

LICENSING COMMITTEE

Minutes of meeting held in Committee Room 1, Council Offices, Almada Street, Hamilton on 6 April 2011

Chair:

Councillor Maureen Devlin

Councillors Present:

Eileen Baxendale, Andy Carmichael, Jim Docherty, Barry Douglas, Lynn Filshie (Depute), Beith Forrest, Anne Higgins, Bill Holman, Eileen Logan, Clare McColl, Jean McKeown, John McNamee, Alice Marie Mitchell, Patrick Ross-Taylor, Graham Scott, David Shearer, Hamish Stewart, Bert Thomson, David Watson

Councillors' Apologies:

Edward McAvoy, Davie McLachlan, Archie Manson, Richard Tullett

Attending:

Corporate Resources

M Clinton, Licensing Standards Officer (Item 7 only); M Cooper, Standards and Development Officer (Licensing); C Lyon, Administration Officer; G Mays, Solicitor; L Wyllie, Administration Assistant

1 Declaration of Interests

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the Licensing Committee held on 9 March 2011 were submitted for approval as a correct record.

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

3 Amendment to Scheme of Delegation - Criminal Justice and Licensing (Scotland) Act 2010

A report dated 30 March 2011 by the Executive Director (Corporate Resources) was submitted on an amendment to the Scheme of Delegation to take account of a legislative change to the Civic Government (Scotland) Act 1982 introduced by the Criminal Justice and Licensing (Scotland) Act 2010.

Prior to the amended legislation coming into force on 28 February 2011, a holder of a licence under the Civic Government (Scotland) Act 1982 required to lodge a renewal application prior to the expiry of the existing licence. If the application was not lodged prior to the expiry date, then the licence holder ceased to trade pending the grant of a new licence. However, as a consequence of the change in the legislation, if "good cause" was shown, a licence holder could now continue to trade if their application for renewal was lodged after the expiry date but within 28 days of that date.

To allow the effective operation of the renewal process, it was considered necessary for decisions in relation to what constituted “good cause” to be made at an operational level. It was proposed, therefore, that powers be delegated to the Executive Director (Corporate Resources) to determine what constituted “good cause” and that the Scheme of Delegation (Section 4C, Paragraph 29) be amended accordingly.

The Committee decided: that the Scheme of Delegation be amended as follows:-

| Function | Power | Restriction |
|--|---|-------------|
| To determine whether “good cause” has been shown in terms of Section 178 of the Criminal Justice and Licensing (Scotland) Act 2010 | Accept or reject application for renewal of licence if received after date of expiry of existing licence but within 28 days of same | |

[Reference: Minutes of Executive Committee of 26 January 2011 (Paragraph 13)]

4 Urgent Business

There were no items of urgent business.

5 Exclusion of Press and Public

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 item(s) of business on the grounds that it was likely that there would be disclosure of exempt information in terms of Paragraph(s) 6 and 14 of Part I of Schedule 7A of the Act.

6 Civic Government (Scotland) Act 1982 - Application for Renewal of a Private Hire Car Driver's Licence - B Anderson, 6 Clairinsh Gardens, Renfrew

A report dated 14 March 2011 by the Executive Director (Corporate Resources) was submitted on an application for renewal of a private hire car driver's licence in terms of the Civic Government (Scotland) Act 1982.

At its meeting on 9 March 2011, this Committee had decided that consideration of the application be continued to allow the applicant the opportunity to be present and heard at a future meeting.

The applicant was present and heard in support of his application. A late objection had been received from Strathclyde Police. The reason for the lateness of the objection was accepted and Sergeant Anderson was heard on behalf of Strathclyde Police.

The Committee decided: that the application by B Anderson, 6 Clairinsh Gardens, Renfrew for renewal of a private hire car driver's licence in the East Kilbride zone be granted for a period of 1 year.

[Reference: Minutes of 9 March 2011 (Paragraph 6)]

7 Civic Government (Scotland) Act 1982 - Licensing of Private Hire Cars and Drivers - Suspension of Licences

A report dated 14 March 2011 by the Executive Director (Corporate Resources) was submitted:-

- ◆ advising on action taken on 10 March 2011, 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 (Corporate Resources), in consultation with the Chair and an ex officio member, to order the immediate suspension of private hire car licence No 475 and private hire car driver's licence No 368 for the period to 6 April 2011
- ◆ proposing that consideration now be given to whether private hire car licence No 475 and private hire car driver's licence No 368 should be suspended

In terms of the Civic Government (Scotland) Act 1982, the opportunity of a hearing had been offered to the licence holder who was not present or represented.

The Committee decided:

- (1) that the action taken, in terms of Standing Order No 36(c), by the Executive Director (Corporate Resources), in consultation with the Chair and an ex officio member, to suspend private hire car licence No 475 and private hire car driver's licence No 368 with immediate effect for the period to 6 April 2011, be noted; and
- (2) that private hire car licence No 475 and private hire car driver's licence No 368 for the Hamilton zone be suspended with immediate effect for the remainder of the period of the licence.