

## LICENSING COMMITTEE

Minutes of meeting held in Committee Room 1, Council Offices, Almada Street, Hamilton on 20 August 2019

### **Chair:**

Councillor David Shearer

### **Councillors Present:**

Councillor Stephanie Callaghan, Councillor Poppy Corbett, Councillor Mary Donnelly, Councillor George Greenshields, Councillor Lynsey Hamilton, Councillor Mark Horsham, Councillor Martin Lennon, Councillor Richard Lockhart (*substitute for Councillor Martin Grant Hose*), Councillor Eileen Logan, Councillor Joe Lowe, Councillor Catherine McClymont, Councillor Davie McLachlan, Councillor Julia Marrs (Depute), Councillor Richard Nelson, Councillor Scott (*substitute for Councillor Andy Carmichael*), Councillor Jim Wardhaugh, Councillor Jared Wark (*substitute for Councillor Kenny McCreary*)

### **Councillors' Apologies:**

Councillor Andy Carmichael, Councillor Geri Gray, Councillor Martin Grant Hose, Councillor Katy Loudon, Councillor Kenny McCreary, Councillor Mark McGeever, Councillor Jim McGuigan, Councillor Gladys Miller, Councillor John Ross (ex officio), Councillor Bert Thomson

### **Attending:**

#### **Finance and Corporate Resources**

C Lyon, Administration Officer; C McKee, Licensing and Registration Co-ordinator; G Mays, Solicitor; L Wyllie, Administration Assistant

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### **1 Declaration of Interests**

No interests were declared.

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### **2 Minutes of Previous Meeting**

The minutes of the meeting of the Licensing Committee held on 25 June 2019 were submitted for approval as a correct record.

**The Committee decided:** that the minutes be approved as a correct record.

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### **3 Civic Government (Scotland) Act 1982 (As Amended) – Licensing of Taxis and Private Hire Cars**

A report dated 10 July 2019 by the Executive Director (Finance and Corporate Resources) was submitted requesting approval to commence a survey to:-

- ♦ assess whether or not there was an 'overprovision' of private hire cars in any of the zones of South Lanarkshire
- ♦ assess whether or not there was any significant unmet demand in respect of taxis in each of the zones of South Lanarkshire
- ♦ determine whether the current provision of wheelchair accessible vehicles in each zone of South Lanarkshire was sufficient

Section 10(3) of the Civic Government (Scotland) Act 1982 provided that a licensing authority could refuse the grant of a taxi licence for the purpose of limiting the number of taxis but only if it was satisfied that there was no significant unmet demand for the services of taxis in its area.

This provision did not apply to applications for private hire car licences. However, amendments made to the Act by the Air Weapons and Licensing (Scotland) Act 2015, which came into effect on 15 May 2017, introduced the principle of refusing applications for private hire cars on the basis of overprovision.

Sections 10(3A), (3B) and (3C) of the Civic Government (Scotland) Act 1982 allowed the licensing authority to refuse an application for a private hire car licence on the grounds that it was satisfied that there already existed, or would exist if the licence was granted, an overprovision of private hire cars in the locality or localities in which the private hire car was to operate.

There was currently no statutory guidance available, however, the Scottish Government was in the process of drafting appropriate guidance.

In considering whether there was, or would be, an overprovision of private hire cars in the locality, Section 10(3C) provided that the licensing authority must have regard to the number of private hire car licences operating and the demand for private hire car services in the locality. Currently, there was no evidence upon which the licensing authority could base a conclusion of unmet demand in any of its localities and it was proposed to carry out a survey to address this.

As an independent survey had not been carried out in respect of taxis for a number of years, it was proposed that the survey also include the use and demand of taxis in each zone to determine if there was “any significant unmet demand” in respect of taxis.

It was further proposed that the survey include whether the current provision of wheelchair accessible vehicles in each zone of South Lanarkshire was sufficient.

The outcome of the survey would be reported to a future meeting of this Committee.

**The Committee decided:** that a survey be instructed to assess:-

- ♦ if there was any overprovision of private hire cars in each zone of South Lanarkshire
- ♦ if there was any significant unmet demand in respect of taxis in each zone of South Lanarkshire
- ♦ the sufficiency of Wheelchair Accessible Vehicles throughout the zones in South Lanarkshire

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#### **4 Civic Government (Scotland) Act 1982 (As Amended) – Sexual Entertainment Venues**

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A report dated 1 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on the introduction of the licensing of sexual entertainment venues as a defined activity under the Civic Government (Scotland) Act 1982 (as amended).

On 29 April 2019, the Civic Government (Scotland) Act 1982 was amended by Section 76 of the Air Weapons and Licensing (Scotland) Act 2015. The licensing of sexual entertainment venues had been introduced as an optional activity which meant that it was a matter for the licensing authority to decide whether or not it wished to include such venues in the licensing regime. If the licensing authority decided to licence sexual entertainment venues, then it would require to pass a resolution in order for this activity to be licensed.

