

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 21 MARCH 2012**

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor Neil Mackay	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Graeme Forrester, Solicitor
Mr James Hunter, Licence Holder
Mrs Jane MacLeod, Solicitor, Licence Holder's Representative
Ms Jane Thomson, Trainee Solicitor, Stevenson and Kennedy
Solicitors
Inspector Alistair Davidson, Strathclyde Police

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Chalmers, David Kinniburgh and Alister MacAlister.

2. DECLARATIONS OF INTEREST

None declared.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - TAXI DRIVER LICENCE

The Chair welcomed everyone to the Hearing and asked that the participants introduce themselves. Thereafter he outlined the procedure that would be followed.

Mr Reppke advised that the complainer, Mrs Low, was unable to attend the Hearing.

The Chair invited the Police to speak in support of their comments.

Inspector Davidson of Strathclyde Police spoke to the terms of the letter lodged by Strathclyde Police and advised that when the Police were made aware of the complaint letter on 15 July 2011 regarding Mr Hunter they had carried out checks with the DVLA Liaison Officer at Govan Road Policing Complex who confirmed that Mr Hunter was driving on an expired licence and due to this information he was stopped driving his taxi on 12 August 2011. Mr Hunter was cautioned and charged with the offence and his vehicle seized. Mr Hunter was also charged with not holding valid car insurance and a report was sent to the Procurator Fiscal.

The Chair invited the Licence Holder's representative to ask the Police questions.

Mrs MacLeod asked Inspector Davidson if he was aware that the charges he referred to had been dropped by the Procurator Fiscal. Inspector Davidson advised he was not aware of this.

The Chair invited the Licence Holder's representative to speak on behalf of her client.

Mrs MacLeod thanked the Committee for the opportunity to present the case and referred to the contents of the following correspondence which she circulated to the Committee:-

Correspondence dated 6 January 2012 sent to the Procurator Fiscal from Stevenson and Kennedy Solicitors requesting that the charges against Mr Hunter be dropped and the reasons for this request;

Correspondence dated 16 January 2012 received by Mr Hunter from the DVLA confirming that a new licence would be issued to him within 14 days;

Correspondence dated 25 January 2012 from the Lorn Medical Centre received by Stevenson and Kennedy Solicitors confirming that a full medical report had been sent to the DVLA making it clear there was no reason why Mr Hunter should not continue driving; and

Correspondence dated 12 March 2012 from Mrs MacIntyre of Lorn Taxis making comments on the contents of the complainant's letter and confirming that she had not received any complaints from the public regarding Mr Hunter.

Mrs MacLeod went on to vouch for the good character of Mr Hunter and confirmed that Mr Hunter agreed that he should have been more vigilant about renewing his driving licence and that due to moving house he had not received a reminder letter from the DVLA which would have prompted him to renew his licence on time. Mrs MacLeod then referred to the contents of the complainant's letter and asked as a preliminary matter that the Committee consider disregarding this letter given the absence of the complainant at the Hearing today.

Mr Forrester advised that Mrs Low had been in touch with the Council to advise that she would be unable to attend the Hearing today. She asked that the Committee take her letter into consideration as she stood by the comments she had made.

Mr Reppke advised the Committee that they should take into consideration Mrs Low's letter of complaint and confirmed that there was nothing in the Act to say that a complainant has to attend a Hearing. The Committee agreed to take Mrs Low's letter of complaint into consideration.

Mrs MacLeod referred to all the comments made by Mrs Low in her letter. She confirmed that Mr Hunter had rented a room from Mrs Low and that there had been a clash of personalities. She asked that the Committee disregard the contents of paragraph 4 of Mrs Low's letter which was hearsay. She confirmed

