

## Highland Council

Minute of the **Highland Licensing Committee** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday 29 November 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

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

Mr M Elsey, Senior Licensing Officer, Performance and Governance

Ms A Macrae, Committee Administrator, Performance and Governance

### Also attending:

Sergeant A Bryce, Police Scotland

Item 11.1: Osaid Khan (applicant)

Items 11.2 & 12.1: Rzgar Mahmod (licence holder/applicant), Donald MacKenzie (Solicitor), Dascan Mohammad (representative).

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

There were no apologies for absence.

### 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 25 October 2022 which was **APPROVED**.

### 4. Licences granted under delegated powers Ceadachdan a bhuilic.eadh fo ùghdarras air a thiomnadh

There had been circulated **Report No HLC/054/22** by the Principal Solicitor which detailed all Licences which had been granted under delegated powers

under the Civic Government (Scotland) Act 1982 granted in the period from 13 October 2022 to 16 November 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/055/22** by the Principal Solicitor relating to applications which were 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.

**6. Civic Government (Scotland) Act 1982  
Review of Taxi Tariff 2022/23  
Ath-bhreithneachadh air Taraif Tagsaidh 2022/23**

**Transparency Statement:- Mr D Millar made a Transparency Statement in respect of this item in that he had a connection by reason of the fact he held a private hire car driver's licence. However, having applied the objective test he did not consider that he had an interest to declare. This is because he does not operate a private hire car.**

There had been circulated Report No HLC/056/22 by the Principal Solicitor relating to the responses received following public advertisement of the proposed revised scale of the maximum fares that could be charged by taxis and private hire cars fitted with taxi meters.

The Committee heard from Mr A Duffy, Mr D Fraser (Inverness Taxi Alliance) and Mr A Macdonald (Inverness Taxi Alliance) during which they raised the following main points:-

- there had been a low response rate to the consultation from the trade and whether publishing in the local press was the best method of consultation. The Clerk advised that Council had a statutory duty to publish in the local press and an online consultation had also been undertaken;
- there had been no consultation with the trade on the draft tariff through the Taxi/PHC Sub Group. The Clerk explained the trade had requested that the taxi tariff review be undertaken early and as a result there had not been the time to convene the Sub Group;

- the proposed increase in the soiling charge to £150 was excessive and not reflective of the actual costs involved;
- the proposed increase across all tariffs was significantly higher than wage increases across all sectors and therefore unfair to consumers and proposing there be no increase in the tariff in 2023/24;
- the Inverness Taxi Alliance was the largest representative of the taxi trade in the Highlands and had significantly more members than the numbers who had responded to the public consultation. In view of the impact of the pandemic, rising inflation and fuel costs, the Alliance proposed a 15% increase in tariff 1, 10% increase in tariffs 2 and 3, and no increase in tariffs 4 and 5;
- the above would set a fair tariff in the first instance for the public and the trade rather than customers having to negotiate discounted fares. Many operators and drivers would not charge less than the maximum fare;
- the proposed soiling charge was fair given the time that vehicles were off the road for cleaning;
- fuel prices had dropped recently and therefore care should be exercised in making predictions about future costs in agreeing the tariff;
- differing views in relation to the sufficiency of the current number of licensed vehicles and the challenges in undertaking an unmet demand survey due to the unique geography of the Highlands;
- it was suggested that no other licensing authority in Scotland was considering the level of increase being proposed in the Highlands; and
- the trade had not requested or put a case forward to justify the proposed level of increase. If approved, it was likely this would result in an appeal to the Traffic Commissioner.

The Clerk advised that the Committee had agreed the recommended increase in tariffs at its meeting on 6 September 2022 based on the majority of responses to the public consultation. Members had also taken into consideration the Scottish Government's best practice for licensing authorities guidance and the figures supplied by the Government's Office of National Statistics (ONS) in relation to the consumer price index. A further comparison had been provided and the most up to date figures were detailed in Appendix 7 to the report. The Traffic Commissioner could refuse to hear an appeal if it was not representative of a substantial proportion of the trade.