At present, as far as the Council was aware, there were no sexual entertainment venues within South Lanarkshire. However, this Committee, as licensing authority, should consider whether it would wish to control those activities, even if no such premises were currently in operation in the Council area. If the Committee decided not to licence the activity, then no licence would be required to operate a sexual entertainment venue within South Lanarkshire Council area in the future. This would mean that sexual entertainment venues would remain largely unregulated. If such a resolution was passed, any existing or new venues would require to be licensed.

The definition of a sexual entertainment venue and the type of entertainment was set out in the legislation.

Before considering whether or not to introduce a resolution, the licensing authority required to carry out a consultation exercise with a range of consultees, including members of the public, local businesses, Council Resources and Police Scotland.

If the licensing authority decided to introduce a licensing regime for sexual entertainment venues, it must then determine the appropriate number of sexual entertainment venues for its area or relevant locality which might be none. Once the resolution had been passed, the licensing authority could refuse the application on the grounds that, at the time the application was determined, the number of sexual entertainment venues in the local authority's area or relevant locality was equal to or exceeded the number that the licensing authority considered appropriate for its area or that locality.

After the consultation exercise had been completed, the licensing authority would need to agree to introduce licensing controls in respect of this activity, therefore, a fee would be charged for each application.

**The Committee decided:** that a consultation exercise be carried out prior to a decision being made as to whether or not sexual entertainment venues would be licensed.

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## **5 Urgent Business**

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There were no items of urgent business.

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## **6 Exclusion of Press and Public**

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**The Committee decided:** that, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, the press and public be excluded from the meeting for the following items of business on the grounds that it was likely that there would be disclosure of exempt information in terms of Paragraph 14 of Part I of Schedule 7A of the Act.

*Councillor Lowe left the meeting after this item of business*

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## **7 Civic Government (Scotland) Act 1982 (As Amended) – Application for Renewal of Private Hire Car Driver's Licence No 336**

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A report dated 1 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on an application for the renewal of private hire car driver's licence No 336 in terms of the Civic Government (Scotland) Act 1982 (as amended).

In terms of the Civic Government (Scotland) Act 1982 (as amended), the opportunity of a hearing had been offered to the applicant who was present and heard in support of his application. A representation had been received from Police Scotland, along with 2 further updates, and Sergeant Rankin was heard.

Councillor McLachlan, seconded by Councillor Lennon, moved that the application be refused. Councillor Callaghan, seconded by Councillor Donnelly, moved as an amendment that the application be granted for a period of 1 year. On a vote being taken by a show of hands, 3 members voted for the amendment and 14 for the motion which was declared carried.

**The Committee decided:** that the application for the renewal of private hire car driver's licence No 336 in the Cambuslang and Rutherglen zone be refused.

*In terms of Standing Order No 13, the Chair adjourned the meeting after this item of business at 11.10am and reconvened at 11.15am. Councillor Greenshields was not present when the meeting reconvened*

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## **8 Civic Government (Scotland) Act 1982 (As Amended) – Consideration of Suspension or Revocation of Private Hire Car Driver's Licence No 608**

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A report dated 2 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted:-

- ♦ advising on action taken, in terms of Standing Order No 36(c), in view of the timescales involved and a serious threat to public order or safety, by the Executive Director (Finance and Corporate Resources), in consultation with the Chair and ex officio member, to order the immediate suspension of private hire car driver's licence No 608, with effect from 29 July 2019
- ♦ proposing that consideration be given to whether private hire car driver's licence No 608 should be suspended or revoked

In terms of the Civic Government (Scotland) Act 1982 (as amended), the opportunity of a hearing had been offered to the applicant who was present and heard in support of his application. A complaint had been received from Police Scotland, along with an additional objection, and Sergeant Rankin was heard.

**The Committee decided:**

- (1) that the action taken, in terms of Standing Order No 36(c), by the Executive Director (Finance and Corporate Resources), in consultation with the Chair and ex officio member, to suspend private hire car driver's licence No 608, with effect from 29 July 2019, for a maximum period of 6 weeks, be noted; and
- (2) that private hire car driver's licence No 608 for the Cambuslang and Rutherglen zone be not suspended or revoked.

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## **9 Civic Government (Scotland) Act 1982 (As Amended) – Application for Renewal of Private Hire Car Driver's Licence No 608**

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A report dated 1 August 2019 by the Executive Director (Finance and Corporate Resources) was submitted on an application for the renewal of private hire car driver's licence No 608 in terms of the Civic Government (Scotland) Act 1982 (as amended).

In terms of the Civic Government (Scotland) Act 1982 (as amended), the opportunity of a hearing had been offered to the applicant who was present and heard in support of his application. An objection had been received from Police Scotland, along with an additional complaint, and Sergeant Rankin was heard.

**The Committee decided:** that the application for the renewal of private hire car driver's licence No 608 in the Cambuslang and Rutherglen zone be granted for a period of 1 year.