

Highland Council

Minute of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Monday 20 June 2022 at 10.00am.

Present:

Mr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms L Johnston, Mr S Kennedy, Ms E Knox, Mr W Mackay, Mr D Macpherson, Mr D Millar, Mr P Oldham and Mr K Rosie.

In attendance:

Ms C McArthur, Principal Solicitor, Regulatory Services, Performance and Governance

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

Mr A Fowler, Trainee Solicitor, Performance and Governance

Mr M Elsey, Senior Licensing Officer, Performance and Governance

Ms A Macrae, Committee Administrator, Performance and Governance

Mrs A MacArthur, Administrative Assistant, Performance and Governance

Also attending:

Sergeant K Duncan, Police Scotland

Mr D Mackenzie, Trading Standards Manager

Item 11.1 – Mr P Wyderka, licence holder

Item 13.1 – Mr S Dougan, licence holder and Mr R King, representative

Item 13.2 – Mr Ivo Veinbergs, licence holder

The Clerk 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

There were no apologies for absence.

2. Declarations of interest Foillseachaidhean Com-pàirt

Item 6: Mr K Rosie

Item 7: Mr W Mackay

3. Appointment of Chair Suidheachadh de Chathraiche

Nominations were invited for the post of Chair of the Highland Licensing Committee.

Mr S Kennedy was nominated by Ms L Johnston and this was seconded by Mr P Oldham

Mr D Macpherson was nominated by Mr J Bruce and this was seconded by Mr J Grafton

In a vote between the two candidates, Mr S Kennedy received 9 votes and Mr D Macpherson received 3 votes.

It was therefore **AGREED** that Mr S Kennedy be appointed as Chair of the Committee, the votes having been cast as follows:-

Votes for Mr S Kennedy:

Mr C Birt, Mrs J Hendry, Ms L Johnston, Mr S Kennedy, Ms E Knox, Mr W Mackay, Mr D Millar, Mr P Oldham, Mr K Rosie.

Votes for Mr D Macpherson:

Mr J Bruce, Mr J Grafton, Mr D Macpherson.

**4. Appointment of Vice Chair
Cur Iar-Chatraiche an Drechud**

Nominations were invited for the post of Vice Chair of the Highland Licensing Committee.

Mr K Rosie was nominated by Ms E Knox and this was seconded by Mr C Birt.

On there being no other nominations, it was therefore **AGREED** that Mr K Rosie be appointed as Vice Chair of the Committee.

**5. 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 25 April 2022 which was **APPROVED**.

**6. Short Term Let Licensing
Ceadachd Aontaidhean Màil Geàrr-ùine**

Declaration of Interest: Mr K Rosie declared an interest in this item and took no part in the discussion or determination of this item.

There had been circulated **Report No HLC/029/22** by the Principal Solicitor with information on the new powers which have been given to local authorities to regulate short term lets in the form of a licensing scheme.

In response to questions, the Clerk confirmed that:-

- it was estimated that between 30 to 40 additional staff would be required to administer the scheme;
- the licensing scheme was to be self-financing with the fees set being sufficient to sufficiently cover the administrative costs;

- a further report would be brought to the Committee if required on the potential to amend delegated powers in response to the anticipated large volume of applications, for example where supplementary documentation was awaited, to mitigate against a backlog of applications having to be brought to the Committee;
- while the grant of licences would require to be for a period of 3 years, at the renewal stage there is an option to grant licences for longer periods;
- the avenues by which the public could feed into the consultation on the draft policy and additional conditions for short term lets; and
- that Q.3 on the public consultation survey appended to the report would be re-worded to make it less ambiguous and grouped with Q.7.

This Committee **AGREED** to:-

- i note the commencement of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 on 1 March 2022
- ii note that, as a result of the provisions of the legislation, local authorities must open a licensing scheme for short term lets by 1 October 2022
- iii note the challenges the Council faces in relation to the implementation of this licensing scheme; and
- iv agree to carry out a statutory consultation on the draft policy and additional conditions for short term lets.

7. Wheelchair Accessible Vehicles – Equality Act 2020 Update Carbadan So-ruigsinneach do Chathraichean-cuibhle – Cunntas às Ùr mu Achd na Co-ionannachd 2020

Mr W Mackay declared an interest in this item as a member of the Caithness Disabled Access Panel and took no part in the discussion or determination of this item.

There had been circulated **Report No HLC/030/22** by the Principal Solicitor relating to amendments made to the Equality Act 2010 which strengthens the public sector equalities duty, specifically with respect to taxis and private hire vehicles.

In discussion, Members raised the following issues:-

- the need to consider policies and to work with the trade to increase the availability of wheelchair accessible vehicles that were currently licensed;
- the potential to introduce training for taxi/private hire car drivers as part of the licensing application process in the handling of disabled persons; and
- the need to consider policies by which a meaningful increase in the number of wheelchair accessible taxi/private hire cars could be achieved in Highland.

