

Licensing Sub Committee of Corporate Services Committee
17 April 2007

Irvine, 17 April 2007 - At a Meeting of the Licensing Sub Committee of Corporate Services Committee of North Ayrshire Council at 2.00 p.m.

Present

David Munn, John Moffat, Jane Gorman, Alan Munro, Donald Reid and Ian Richardson.

In Attendance

N. Alexander, Chief Legal Officer, A. Livingstone, Solicitor, and A Toal, Clerical Officer (Licensing and District Court) (Legal and Protective).

Also In Attendance

Superintendent Rennie and Sergeant Kelly, Strathclyde Police.

Chair

Councillor Munn in the Chair.

Apologies for Absence

Elizabeth McLardy.

1. Civic Government (Scotland) Act 1982: Taxi Fare Review

Submitted report by the Assistant Chief Executive (Legal and Protective) on the outcome of the consultation process in respect of the Statutory Review of Taxi Fares.

At its meeting held on 12 March 2007, the Sub Committee approved the timetable for the conduct of the Taxi Fare Review for 2007. The timetable, included the convening of a consultation meeting between the Sub Committee and representatives from the Taxi and Private Hire Car trades. Notice of the consultation meeting, including an open invitation to attend or make written representations, was provided to all North Ayrshire Taxi and Private Hire Car Operators.

The Consultation Meeting took place on 4 April 2007. While no written representations were received, six representatives from the North Ayrshire Taxi Owners Association attended the meeting and made submissions to amend the existing taxi fare tariff to reflect increased operating costs, including fuel and maintenance charges, insurance premiums, and the cost of servicing loan charges. The report summarised the proposed alterations to the existing tariff.

The Sub Committee, having considered the representations made at the consultation meeting on 4 April 2007, agreed (a) to accept the representations in part; and (b) that the Chief Legal Officer (Licensing and District Court) advertise the draft Tariff attached at Appendix LS1 for public consultation.

2. Civic Government (Scotland) Act 1982: Amended Procedure Relating to Marches, Parades and Processions

Submitted report by the Assistant Chief Executive (Legal and Protective) on enacted amendments to Part V of the Civic Government (Scotland) Act 1982, as they relate to the Council's procedures regarding the authorisation and control of processions.

The Council grants permission for a number of marches or parades under the 1982 Act. Formerly there was little scope for proper consultation over proposed marches and parades as the legislation only required a minimum of 7 days notice of a march. On 1 April 2007, new provisions relating to marches, parades and processions contained within The Police, Public Order and Criminal Justice (Scotland) Act 2006 come in to force. In brief the primary changes to the current legislation are:

- Organisers have to give at least 28 days notice (as opposed to 7) thereby giving a better opportunity for dialogue and more time for planning;
- Local Authorities can no longer exempt certain processions;
- Local Authorities can take account of a range of issues when deciding whether it is appropriate to place conditions on the march;
- Local Authorities must take account of whether a procession would place too much of a burden on the Police;
- Local Authorities must maintain a list of processions that have been held in the area, or which have been prevented, to allow the public to see which processions happen regularly and which are likely to happen in the future;
- Local Authorities must make arrangements to make sure that anyone who asks for information on processions in their area can receive the appropriate information

The 2006 Act allows more community involvement in respect of decisions about marches and parades and new procedures have been drawn up to involve the community more. The new legislation requires Local Authorities to hold a register accessible by the public, detailing all marches for which permission has been granted, those being applied for, and those for which permission was refused. A website page is to be developed by the Council to set out all the above information and identify a "single gateway" or point of contact for all such applications.

In general, the Council will now become the focus for organisers wishing to promote a march as opposed to the Police. The Council may waive the requirement for 28 days notice in exceptional circumstances, for example, if an organiser wishes to arrange a procession in relation to a recent decision or announcement such as a decision to close a factory or unexpected intimation of redundancies.