Following questions, the Committee proceeded to debate. In discussion, the following main points were raised:-

- the Inverness Taxi Alliance's proposal represented a satisfactory resolution to this matter and should be accepted;
- the proposed 20% increase in all tariffs was excessive in the current economic climate and well above the pay increases being offered to other sectors in the Highlands. A reduction in cost of fuel and vehicles was also being observed;
- it was disappointing that members of the trade from other parts of the Highlands had not attended to present their case;

- motoring would not get cheaper going forward irrespective of the current slight drop in fuel prices. Following the results of the public consultation, the proposed 20% increase in all tariffs should be accepted;
- the proposed tariff was the maximum that could be charged and operators had the ability to charge a lower tariff if they so wished;
- the fact operators could charge up to the maximum tariff provided them with flexibility in terms of their earnings and help meet demand at peak times at weekends; and
- the proposed tariff would help support the trade in more rural areas where there was a shortage of drivers/operators.

Thereafter, Mr W Mackay, seconded by Ms E Knox **moved** to agree the proposal that went out to public consultation that there be a 20% increase across all tariffs.

As an **amendment**, Mr D Millar seconded by Mr J Bruce moved to agree the proposal submitted by the Inverness Taxi Alliance for a 15% increase in tariff 1, 10% increase in tariffs 2 and 3, and no increase in tariffs 4 and 5

On a vote being taken, the **MOTION** received 9 votes, the **AMENDMENT** received 3 votes with no abstentions. The **MOTION** was therefore **CARRIED**, the votes having being cast as follows:-

#### **For the Motion**

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

#### **For the Amendment**

Mr J Bruce, Mr J Grafton, Mr D Millar.

#### **Abstentions**

No Abstentions

#### **Decision**

The Committee **AGREED** a final tariff to take effect from 13 February 2023, subject to any appeal being lodged, with the following proposed changes to the existing tariffs and to the additional charges as follows:

- a 20% increase to all tariffs;
- the soiling charge be increased from a maximum of £120 to a maximum of £150; and
- the introduction of a £5 maximum charge for the carriage of bulky items that cannot be reasonably accommodated in the boot of the vehicle being hired. This charge may only be demanded if the customer is informed of the amount of the charge at the time of booking. For the avoidance of any doubt, this will not apply to any items designed to assist the mobility of users such as wheelchairs or walking aids.

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

There had been circulated Report No HLC/057/22 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. The report invited the Committee to approve the Council's policies on licensed wheelchair accessible vehicles and medical exemptions for drivers under the Equality Act 2010.

In response to a question, the Principal Solicitor clarified that the Council did not currently provide training to taxi and private hire car operators and drivers in relation to wheelchair users. However, early consideration was being given to the training the licensing authority could potentially provide and connected to this the Scottish Government were currently updating their own guidance for taxi and private hire cars. This may contain recommendations for best practice which the Council might have to consider.

The Committee **AGREED** to approve the policy on licensed wheelchair accessible vehicles and medical exemptions for drivers under the Equality Act 2010.

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

**8.1 Application for the renewal of a taxi operator's licence – Northern  
Accident Management Ltd.**

There had been circulated Report No HLC/058/22 by the Principal Solicitor relating to an application which has been received from Northern Accident Management Ltd. for the renewal of a taxi operator's licence (Ward 13 – Inverness West). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that the applicant had now made an appointment for the vehicle to be inspected and this was due to be carried out on 30 November 2022.

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor – Regulatory Services to refuse the application should the vehicle not pass a Council inspection by 12 December 2022.

## **8.2 Application for grant of taxi driver's licence – Kevin Campbell**

There had been circulated Report No HLC/059/22 by the Principal Solicitor relating to an application which has been received from Mr Kevin Campbell for the grant of a taxi driver's licence (Ward 21 – Fort William & Ardnamurchan Ward). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that the applicant had made an appointment to sit the taxi knowledge test and a right to work check on 2 December 2022.

The Committee **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor – Regulatory Services to refuse the application should the applicant (1) not pass the Taxi Knowledge Test and (2) not pass a right to work check, both by 30 December 2022.

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

### **9.1 Premises – Zida House, 41 Clachnaharry Road, Inverness**

There had been circulated Report No HLC/060/22 by the Principal Solicitor relating to the grant of a house in multiple occupation licence from Hosaam Tunveer in respect of premises at Zida House, 41 Clachnaharry Road, Inverness (Ward 13 – Inverness West). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Senior Licensing Officer advised that a satisfactory electrical certificate had now been received but that the completion certificate for the alterations made to the property and the tenancy agreement remained outstanding.

