

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 19 AUGUST 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Hardie	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Shona Barton, Committee Manager
Sheila MacFadyen, Senior Solicitor
Graeme McMillan, Solicitor

Members were asked to suspend Standing Order 5.4 – the Member who is presiding at the meeting must do so from the specified location for the meeting and cannot join by video conferencing.

The requisite two thirds of Members present agreed to suspend Standing Order 5.4 to enable discussion of reports on the Agenda.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Robin Currie, Mary-Jean Devon, George Freeman, Roderick McCuish and Donald MacMillan.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR SUSPENSION OF TAXI DRIVER LICENCE (NO. 5011) (M MUNRO, DUNBEG, OBAN)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing both the Licence Holder and Police Scotland opted to proceed by way of written submissions and copies of these were circulated to the Committee in a Supplementary Agenda Pack for this hearing.

The Chair invited the Council's Solicitor to advise of Police Scotland's written submission.

POLICE SCOTLAND

Mr McMillan referred to the letter from Police Scotland dated 31 July 2020 which advised of a request from the Chief Constable that, in terms of Paragraph 11(1) of Schedule 1 of the Act that the Licensing Committee suspends Ms Munro's Licence. The Chief Constable complained in terms of Paragraph 11(2)(a) of Schedule 1 of the Act that Ms Munro was no longer a fit and proper person to hold the Licence. In

addition, the Chief Constable was requesting the Committee to order the immediate suspension of the Licence, in terms of Paragraph 12(1) of Schedule 1 of the Act, on the grounds that the carrying on of the activity to which the Licence relates was likely to cause a serious threat to public order and public safety. In support of the Chief Constable's request the letter referred to an incident reported to Police Scotland which occurred on 14 July 2020 and which was currently under investigation. Reference was also made to a further incident which took place on 18 July 2020 which resulted in Ms Munro being reported to the Procurator Fiscal for a number of offences.

Mr McMillan then read out an email dated 18 August 2020 which confirmed that Ms Munro was reported to the Procurator Fiscal in relation to the incident on 18 July 2020. The incident on 14 July was fully investigated and while there was insufficient information in relation to the charge of assault, Ms Munro was charged and subsequently reported to the Procurator Fiscal for breach of the peace under S38 Criminal Justice and Licensing (Scotland) Act 2010. It was confirmed that Ms Munro now had 4 pending cases with the Crown Office and Procurator Fiscal Service which were all sub-judice.

The Chair then invited Mr McMillan to advise of the Licence Holder's written submission.

LICENCE HOLDER

Mr McMillan read out the following statement from Ms Munro:

In relation to complaints made by the Chief Constable, I will ask Members to consider the following:

No charge has been issued against me in relation to the matters outlined. Furthermore, having attended a brief interview at Oban Police Station, it was decided, by the Police, that there was a lack of evidence to support these complaints. For this reason I ask that Members base their findings on a presumption of innocence, in accordance with legal procedure.

In response to assertions made by the Chief Constable that "there are serious concerns for public order and public safety" I would reiterate the point as above.

In response to concerns that I "the holder of the licence is not or is no longer a fit and proper person", I would like to state that my ability to perform in my role as a taxi driver has not been affected by criticism. In practice my work requires tolerance, helpfulness and adaptability when dealing with people in various conditions. I am good at my job and I ask Members to reject stigmatisation of character as a method with which to measure my future potential.

MEMBERS' QUESTIONS

Councillor Trail commented that there appeared to be a difference of opinion on whether or not Ms Munro was charged. He sought clarification from Mr McMillan. Mr McMillan referred to the most recent communication from Police Scotland which confirmed that Ms Munro had 4 pending cases with the Crown Office and Procurator Fiscal Service. He advised that the Procurator Fiscal would make the ultimate decision as to whether there would be a prosecution. Mr McMillan said he was not

sure if there was a mistake on Ms Munro's part as she had not been called to Court as yet.

Councillor Moffat advised that bearing in mind what happened with the previous case today, she felt the Committee should do the same with this one.

Councillor Colville advised that he took a different view. He referred to the Police letter which made reference to a previous request for suspension of this Licence dated 6 April 2020. He sought clarification on this as he did not recall this request coming before the Committee. Mr McMillan explained that in terms of the wording in the letter it was not the case that this request for suspension had come to the Committee and the decision taken not to suspend. He advised that Ms Munro's Taxi Driver Licence was currently undergoing a renewal application. At the time of the request in April it was not possible to hold suspension hearings due to the Covid-19 pandemic. As a renewal application was expected Officers recommended that Police Scotland may wish to submit an objection to the renewal instead which Police Scotland agreed to. It is planned to bring this renewal application to Committee and the Committee are asked to deal with the suspension request before then. The life of a licence is prolonged once a renewal application is submitted and a suspension could be made until any renewal was dealt with.

Councillor Kinniburgh sought and received confirmation from Mr McMillan that none of the offences referred to in the Police Scotland written submissions for this hearing related to the earlier request for a suspension in April. Mr McMillan advised that 2 previous incidents were outlined at that time and Police Scotland have agreed to use them in support of their objection to the renewal application which will come to the Committee in due course.

DEBATE

Councillor Kinniburgh advised that he thought Ms Munro's Licence should be suspended as it appeared these incidents were happening on a regular basis over a very short period of time. He said he thought the licence should be suspended until the application for renewal came before the Committee.

It was unanimously agreed to suspend Ms Munro's Licence. The Committee then considered the commencement date and length of suspension and it was unanimously agreed that Ms Munro's Licence be suspended with immediate effect for the unexpired portion of the Licence.

DECISION

It was unanimously agreed to suspend Ms Munro's Taxi Driver's Licence with immediate effect for the unexpired portion of the Licence as it was considered that Ms Munro was no longer a fit and proper person to be the holder of the Licence.

(Reference: Report by Head of Legal and Regulatory Support and written submissions from Police Scotland dated 31 July and 18 August 2020 and the Licence Holder dated 16 August 2020, submitted)