This Committee **AGREED** to note the:-

- i upcoming changes to the Equality Act 2010 with respect to taxi and private hire car driver's obligations to disabled persons
- ii duty on the Council, as licensing authority, to maintain and publish a designated list of wheelchair accessible vehicles
- iii procedure and timescales for the Council to undertake the work required to publish a designated list of wheelchair accessible vehicles

**8. Request for an Early Review of Taxi Tariff 2022/23
Carbadan So-ruigsinneach do Chathraichean-cuibhle – Cunntas às Ùr mu Achd na Co-ionannachd 2020**

There had been circulated **Report No HLC/031/22** by the Principal Solicitor relating to the request by part of the taxi trade within The Highland Council area who are seeking an early review of the scales for the fares and other taxi related charges.

In response to a question, the Senior Licensing Officer advised that he would provide Members with details of the current number of licensed electric taxi/private hire car vehicles in Highland. The Clerk explained that under the current legislation there was no differential in the tariff for electric and petrol/diesel taxis.

In discussion, Members raised the following issues:-

- an early review of the taxi tariff should be taken forward to support the trade given its importance to the Highland economy and the challenges it faced in terms of significant increases in running costs, driver shortages and delays in the delivery of vehicle parts;
- there was a need to manage the trade's expectations in relation to the timescales as the Council, as licensing authority, has no power to shorten the statutory review process; and
- concern at the impact of an early review in terms of the additional pressures this would place on Council staff.

Thereafter, Mr D Millar seconded by Ms E Knox moved to instruct officers to commence the statutory process to review the scales for the fares and other taxi related charges earlier than the scheduled date.

As an amendment, Mr K Rosie seconded by Mr C Birt moved to instruct officers to commence the statutory process to review the scales for the fares and other taxi related charges earlier on the scheduled date.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (9): Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms L Johnston, Ms E Knox, Mr W Mackay, Mr D Macpherson, Mr D Millar, Mr P Oldham

Amendment (3): Mr C Birt, Mr S Kennedy, Mr K Rosie.

The Committee therefore **AGREED** the motion to instruct officers to commence the statutory process to review the scales for the fares and other taxi related charges earlier than the scheduled date.

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

There had been circulated **Report No HLC/032/22** 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 14 April 2022 to 8 June 2022.

The Committee **NOTED** the report.

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

There had been circulated **Report No HLC/033/22** 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 determination of the applications, either to:

(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 hearing procedure.

**11. Civic Government (Scotland) Act 1982
Taxi operator's licence
Highland Council penalty point system
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachd oibriche tagsaidh –
Siostam Phuinean Peanais Chomhairle na Gàidhealtachd**

11.1 Licence Holder – Pawel Wyderka

There had been circulated **Report No HLC/034/22** by the Principal Solicitor relating to a breach of Taxi Operators Licence Conditions (Ward 14 - Inverness Central Ward).

The Trading Standards Manager advised that this report had come to Committee as a result of an automatic reporting progress under the Penalty Points System, with Mr Wyderka having received 37 points. Mr Wyderka did not have any mitigating circumstances and had not had the vehicle checked over by a suitable garage prior to submitting the vehicle for its taxi inspection.

In response to a question, the Trading Standards Manager confirmed that it was recommended to taxi/private hire car operators that they submit their vehicles

for a pre-test especially when it involved older vehicles. In this case, the penalty points had been incurred in relation to the same vehicle. The points accrued by Mr Wyderka would be erased from his taxi operator's licence following the Committee's decision on this item.

Mr P Wyderka advised that difficulties in his personal circumstances had led to the accrual of the penalty points for which he took responsibility. He had no points on his driving licence and had never been the subject of any complaints from customers. He hoped to be given the chance to retain his licence and continue as a taxi operator for which there was a large demand in Highland.

Following discussion, the Committee **AGREED** that the operator must present his vehicle for inspection on a 3-monthly basis for the duration of the licence. The operator was also recommended to submit his vehicle for a pre-inspection to ensure that his vehicle passes the 3-monthly inspection.

12. **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.**

13. **Civic Government (Scotland) Act 1982**

**Taxi driver's / operator's licences
Achd Riaghaltais Chatharra (Alba) 1982
Ceadachdan Dhràibhearán / Oibrichean Tagsaidh**

13.1 Taxi driver's licence – Shaun Dougan

There had been circulated **to members only Report No HLC/035/22** by the Principal Solicitor relating to Shaun Dougan who was the holder of a taxi driver's licence (Inverness Millburn Ward).

The Committee heard from Police Scotland and the applicant's representative.

Thereafter, Ms E Knox seconded by Mr K Rosie moved to suspend the taxi driver's licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

As an amendment, Mr D Millar seconded by Mr D Macpherson moved not to suspend the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (5)

Amendment (7)

The Committee **AGREED** not to suspend the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

13.2 Taxi driver's licence – Ivo Veinbergs

There had been circulated **to members only Report No HLC/036/22** by the Principal Solicitor relating to Ivo Veinbergs who was the holder of a taxi driver's licence (Inverness South Ward).

The Committee heard from Police Scotland and the applicant.

Thereafter, Ms E Knox seconded by Mr P Oldham moved to suspend the taxi driver's licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

As an amendment, Mr W Mackay seconded by Mr C Birt moved not to suspend the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

There being no further amendments, the matter was put to the vote with votes being cast as follows:

Motion (6)

Amendment (6)

On there being an equality of votes cast between the motion and amendment, the Chair cast his second and determining vote in favour of the amendment which became the finding of the meeting.

The Committee therefore **AGREED** the amendment not to suspend the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting closed at 2pm.