

Agenda item	<b>8.1</b>
Report no	<b>HLC/013/19</b>

**THE HIGHLAND COUNCIL**

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 19 February 2019

**Report title:** Application for the renewal of window cleaner's licence – Nathan Foy (Ward 19 – Inverness South)

**Report by:** The Principal Solicitor – Regulatory Services

**1. Purpose/Executive summary**

**1.1** This report relates to the application for the renewal of a window cleaner's licence.

This item is subject to a formal hearing procedure.

**2. Recommendation**

**2.1** Members are asked to determine the application in accordance with the Council's Hearings Procedure.

### **3. Background**

3.1 The Highland Council has resolved that in terms of the Act a licence will be required for carrying on the trade of, or being employed as, a window cleaner. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

### **4. Application**

4.1 On 29 May 2018 an application for the renewal of a window cleaner's licence was received from Mr Nathan Foy.

### **5. Process**

5.1 Following receipt of the application a copy of the same was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Trading Standards Service

5.2 There have been no objections/representations received from the abovementioned Agencies/Services.

5.3 In terms of the abovementioned Act the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 28 February 2019. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued to Mr Foy for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

### **6. Public Liability Insurance**

6.1 One of the Council's standard conditions of a window cleaner's licence is that the licence holder shall maintain a policy of insurance for third party indemnity to the value of at least £2 million and exhibit this to the Council as required.

6.2 Licensing staff have attempted to contact Mr Foy on a number of occasions by letter and phone to request confirmation that he holds the appropriate insurance. However no response has been received to date.

6.3 In view of this the Principal Solicitor is unable to issue the renewed licence under delegated powers and, as indicated in 5.3 above, the period for determining the application is due to expire soon.

### **7. Determining issues**

7.1 Paragraph 5(3) of Schedule 1 of the Act states that a licensing authority may refuse an application to grant or renew a licence where:

- (a) the applicant or anyone else detailed on the application is not a fit and proper person;
- (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;

(c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to

- (i) the location, character or condition of premises or the character or condition of the vehicle or vessel,
- (ii) the nature and extent of the proposed activity,
- (iii) the kind of persons likely to be in the premises, vehicle or vessel,
- (iv) the possibility of undue public nuisance, or
- (v) public order or public safety; or

(d) there is other good reason for refusing the application.

If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

**7.2** A copy of this report has been sent to Mr Foy who, pursuant to Paragraph 4(2) of the Civic Government (Scotland) Act 1982, has been invited to attend and will be provided with an opportunity to be heard by the Committee. Mr Foy has also been advised of the procedure which will be followed at the meeting.

## **8.0 Policies**

**8.1** The following policies are relevant to this case:

Standard window cleaner's licence conditions. A copy of these can be accessed at [https://www.highland.gov.uk/directory\\_record/738771/window\\_cleaner/category/499/shop\\_and\\_trader](https://www.highland.gov.uk/directory_record/738771/window_cleaner/category/499/shop_and_trader) or a hard copy can be supplied where requested.

## **9. Implications**

**9.1** Not applicable.

Date: 22 January 2019

Author: Michael Elsey