In response to questions, the Senior Licensing Officer advised there was no information on whether the property was currently occupied, noting that the applicant was permitted to have up to two tenants without the requirement for a HMO licence. He explained that once an HMO licence was granted, the premises were automatically passported into the landlord registration scheme.

Following consideration, the Committee **AGREED** to **GRANT** the application subject to the following additional condition:

1. The premises shall not be used as a house in multiple occupation until such time as the following documentation has been received and confirmed as satisfactory by the Council:
  - Completion Certificate for the alterations made to the property under Building Warrant ref: 19/01824/NDOM5
  - Portable Appliance Testing Certificate

- Tenancy Agreement

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**  
**Private hire car driver's / operator's licences**  
**Achd Riaghaltais Chatharra (Alba) 1982**  
**Iarrtasan airson ceadachdan do dhràibhearan / oibrichean chàraichean**  
**airson fastadh prìobhaideach**

#### **11.1 Application for a temporary private hire car driver's licence – Osaid Khan**

There had been circulated to members only Report No HLC/061/22 by the Principal Solicitor relating to an application which has been received from Osaid Khan for a temporary private hire car driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Committee heard from the Police Scotland and the applicant in relation to the application.

The Committee **AGREED** to **GRANT** the temporary licence subject to the applicant passing a right to work check.

#### **11.2 Private hire car driver's licence – Rzgar Mahmud**

There had been circulated to members only Report No HLC/062/22 by the Principal Solicitor relating to Rzgar Mahmud who was the holder of a private hire car driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

The Principal Solicitor advised that a late objection from Police Scotland had been received and, therefore, could not be automatically considered by the Committee. On hearing from Police Scotland and the licence holder's solicitor, the Committee **AGREED** to accept the late objection.

The Committee then heard from Police Scotland and the licence holder's solicitor.

Mr C Birt seconded by Mr D Millar, **moved** to take no further action in relation to the licence.

As an **amendment**, Ms E Knox seconded by Ms L Johnson moved to **suspend** the licence for the unexpired portion of the duration of the licence under paragraph 11(2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982. This was on the grounds that the licence holder was no longer a fit and proper person to hold a licence.

On a vote being taken, the **MOTION** received 5 votes, the **AMENDMENT** received 6 votes with no abstentions. The **AMENDMENT** was therefore **CARRIED**, the votes having being cast as follows:-

**For the Motion**

Mr C Birt, Mr J Bruce, Mr J Grafton, Mr S Kennedy, Mr D Millar.

**For the Amendment**

Ms J Hendry, Ms L Johnston, Ms E Knox, Mr D Macpherson, Mr P Oldham, Mr K Rosie.

**Abstentions**

No Abstentions

**Decision**

The Committee **AGREED** to **SUSPEND** the licence for the unexpired portion of the duration of the licence under paragraph 11(2)(a) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The Committee deemed that the licence holder was no longer a fit and proper person to hold a licence.

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

**12.1 Application for grant of taxi driver's licence – Rzgar Mahmood**

There had been circulated to members only Report No HLC/063/22 by the Principal Solicitor relating to an application which has been received from Rzgar Mahmood for the grant of a taxi driver's licence (Ward 14 – Inverness Central). The Committee was invited to determine the application in accordance with the Council's Hearings Procedure.

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

Ms E Knox, seconded by Mr P Oldham **moved** to refuse the application under paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982. This was on the grounds that the licence holder was not a fit and proper person to hold a licence.

As an **amendment**, Mr D Millar seconded by Mr S Kennedy moved that the application be granted subject to the applicant passing his taxi knowledge test.



On a vote being taken, the **MOTION** received 6 votes, the **AMENDMENT** received 5 votes with no abstentions. The **MOTION** was therefore **CARRIED**, the votes having being cast as follows:-

**For the Motion**

Ms J Hendry, Ms L Johnston, Ms E Knox, Mr D Macpherson, Mr P Oldham.  
Mr K Rosie.

**For the Amendment**

Mr C Birt, Mr J Bruce, Mr J Grafton, Mr S Kennedy, Mr D Millar.

**Abstentions**

No Abstentions

**Decision**

The Committee **AGREED** to **REFUSE** the application under paragraph 5(3)(a)(ii) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The Committee deemed that the licence holder was not a fit and proper person to hold a licence.

The meeting closed at 1.30pm.