that Mr Hunter paid £70 rent per week and that he always paid this and that, in fact, Mrs Low had borrowed £100 from Mr Hunter. Mrs MacLeod confirmed that Mr Hunter had a girlfriend and with regard to the comments made about parking, Mrs MacLeod confirmed that Mr Hunter parked his car on the main street which he was entitled to do. She advised that when Mr Hunter moved out of Mrs Low's house he had left a TV stand and that it was gone when he went back to collect it. She advised that Mr Hunter had rent money stolen from him and that he did not receive his deposit back and that Mr Hunter had reported Mrs Low to the Police. She referred to the comments made by Mrs Low about young girls. She advised that Mr Hunter was a father of 3 girls and that he held 'old fashioned values' and did not like to see young girls out at night inebriated with no means of getting home and even if they did not have enough money to pay their taxi fare he would always take them home. She referred to one occasion when he had seen a young girl at 4 am. It was hail stoning and the girl was very inebriated, had no shoes on and was crying. He spotted the girl many times and eventually he stopped and took her home. Mrs MacLeod advised that Mr Hunter had never claimed job seekers allowance when working and had only claimed it when he was unemployed. She advised that, in fact, Mrs Low had asked Mr Hunter how her daughter could claim benefits she was not entitled to and confirmed that Mr Hunter did not take any part in this. Mrs MacLeod confirmed that Mr Hunter worked in partnership with Mr Wardrop and that this partnership worked well with Mr Wardrop taking the day shift and Mr Hunter working the night shift and that there have been no complaints made to Lorn Taxis. She advised that before Mr Hunter moved to Oban he worked on various large cruise ships including the QE2 and the Canberra and on one occasion was part of a team looking after Jackie Kennedy Onassis and felt sure that appropriate checks would have been carried out on Mr Hunter before being asked to be part of this team. She also advised that he was part of a team looking after the Princess Royal when she was on the MV Isle of Mull and again felt sure appropriate background checks would have been carried out on Mr Hunter.

Mrs MacLeod advised that there appeared to be a clash of personalities between Mr Hunter and Mrs Low and that Mrs Low's comments called into question Mr Hunter's good character. It spoke volumes that Mrs Low was not here today to speak up about her claims which should be disregarded and that the hearsay within Mrs Low's letter should be totally disregarded.

The Chair invited the Police to ask Mrs MacLeod questions and Inspector Davidson confirmed he had no questions.

The Chair invited Members to ask Mrs MacLeod and Inspector Davidson questions and there were no questions asked.

The Chair invited Inspector Davidson and Mrs MacLeod to sum up.

Inspector Davidson advised that Strathclyde Police had been made aware of the complaint about Mr Hunter on 15 July 2011 and that an investigation had been carried out. He advised that it was a matter for the Procurator Fiscal to decide whether or not to proceed with the charges brought against Mr Hunter.

Mrs MacLeod referred to the Procurator Fiscal's comments that the risk of punishment and its effects could be disproportionate to the offences charged which could be applied to today's proceedings. She referred to the Medical letter

from Mr Boyle and advised that Mr Hunter's job played a significant role in his mental health and that he has a good working partnership in his job. She referred to the clash of personalities with Mrs Low and that Mr Hunter has moved on. She referred to the charges against Mr Hunter being dropped and that Mr Hunter will make sure in future to get his licence renewed on time and that this had been an oversight on his part. She advised that Mrs Low's letter of complaint should be disregarded and that many of her comments were hearsay. She asked that Mr Hunter's taxi licence not be suspended as this would affect his career.

The Chair asked both parties to confirm they had received a fair hearing and they both confirmed this to be the case.

Councillor Vivien Dance advised that no action should be taken and that Mr Hunter's taxi licence should not be suspended.

Councillor Neil MacKay supported Councillor Dance's view. He advised that it had been remiss of Mr Hunter not to make sure that his driving licence was renewed and that the Procurator Fiscal had acted wisely in acknowledging that. He also referred to the letter of support received from Mrs MacIntyre.

Councillor Rory Colville agreed with his fellow Councillors and advised that as Mr Hunter already had 9 points on his driving licence he was sure Mr Hunter would be a safe driver.

The Chair confirmed that no action should be taken.

Decision

It was unanimously agreed that no action be taken and that Mr Hunter's taxi driver licence not be suspended.

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