

Licensing Committee
30 January 2019

IRVINE, 30 January 2019 - At a Special Meeting of the Licensing Committee of North Ayrshire Council at 10.00 a.m.

Present

Ronnie McNicol, Robert Barr, John Easdale, Jean McClung, Donald L. Reid and Angela Stephen.

In Attendance

W. O'Brien, Solicitor, (Licensing), A. Toal, Administrative Assistant (Legal Services); and A. Little, Committee Services Officer (Chief Executive's Service).

Also in Attendance

Sergeant David Dougan and PC Elaine McArthur (Police Scotland).

Chair

Councillor McNicol in the Chair.

Apologies

Todd Ferguson, Scott Gallacher and Davina McTiernan.

1. Declarations of Interest

There were no declarations of interest in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors,

2. Exclusion of the Public

The Committee resolved, under Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public, for the remaining items of business on the grounds that they involved the likely disclosure of Exempt Information as defined in Section 50J of, and Schedule 7A to, the Local Government (Scotland) Act 1973.

The 'Exempt Information' concerned is information of the type described in one or more of Paragraphs 3, 6, 14 and 15 of Part 1 of Schedule 7A to the Act:

3. "Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority."
6. "Information relating to the financial or business affairs of any particular person (other than the authority)."
14. "Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime."
15. "The identity of a Protected Informant" - where "Protected Informant" is defined in Part III as a person who informs the Local Authority about a past, present or future crime, breach of statutory duty, breach of planning control, or nuisance."

3. Civic Government (Scotland) Act 1982 and other Licensing Statutes: Licensing Matters

Submitted report by the Head of Democratic Services on hearings to be determined and applications for the grant or renewal of licences, consents and permits, on hearings and on other matters, under the Civic Government (Scotland) Act 1982 and other Licensing legislation.

Appendix A: Hearings

3.1 Taxi Driver's Licence

The licence holder, having been duly cited was not present, but had submitted a written statement that had been circulated to the Committee. The complainant was not present but had submitted a written statement that had been circulated to the Committee. Representatives from Police Scotland were in attendance.

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the licence holder. He referred to statements and emails from the complainant and licence holder.

The representatives from Police Scotland then addressed the Committee on the terms of their investigation into the incident that had concluded no criminality had taken place.

Discussion took place on a range of different aspects of each of the statements and it was considered that further information was required from both the licence holder and the complainant.

The Committee agreed to continue consideration of the matter to a future Special Meeting, at a date convenient to the licence holder and complainant, to allow them both to participate in the meeting.

4. Urgent Items

The Chair agreed that the following items be considered as a matter of urgency to allow the matters to be actioned without delay.

4.1 Taxi Drivers and private Hire Car Drivers

The Committee was advised of current practice, which was that an Applicant who either had already attained the age of 70 years, or who would attain that age in the duration of the proposed Licence, should produce a letter from his/her General Practitioner confirming his/her fitness to drive.

The Committee noted that:

- (a) 'ordinary' Driving Licences issued by the Driver and Vehicle Licensing Agency (DVLA) record that the driver's entitlement extends to his/her 70th birthday; and

(b) entitlement beyond that age may be time-limited.

The Committee also noted that, as far as Licences granted by Licensing Authorities to Taxi Drivers and Private Hire Car Drivers were concerned, Section 13 of the Civic Government (Scotland) Act 1982 applied, and in particular Section 13(6):

"If a person holding a Licence under this section ceases for any reason to be authorised by law to drive on a road the vehicle to which the Licence relates, the Licence shall cease to have effect."

This means that when a driver with a Council Licence to drive a Taxi or Private Hire Car loses the driving entitlement under an 'ordinary' Driving Licence granted by DVLA, the Council Licence automatically ceases. This occurs whatever the reason for the loss of entitlement, e.g. a medical revocation or a disqualification imposed after motoring convictions.

The Committee decided that the current practice should be discontinued, and that instead Licences should contain this condition:

"Within 14 days after the Licence-Holder's 70th birthday, and within 14 days of each later birthday, the Licence-Holder must give the Licensing Office evidence that he/she continues to have a driving entitlement under the Road Traffic Acts (for example, by producing to the Licensing Office the current photocard part of the 'ordinary' Driving Licence issued by Driver and Vehicle Licensing Agency (DVLA))."

The Committee agreed that applicants, aged 70 years and over, submit their driving licence with their taxi driver application.

4.2 Window Cleaner Licence WCL/018 – John Priestly

The applicant, having been duly cited, was present and represented. Representatives from Police Scotland were in attendance

The Solicitor (Licensing) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Police Scotland then addressed the Committee on the terms of their objections.

The Solicitor (Licensing) provided a summary of the applicant's "Protected Convictions" and asked the Committee to determine whether justice could not be done except by having regard to the applicant's "Protected Convictions" in terms of the Rehabilitation of Offenders Act 1974, Section 7(3). The Committee agreed that justice could not be done except by having regard to the applicant's "Protected Convictions" and details of the "Protected Convictions" was then provided.

The applicant and his representative addressed the Committee on the issues raised and responded to questions.

The applicant, his representative and representatives from Police Scotland then withdrew to allow the Committee to deliberate, returning to hear the Committee's decision.

Decision

Councillor Barr, seconded by Councillor Easdale moved that the application be granted in terms of Paragraph 5 (1) (a) of Schedule 1 of the Civic Government (Scotland) Act 1982 for a period of one year. There being no amendment, the motion was declared carried.

The meeting ended at 11.30 a.m.