

Highland Council

Minute of the remote meeting of the **Highland Licensing Committee** held via Microsoft Teams on Tuesday 18 January 2022 at 10.00 am.

Present:

Mr J Bruce (items 11.2 and 12.1), Mr A Jarvie (Chair), Mrs L MacDonald, Mr W MacKay, Mr D Macpherson, Mr K Rosie and Mr A Sinclair.

In attendance:

Mr I Meredith, Principal Solicitor (Regulatory Services), Performance and Governance

Ms R Banfro, Solicitor (Regulatory Services), Performance and Governance

Mr A Fowler, Graduate Solicitor, Performance and Governance

Mr M Elsey, Senior Licensing Officer, Performance and Governance

Mrs A MacArthur, Administrative Assistant, Performance and Governance

Also attending:

Sergeant K Duncan, Police Scotland

Mr M Macdonald, Police Scotland

Mr A Hurst, Environment Health Officer

Mr M McGinty, Trading Standards

Item 7.1 – Ms L MacKay, applicant

Item 8.1 – Ms C Wood, applicants representative and Ms L Zagorski, objector

Item 9.1 - Mr D Moreira, licence holder; Mr R King, licence holder's representative;

Item 11.2 - Ms S MacLennan, applicant's solicitor

The Chair confirmed that the meeting would be webcast and gave a short briefing on the Council's webcasting procedure and protocol.

Business

1. Apologies for absence Leisgeulan

Apologies for absence were intimated on behalf of Mr C Smith.

2. Declarations of interest Foillseachaidhean Com-pàirt

There were no declarations of interest.

3. Confirmation of minutes Dearbhadh a' Gheàrr-chunntais

There had been submitted for confirmation as a correct record the minute of meeting of the Committee held on 30 November 2021 which was **APPROVED**.

**4. Licences granted under delegated powers
Ceadachdan a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated **Report No HLC/001/22** by the Principal Solicitor which details all Licences which have been granted under delegated powers under the Civic Government (Scotland) Act 1982 granted in the period from 18 November 2021 to 21 December 2022.

The Committee NOTED the report.

**5. Pending applications – 3 monthly considerations
Iarrtasan ri thighinn – beachdachaidhean 3 mìosach**

There had been circulated **Report No HLC/002/22** by the Principal Solicitor relating to applications which are currently pending for the grant or renewal of licences under the Civic Government (Scotland) Act 1982.

The Committee **AGREED** to defer the determination of the applications, either:

- (a) to allow them to be approved under delegated powers in the event that no objections/representations are received and all outstanding documentation has been received from the applicants; or
- (b) to a future meeting of the Committee when the applications will be determined in terms of the Hearings Procedure.

**6. Sex Entertainment Venues
Ionadan Fèisteach Feise**

There had been circulated **Report No HLC/003/22** by the Principal Solicitor seeking approval for a public consultation on the Council's draft policy on the licensing of Sex Entertainment Venues and seeking the views and comments of the Committee on said policy.

The Committee **AGREED** to:

- i. implement option 1 detailed in the report and not break down the local authority area into discrete localities;
- ii. set no cap on the maximum number of SEVs that can operate within the local authority area;
- iii. set the duration of an SEV licence to last for a period of 1 year;
- iv. set the duration of a Waiver to last for a period of 1 year;
- v. make no further changes to the list of consultees as part of the application process; and
- vi. instruct the Principal Solicitor to undertake a second public consultation on the draft Sexual Entertainment Venue Policy Statement.

**7. Civic Government (Scotland) Act 1982
Public Entertainment Licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Aoigheachd Phoblaich**

7.1 Premises: Durness Village Hall, Durness

There had been circulated **Report No HLC/004/22** by the Principal Solicitor relating to an application for a public entertainment licence by Durness Village Hall (Ward 1 – North, West and Central Sutherland).

The Senior Licensing Officer advised that a valid electrical certificate had yet to be received.

Ms L Mackay, applicant advised that due to Covid-19 restrictions it had been difficult to organise an electrician to carry out an inspection, however it was hoped that this would be undertaken soon.

The Committee **AGREED** to **GRANT** the licence subject to the condition that no licensable activity be undertaken until the electrical certificate submitted had been checked and confirmed as satisfactory by the Licensing Authority.

**8. Housing (Scotland) Act 2006
Applications for house in multiple occupation licence
Achd Riaghaltais Chatharra (Alba) 1982
Iarrtasan airson ceadachd thaighean ann an ioma-sheilbh**

8.1 Premises – 37 Telford Street, Inverness

There had been circulated **Report No HLC/005/22** by the Principal Solicitor relating to the grant of a house in multiple occupation licence from MacAllan Properties Ltd in respect of premises at 37 Telford Street, Inverness (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that the necessary building warrant certification had yet to be received and the Fire Service had also to inspect the premises. There had been a late objection from Ms L Zagorski and Ms Zagorski was asked to provide the Committee with the reason for her late objection.

Ms Zagorski advised that her objection had been submitted late as the notice of application had been displayed in the window of the property, which was partly obscured by heras fencing which had been erected and it had been some time before she had realised that it related to the HMO application.

Having also heard from the applicant's representative, Ms Wood, the Committee agreed to accept the late objection, and this was circulated.

The applicant's representative, Ms Wood, then advised that the Fire Service had advised that they were unable to inspect the premises due to Covid-19 restrictions.

The works in relation to the building warrant had been undertaken and confirmation of the completion certificate was awaited.

