

Agenda item	7.1
Report no	HLC/37/24

THE HIGHLAND COUNCIL

Committee: HIGHLAND LICENSING COMMITTEE

Date: 7 May 2024

Report title: John Gallacher – Licence holder – taxi driver
(Ward 21 – Fort William and Ardnamurchan)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1 This report relates to the holder of a taxi driver’s licence.
- 1.2 This item is subject to a formal hearing procedure.

2. Recommendation

- 2.1 Members are asked to determine, in accordance with the Council’s hearings procedure, whether or not the licence holder continues to be a fit and proper person to hold a licence, whether the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety. Upon determining this issue, members are asked to decide whether any action should be taken against the licence holder in the form of a suspension or revocation of the licence.

If the Committee is minded to suspend the licence, it is recommended that the suspension be with immediate effect and for the remaining portion of the duration of the licence.

3. Background

- 3.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 (the “1982 Act”) a licence will be required for a taxi driver’s licence. A licence for the same issued by The Highland Council is valid for the whole Council area.

4. Licence holder

- 4.1 Mr John Gallacher is a licensed taxi driver with The Highland Council. His taxi driver’s licence expires on 10 May 2024.

5. Taxi Driver Medical Examination

5.1 Under the terms of Section 13(4) of the Civic Government (Scotland) Act 1982, it is the Highland Council policy that licensed drivers over the age of 65 attend and pass an annual medical examination to confirm their fitness to drive a taxi or private hire vehicle.

5.2 Mr Gallacher has been provided with the opportunity to present himself for a medical examination but has so far failed to do so.

6. Immediate suspension

6.1 Paragraph 12 of Schedule 1 of the Act provides powers to the Council to impose immediate suspension in relation to a licence where the carrying on of the activity is likely to cause a serious threat to public order or public safety.

6.2 In terms of the Council's Scheme of Delegation, the Principal Solicitor – Regulatory Services in consultation with the Head of Corporate Governance, has delegated authority to order the immediate suspension of a licence on this ground. In this regard, following the necessary consultation, the Principal Solicitor – Regulatory Services wrote to John Gallacher on 13 March 2024 advising his taxi driver's licence was suspended with immediate effect.

7. Hearing

7.1 In terms of Paragraph 12 an order to suspend under this paragraph shall have effect from the date on which it is made until whichever is the earlier of the following two dates:

(i) a date six weeks after the order was made;

(ii) the date of any decision of the Licensing Authority whether or not to suspend the licence under Paragraph 11 of the Act.

7.2 In this case, as the period between the suspension order being made and the date of the Licensing Committee exceeded 6 weeks the Principal Solicitor will issue a further suspension order under Paragraph 12 on 19 April 2024.

7.3 A copy of this report has been sent to John Gallacher who has been invited to attend the Committee and will be provided an opportunity to address the Members. John Gallacher has also been advised of the procedure which will be followed at the meeting.

8. Grounds for further suspension or revocation under Paragraph 11

8.1 Paragraph 11(2)(a) permits a licensing authority to suspend or revoke a licence if in their opinion, the holder of the licence is not or is no longer a fit and proper person to hold the licence. Paragraph 11(2)(c) and 11(2)(d) also permits suspension or revocation if it is considered that the carrying on of the activity to which the licence relates is likely to cause a threat to public safety.

8.2 In terms of paragraph 11(10) of Schedule 1 of the 1982 Act, if in deciding to order the suspension or revocation of a licence, a licensing authority determine that the circumstances of the case justify immediate suspension or revocation, they may order that the licence shall be suspended or revoked immediately.

8.3 In terms of paragraph 11(11) of Schedule 1 of the 1982 Act, a suspension can be for the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix; and the effect of the suspension shall be that the licence shall cease to have effect during the period of the suspension. A suspension may be recalled at any time if the ground of suspension no longer applies. A revocation may not be recalled.

8.4 In this instance, it is recommended that if the Committee is minded to suspend the licence, the suspension be with immediate effect and for the remaining portion of the duration of the licence, namely until 10 May 2024.

9. Policies

9.1 The following policies are relevant to this application:-

Highland Council taxi driver's licence conditions. A copy of these can be accessed at:- www.highland.gov.uk/businessinformation/licensing/civicgovernmentlicensing or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 10 April 2024

Author: Julie Traynor

Background Papers: Civic Government (Scotland) Act 1982