The vast majority of marches intimated previously to the Council can be considered uncontentious. In the event of a competent challenge being made, it would fall to the Licensing Sub-Committee to consider the objection and reach a decision. There is no change to the requirements to give an organiser at least 2 days notice of the decision. While the uncontentious marches could be dealt with at a low level, there is a requirement in the legislation for risk assessments to be carried out and a series of meetings to be scheduled in respect of marches which could prove problematic.

The Sub Committee agreed that the Chief Legal Officer (Licensing and District Court) develop procedures in respect of marches, parades and processions to take account of the new legislative requirements.

3. Exclusion of Public

The Sub Committee resolved, in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude from the Meeting the press and the public for the following item of business on the grounds indicated in terms of Paragraphs 6, 13 and 14 of Schedule 7A of the Act.

4. Civic Government (Scotland) Act 1982: Licensing Matters

Submitted report by the Assistant Chief Executive (Legal and Protective) on (a) applications for the grant or renewal of licences; and (b) hearings which required to be determined by the Sub Committee.

The Sub Committee agreed to dispose of these matters as indicated in the attached Appendix LS2.

The meeting ended at 4.40 p.m.

Appendix No
LS1

Maximum Fares for the Exclusive Hire of a Taxi Effective from 19 June 2006

For a distance not exceeding ¾ of a mile (or waiting time not exceeding 10mins)	£2.20
Each additional 1/14 of a mile (or additional waiting time of 50 seconds)	10p

For hires beginning or ending on Good Friday, Easter Monday, beginning or ending between 1900hrs and 12 midnight on the 24 and 31 December, 26 December after 0700hrs and 2 January after 0700hrs, all day on Sundays and on any other day between 12 midnight and 0700hrs or from a journey from the zone in which the taxi is licensed to a point within another zone of North Ayrshire between 0700hrs and 12 midnight

For a distance not exceeding ¾ of a mile (or waiting time not exceeding 10mins)	£2.60
Each additional 1/10 of a mile (or additional waiting time of 48 seconds)	15p

For hires from the zone in which the taxi is licensed to a point within another zone of North Ayrshire between 12 midnight and 0700hrs:

For a distance not exceeding ¾ of a mile (or waiting time not exceeding 10mins)	£2.85
each additional 1/12 of a mile (or additional waiting time of 30 seconds)	15p

For hires beginning or ending on 25 December to 0700hrs on 26 December and on 1 January to 0700hrs on 2 January.	Normal Fare Plus 100% (No other charges apply)
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Soiling Charge	£30
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Journeys in vehicles carrying more than 4 passengers: 50p per additional passenger. The above fares apply to journeys within North Ayrshire. Fares for journeys outwith the area should be agreed with the licence holder. No separate fee shall be charged to, or payable by each passenger under any circumstances. In respect of any journeys between zones, which incur additional charges, under Tariff 2 or Tariff 3, the driver must intimate this to the passengers before the commencement of the journey. Luggage shall be carried **FREE** provided it is of a size which can reasonably be accommodated in the car.

Chief Legal Officer (Licensing and District Court), North Ayrshire Council, Town House'
High Street, Irvine, KA12 0AZ.

PART A

Applications for Licences/Renewal of Licences/Permits

1. TDL/054 (New - late application) Robert Brown

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

2. TDL/085 (Renewal) Evelyn Margaret Mullin

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

3. TDL/087 (Renewal) Rose McLaughlan

The Sub Committee unanimously agreed to make a summary application to the Sheriff in terms of Section 3 (2) of the Civic Government (Scotland) Act 1982, to extend the period prescribed in Section 3 (1) of the Act for the determination of the applications.

4. TDL/152 (Renewal) Stephen Robert Smith

The Sub Committee unanimously agreed, on the basis of the information presented, to proceed to a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

5. TDL/779 (Renewal) John Ian Campbell Lusk

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

6. TDL/838 (Renewal) Kenneth Hugh Croll

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

7. TDL/1338 (New) Lisa-Maree Weir

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

8. TDL/1014 (New) David Taylor

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

9. TDL/1335 (New) Alexander Hart

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

10. TDL/1340 (New) Alexander Nisbet

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

11. TDL/1341 (New) Hubert William O'Brien

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

12. TDL/1342 (New) James Robert Armstrong

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

13. TL/233 (Renewal) John Charles Reid and Mark Barraclough

The Sub Committee unanimously agreed to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982.

