

REGULATORY PANEL.

Minutes of meeting in County Buildings, Wellington Square, Ayr, on
19th February 2015 at 10.00 a.m.

- Present: Councillors Peter Convery (Chair), Andy Campbell, Ian Cavana, Ian Douglas, Ann Galbraith, William J. Grant and Hugh Hunter.
- Apology: Councillor Sandra Goldie.
- Attending: M. Douglas, Team Leader (Licensing); K. Briggs, Legal and Licensing Manager; R. Hannah, Acting Fleet Supervisor; D. Scobie, Licensing Monitoring Officer; and J. McClure, Committee Services Officer.
- In Attendance: Inspector W. Ramsay and Sergeant D. McIntosh, Police Scotland.

1. Declarations of Interest.

There were no declarations of interest by Members of the Panel in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

2. Minutes of previous meetings.

The minutes of 22nd January 2015 (issued) ([link attached](#)) and 30th January 2015 (Special) (issued) ([link attached](#)) were submitted and approved.

3. Update from Licensing Monitoring Officer.

The Licensing Monitoring Officer

(1) advised

- (a) that she had been requested, at the last Panel meeting, to supply additional information on vehicles failing their annual or bi-annual test;
- (b) that it was a condition of the taxi and private hire licence that the holder of a licence should ensure that the vehicle was in a safe and serviceable condition, including all bodywork, upholstery and fittings; and
- (c) that this condition of the licence applied to the vehicle every day and not just the day the vehicle was presented for testing and this caused concern as not all vehicles were being well maintained between annual inspections and some operators were almost using the taxi test as a means of establishing the minimum they required to do to their vehicle rather than regularly maintaining the vehicle;

(2) outlining

- (a) that for many years the vehicles had been tested at the Council's own garage, however, testing was then put out to tender and in 2009 the contract for testing was awarded to Kerr & Smith until September 2013 when TOM who operated as Caledonian Trucks in Ayr were then awarded the tender;

- (b) that the taxi test had remained unchanged for some years with the first part of the test being the standard MOT and the second part was additional checks for taxis and private hire vehicles;
 - (c) that, should a vehicle fail the MOT element of the test, the operator would be issued with a statutory MOT failure sheet and, should the operator disagree with any of the reasons for failure then he/she must appeal directly to VoSA and if the vehicle failed on any of the additional items then there was a right of appeal to this Council; and
 - (d) that, to date, she was unaware of any operator having appealed to either VoSA or the Council, however, there was perhaps no financial incentive for the operators to pass the test first time as there was no charge for a re-test; and
- (3) reporting
- (a) that the Licensing Section was advised of all test failures and these were then logged and, should an operator fail two tests in a row, a formal warning letter was issued and, if there was three or more failures, the matter would be brought to the attention of the Panel and suspension or more frequent testing was considered;
 - (b) that it was not possible to identify the specific reasons for the test failures in the last quarter, however, of the 19 test failures, 18 of these had failed the MOT element of the test; and
 - (c) that, as public safety was of paramount importance, she would continue to keep the Panel advised of the position regarding failures and would submit failure requests to the Panel should an operator have three or more failures.

Decided: to thank the Licensing Monitoring Officer for her update.

4. **Civic Government (Scotland) Act 1982 - Licences.**

(a) **Taxi Drivers.**

- (i) The Panel heard from the applicant John Kilpatrick, in relation to his application.

Decided: by a majority, to approve this application for three years, subject to standard conditions as previously agreed.

- (ii) The Panel considered a letter from the applicant, Charles Mitchell Bell and heard from Mr. Bell in relation to his application.

Decided: to approve this application for three years, subject to standard conditions as previously agreed.

- (iii) The Panel heard an observation from Police Scotland and from the applicant, Gary Rankin, in response.

Decided: to approve this application for one year, subject to standard conditions as previously agreed.

(b) Taxi Vehicles.

The Panel considered the proposed suspension of the licence currently held by Stephen McMillan as he had failed to present his car for Annual Inspection in terms of Condition 3 of the Taxi Vehicle Licence (inspection due by 31st January 2015).

Councillor Hunter, seconded by Councillor Grant, moved that the licence currently held by Stephen McMillan be suspended.

By way of Amendment, Councillor Convery, seconded by Councillor Douglas, moved that the licence currently held by Stephen McMillan be suspended and that delegated powers be granted to the Head of Legal and Democratic Services to reissue the licence once the vehicle had been presented for and had passed its Annual Inspection.

On a vote being taken by a show of hands, four Members voted for the Amendment and three Members voted for the Motion. The Amendment was accordingly declared carried.

Decided: in the absence of the applicant, to suspend the licence currently held by Stephen McMillan and to grant delegated powers to the Head of Legal and Democratic Services to reissue the licence once the vehicle had been presented for and had passed its Annual Inspection.

(c) Private Hire Driver Training.

Reference was made to the Minutes of 22nd January 2015 when it had been decided, having heard the licence holder advise that he had completed three of the four sessions of the course, to continue consideration of this matter to a future meeting of this Panel to allow Mr. Williamson to complete the final session of the course.

Decided: having heard that Kenneth Williamson had now completed the final session of the training course, to take no further action.

(d) Private Hire Vehicle.

The Panel heard from the Licensing Monitoring Officer and the Acting Fleet Supervisor in relation to the proposed suspension of the licence currently held by Ellen Moran and heard from the licence holder in response. The Panel then adjourned for consideration of this matter.

Decided: upon reconvening, to suspend with immediate effect the operators licences held by Ellen Moran on the grounds that the holder of the licences is no longer a fit and proper person to hold the licences, the carrying on of the activity to which the licences relate has caused or is likely to cause undue public nuisance or a threat to public order or safety and a condition of the licence has been contravened.

(e) **Market Operator.**

Spook Erection Limited and Andy McCurdie for Ayr Racecourse, Whitletts/Craigie Road, Ayr.

The Panel heard an observation from Police Scotland and from the applicant's representative in response.

Decided: to approve this application for three years, subject to standard conditions.

The meeting ended at 11.15 a.m.