The premises had been owned for 15 years and for most of that time there had been planning permission for an HMO for 13 bedsits. This property had been finished to a high standard. The property owners operated and ran several other HMO properties and had received no objections in relation to any of their other properties.

On a question from the objector, the applicant's representative advised that the tenants would be a mix of working tenants, homeless referrals and individuals on short term contracts in the area.

Due to technical difficulties this item would be continued later in the meeting.

Ms Zagorski advised that the neighbouring property had given concern and had caused a lot of nuisance. Ms Zagorski was concerned the these premises would create more of the same nuisance and security issues, her neighbours had had to install CCTV in relation to the existing HMO.

On a question from Ms Zagorski, the applicant's representative advised that the entrance to the property was at the rear of the building, the front of the building had a small office. The applicant's representative extended an invitation to the objector to visit the property and reassured Ms Zagorski that she was happy to give her both personal and work phone numbers for an immediate response should any problems arise. The applicant's representative advised that they wished to build a positive relationship with the objector and the other neighbouring properties as they did with their other premises.

Ms Zagorski advised that she had been reassured by Ms Wood's statement.

The Committee **AGREED** to **GRANT** the licence for a period of three years subject to an additional condition that the premises should not be operated as an HMO until both the Fire Service and the Council's Building Standards Service have confirmed that they are happy to sign off and any outstanding certification or documentation has been submitted and checked as being satisfactory.

9. **Civic Government (Scotland) Act 1982**
Private Hire Car operator's licence
Highland Council penalty point system
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachd oibriche tagsaidh –
Siostam Phuingean Peanais Chomhairle na Gàidhealtachd

9.1 Licence Holder – Domingos Moreira

There had been circulated **Report No HLC/006/22** by the Principal Solicitor relating to a breach of Private Hire Car Operator Licence Conditions (Ward 14 - Inverness Central Ward).

The Senior Licensing Officer advised that under the Penalty Points System a report had been received from the Trading Standards Service as Mr Moreira had accrued a total of 24 points under the Council's Taxi/PHC penalty points scheme.

Mr M McGinty from the Trading Standards Service advised that this report had come to Committee as a result of an automatic reporting process under the Penalty Points System, with Mr Moreira having received 24 points within a 2-year period. Mr Moreira had advised during interview that no further checks had been made on the vehicle other than the regular six-monthly inspections which he was required by the Council to undertake.

The applicant's representative, Mr R King, advised that prior to Covid-19 and the downturn in work, vehicle checks had been carried out for every 10,000 miles which was approximately every 6 weeks and he had had no issues with his vehicle prior to the check in October 2020. Mr King then advised of the details of the minor points.

Mr King advised that Mr Moreira was prepared to reinstate the 10,000 mile checks and to have a pre-inspection test undertaken prior to his six monthly checks.

Mr McGinty advised the Committee that the points were not minor and that the penalty points allocated had been proportionate to the faults.

The Committee **AGREED** to require the licence holder to present his vehicle for inspection every 3 months. This would be required to be undertaken for a period of 12 months due to the quantity and severity of the points that had been accrued by the Licence Holder.

10. **The Committee RESOLVED that, under Section 50A(4) of the Local Government (Scotland) Act 1973, the public be excluded from the meeting during discussion of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Act.**

**11. Civic Government (Scotland) Act 1982
Taxi driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Dhràibhearan / Oibrichean Tagsaidh**

11.1 Application for grant of taxi driver's licence – Craig MacLean

There had been circulated **to members only Report No HLC/007/22** by the Principal Solicitor relating to an application which had been received from Mr Craig MacLean for the grant of a taxi driver's licence (Ward 21 - Fort William and Ardnamurchan).

The applicant did not attend. A written representation had been received from the applicant and this was circulated.

The Senior Licensing Officer advised that an objection had been received from Police Scotland. The applicant had also yet to pass the taxi driver's knowledge test and undergo a right to work check.

The Committee then heard from Police Scotland.

The Committee **AGREED** to **REFUSE** the application on the grounds that the applicant was not a fit and proper person [REDACTED]

11.2 Taxi driver's licence – Mark Urquhart

There had been circulated **to members only Report No HLC/008/22** by the Principal Solicitor relating to Mark Urquhart, the holder of a taxi driver's licence (Ward 2 – Thurso and Northwest Caithness).

The Senior Licensing Officer advised that a letter had been received from Police Scotland seeking the revocation of the licence.

The applicant was represented by Ms S MacLennan.

The Committee heard from Police Scotland and the applicant's solicitor, Ms S MacLennan.

Following discussion, the Committee **AGREED** to **SUSPEND** the licence for the unexpired portion on the grounds that the licence holder was no longer a fit and proper person to continue to hold a taxi driver's licence [REDACTED]

**12. Civic Government (Scotland) Act 1982
Skin piercing and tattooing licence**

12.1 Skin piercing and tattooing licence – Gilles Humbert

There had been circulated **to members only Report No HLC/009/22** by the Principal Solicitor relating to Gilles Humbert, the holder of a skin piercing and tattooing licence (Ward 2 – Thurso and Northwest Caithness).

A written representation had been received from MacDonald Law which was circulated.

The Senior Licensing Officer advised that a letter had been received from Police Scotland seeking the revocation of the licence.

The applicant had requested a deferral of the application, but this was refused by the Committee.

The Committee then heard from Police Scotland.

The Committee **AGREED** to **REVOKE** the licence on the grounds that the Licence Holder is not a fit and proper person to hold the licence [REDACTED]

The meeting closed at 12.45 pm.