14. STL/0/234 James Elliot

The Sub Committee unanimously agreed to delegate authority to the Chief Legal Officer (Licensing and District Court) to grant the application subject to conditions in terms of Paragraph 5 (1) (b) of Schedule 1 of the Civic Government (Scotland) Act 1982, once outstanding issues had been satisfactorily resolved.

PART B

Hearings

1. TDL/146 Andrew McIlroy

The Sub Committee at its meeting held on 12 March 2007, unanimously agreed, on the basis of the information before it, to hold a suspension hearing in terms of Paragraph 11 (7) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The licence holder having been duly cited to attend, was present at the Hearing and was represented. The complainer, and representatives of Strathclyde Police were also in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. The complainer then addressed the Sub Committee on the terms of his complaint. The representatives of Strathclyde Police then addressed the Sub Committee on the representations from the Chief Constable.

The licence holder and his representative then addressed the Sub Committee on the issues raised, and responded to questions. All parties then withdrew to allow the Sub Committee to deliberate, returning to hear the Sub Committee's decision.

Decision

The Sub Committee unanimously agreed to suspend the licence in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982, and , in terms of Paragraph 11 (11) of the said Schedule, to set the period of suspension at 28 days.

2. SHDL/008 Andrew Crawford

The Sub Committee at its meeting held on 12 March 2007, unanimously agreed, on the basis of the information before it, to hold a hearing in terms of Paragraph 4 (2) of Schedule 1 of the Civic Government (Scotland) Act 1982.

The applicant having been duly cited to attend was not present at the Hearing. Representatives of Strathclyde Police were in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. The representatives from Strathclyde Police then addressed the Sub Committee on the terms of the Chief Constable's representation in respect of the application. The Police representatives then withdrew to allow the Sub Committee to deliberate, returning to hear the Sub Committee's decision.

Decision

The Sub Committee unanimously agreed to refuse the application in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982, on the grounds set out in Paragraph 5 (3) (ii) of the said Schedule, that the applicant is not a fit and proper person to be the holder of a second hand dealer licence.

3. TDL/923 Henry Ronald Summerfield

The Sub Committee at its meeting held on 12 March 2007, unanimously agreed, on the basis of the information before it, to suspend licence TDL/923 with immediate effect under Paragraph 12 of Schedule 1 of the Civic Government (Scotland) Act 1982. The Sub Committee agreed to cite the licence holder to attend a hearing to consider the suspension of all licences held by him.

The licence holder having been duly cited to attend, was present at the Hearing. A written representation from the licence holder's solicitor was intimated to the Sub Committee. Representatives from Strathclyde Police were in attendance.

The Chief Legal Officer (Licensing and District Court) set out the background to the Hearing as previously intimated in writing to the applicant. He advised that since the last meeting, licence TDL/923 had lapsed and that the licence holder had applied for a renewal of the licence.

The representatives from Strathclyde Police licence holder then addressed the Sub Committee on the Chief Constable's objections to the application.

The Licence holder then addressed the Sub Committee on the issues raised, and responded to questions, before withdrawing, together with the Police representatives, to allow the Sub Committee to deliberate. All parties returned to hear the Sub Committee's decision.

Decision

The Sub Committee unanimously agreed to (a) refuse the application to renew licence TDL/923 in terms of Paragraph 5 (1) (c) of Schedule 1 of the Civic Government (Scotland) Act 1982 on the grounds set out in Paragraph 5 (3) (ii) of the said Schedule, that the applicant is not a fit and proper person to be the holder of a taxi driver licence; and (b) suspend licences TL/61, PHCL/202 and PHCL 222 in terms of Paragraph 11 (1) of Schedule 1 of the Civic Government (Scotland) Act 1982, and , in terms of Paragraph 11 (11) of the said Schedule, to set the period of suspension to the unexpired durations of the licences.