lived on his own and relied heavily on alcohol which was an everyday occurrence for him. He said that he had known the gentleman for 10 years but only came into close contact with him recently. He said that he went to his house to look after him and make his dinner and that on many occasions he found him unresponsive through drink.

Councillor Colville asked Mr Langford if he was aware that if he wanted to purchase a car for private hire he would need to obtain a Private Hire Operator's Licence. Mr Langford confirmed that he was aware that this was the case.

Councillor Colville sought and received confirmation from Mr Langford that as yet he had received no offers of employment since the incident.

Councillor Currie asked if Mr Langford had ever been in trouble with the Police before. Sergeant MacNicol confirmed that he had one previous conviction from 2012 which related to having no insurance.

Councillor Kinniburgh referred to Mr Langford being granted his Private Hire Driver Licence on 17 February 2016 and noted that Mr Langford had advised that he had learnt his lesson and would not make the same mistake again. He stated that it was his recollection that Mr Langford had made a similar statement at that time about

learning his lesson and not making the same mistake again in respect of another alleged incident. Mr Langford confirmed that since his application was granted he has not made that mistake again which Councillor Kinniburgh was referring to.

Councillor McQueen sought and received confirmation from Sergeant MacNicol that the person who lost money was aged 62 years.

Councillor Currie queried why the Committee had not been told of this incident at the time when his application for the Private Hire Driver Licence was before the Committee for consideration.

Summing Up

Police Scotland

Sergeant MacNicol referred to the incident which had taken place and stated that Mr Langford had taken advantage and abused the trust of a vulnerable person by stealing from him. He advised that a taxi driver was in a position of trust and would come into contact with vulnerable people. Referring to the comment Councillor Currie had made about the Committee not being informed about this offence when considering Mr Langford's application, he advised that the Police were not present at that hearing as the objection had come from third parties.

License Holder

Mr Langford advised that he would appreciate it if he was allowed to keep his Licence but understood if this was not the case due to the nature of what had happened.

When asked, both parties confirmed that they had received a fair hearing.

Debate

Councillor Trail advised that he found this case difficult and it all depended on how much you believed and could take on trust. He stated that he was willing to take on trust that Mr Langford had made a mistake, regretted it and would not repeat it. He advised that he was inclined to let Mr Langford keep his Licence.

Councillor Kinniburgh advised that he held the opposite view, stating that Mr Langford had taken advantage of someone in a very vulnerable position. He said that it was difficult to imagine how long this could have gone on for if he thought he could get away with it and for that reason he would want the Licence suspended.

Councillor Blair stated that he was concerned about this case which was an upsetting and disturbing story. He questioned if other agencies were involved, for example, Social Work, and stated that it was important that they got on board. He said that there were agencies out there to help people and that it was important that people knew where to go to access this help.

Councillor Currie advised that he was on the side of the Chair and asked how long the suspension would be for. Councillor Kinniburgh confirmed that the Committee were currently debating whether or not to suspend the Licence and that if it was

agreed to suspend the Licence further procedure would be followed to ascertain the length of the suspension.

Councillor Colville stated that he was concerned that if the Committee allowed Mr Langford to keep his licence he would then be back applying for an Operator Licence. He said he was reassured that Mr Langford was currently in full time employment and because of this he was inclined to support the Chair.

Councillor Taylor referred to taxi drivers often dealing with vulnerable people and that they would be involved in financial transactions as part of their job. He advised that he regretted to say that he supported suspension of the Licence.

Councillor MacIntyre referred to Mr Langford currently being in employment and commented that his employers must know what has happened and still appear to trust him. He advised that he would support Councillor Trail's recommendation.

Motion

To agree to suspend Mr Langford's Private Hire Driver Licence as he was not a fit and proper person to be the holder of the Licence

Moved by Councillor Kinniburgh, seconded by Councillor Taylor

Amendment

To agree not to suspend Mr Langford's Private Hire Driver Licence

Moved by Councillor Trail, seconded by Councillor MacIntyre

The Motion was carried by 6 votes to 5 and the Committee resolved accordingly.

The Chair then invited Mr Langford to comment in respect of the commencement date and duration of the suspension. Mr Langford asked if the suspension could be as short as possible. He confirmed that he had learnt his lesson and would like the chance to prove that he could be a law abiding citizen, helpful to everyone and not a menace to society.

Motion

To agree to suspend the Licence for a period of 6 months with immediate effect.

Moved by Councillor McNaughton, seconded by Councillor MacIntyre

Amendment

To agree to suspend the licence for the unexpired portion of the duration of the Licence with immediate effect.

Moved by Councillor Kinniburgh, seconded by Councillor Colville

The Motion was carried by 7 votes to 4 and the Committee resolved accordingly.

Decision

The Committee agreed to suspend Mr Langford's Private Hire Driver Licence for 6 months with immediate effect having regard to the misconduct of the Licence Holder which in the opinion of the licensing authority had a bearing on his fitness to hold a Licence.

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