

Notice of meeting and agenda

Licensing Sub-Committee

9.30am, Tuesday, 25th July, 2023

Dean of Guild Court Room - City Chambers

The law allows the Council to consider some issues in private. Any items under “Private Business” will not be published, although the decisions will be recorded in the minute.

Contacts

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1. Order of Business

- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

2. Declaration of Interests

- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3. Reports

- 3.1 Application for House in Multiple Occupation Licence - 193 (4f1) 5 - 44
Bruntsfield Place – Report by the Head of Regulatory Services

4. Suspension/Revocation Requests

- 4.1 Request for Suspension or Revocation of Private Hire Driver's 45 - 64
Licence – Report by the Head of Regulatory Services
- 4.2 Request for Suspension or Revocation of Private Hire Driver's 65 - 76
Licence – Report by the Head of Regulatory Services
- 4.3 Request for Suspension or Revocation of Private Hire Driver's 77 - 84
Licence – Report by the Head of Regulatory Services

5. Request to Recall a Suspension

- 5.1 Request for Recall of Suspension – Report by the Head of 85 - 98
Regulatory Services

6. Resolution to Consider in Private

- 6.1 The Sub-Committee is requested, under Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting for the following items of business on the grounds that they would involve the disclosure of exempt information as defined in Paragraphs 3, 6, 12 and 14 of Part 1 of Schedule 7A of the Act.

7. Suspension/Revocation Requests

- 7.1 Request for Suspension or Revocation of Private Hire Driver's Licence – Report by the Head of Regulatory Services 99 - 106

Nick Smith

Service Director – Legal and Assurance

Committee Members

Councillors Councillor Joanna Mowat (Convener), Councillor Jack Caldwell, Councillor Denis Dixon, Councillor Margaret Arma Graham, Councillor Martha Mattos Coelho, Councillor Susan Rae, Councillor Neil Ross, Councillor Val Walker and Councillor Norman Work

Information about the Licensing Sub-Committee

The Licensing Sub-Committee consists of 9 Councillors and usually meets twice a month.

This meeting of the Licensing Sub-Committee is being held in the Dean of guild Courtroom, City Chambers, Edinburgh and virtually by Microsoft Teams.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Taylor Ward, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email taylor.ward@edinburgh.gov.uk / carolanne.eyre@edinburgh.gov.uk

Some of the above items are not for publication as they fall within the description of exempt information and, consequently, are likely to be considered in private.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to the Council's online [Committee Library](#)..

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Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 25 July 2023

Application for House in Multiple Occupation Licence – 193 (4f1) Bruntsfield Place

Item number

Report number

Executive/routine

Wards

All

Executive Summary

This is a request for the Licensing Sub Committee to consider an application for a new House in Multiple Occupation Licence.

This report outlines the procedures that the Licensing Sub Committee should adopt when considering the application and sets out the various options that are open to the Committee.

The Committee recently refused a separate application from the applicant for which he was acting as the agent, on the grounds that he was not fit and proper. Therefore the applicant is referred to committee to determine whether he is fit and proper to be granted a licence.

Application for House in Multiple Occupation Licence – 193 (4f1) Bruntsfield Place

1. Recommendations

- 1.1 After hearing from Council Officers and the applicant, it is recommended that the Licensing Sub-Committee determines the application, considering whether the applicant is fit and proper and secondly whether the premises is suitable to be licensed as an HMO.

2. Background

- 2.1 The requirement to hold a House in Multiple Occupation ('HMO') Licence is set out in the Housing (Scotland) Act 2006 ('the Act'). The procedures for processing such applications and considering objections etc. are set out in the Act and the associated statutory guidance issued by the Scottish Government.
- 2.2 In considering an application for HMO licence, the Committee is required to assess whether the applicant and any agent appointed by them are fit and proper in terms of section 130 of the Act. This report sets out details of this Committee's previous consideration of the conduct of the applicant, and its subsequent decision to refuse an application for which he was specified as the agent.
- 2.3 The Committee is also required to assess whether the property for which the licence is sought is suitable for occupation as an HMO, or can be made suitable, in terms of section 131 of the Act.

3. Main report

- 3.1 The Committee is asked to determine this application made by Peter Lorn Macneal (Appendix 1).
- 3.2 The Directorate is satisfied that the property fully complies with the statutory requirements ('Tolerable Standard') specified for an HMO.
- 3.3 Committee members are asked to note that on 6 February 2023, after considering a report provided by the Directorate (Appendix 2), the Committee decided on a division to determine that Mr Macneal was not fit and proper to be authorised to permit persons to occupy any living accommodation as an HMO in terms of section 130 of the Act (Appendices 3 and 4). The Committee is asked to consider whether, if this applicant is

not fit and proper to hold an HMO licence at an alternative address, he can be considered fit and proper for this application. It is noted that an agent, other than Mr Macneal, has been appointed to manage the property and this is distinct from the circumstances which were considered in the previous decision of the Committee on 6 February 2023.

3.6 The applicant has been invited to attend.

4 Measures of success

4.1 Not relevant, as decisions on individual applications have to be considered on their own merits.

5 Financial impact

5.1 The Council's costs are contained within the licence application fees charged.

6 Risk, policy, compliance and governance impact

6.1 The process outlined takes account of the relevant statutory provisions.

6.2 The applicant has a right of appeal against any decision made. The appeal would be made to the Sheriff Court.

7 Equalities impact

7.1 There is no equalities impact arising from the contents of this report.

8 Sustainability impact

8.1 There is no environmental impact arising from the contents of this report.

9 Consultation and engagement

9.1 None.

10 Background reading/external references

10.1 None

Andrew Mitchell

Head of Regulatory Services

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Contact: Catherine Scanlin, Licensing Manager

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11 Appendices

- 11.1 Appendix 1: H4O Licence applications for 193 (4f1) Bruntsfield Place
- 11.2 Appendix 2: Report to Licensing Sub Committee on 6 February 2023
- 11.3 Appendix 3: Section 130 of the Housing (Scotland) Act 2006
- 11.4 Appendix 4: Extract from minute of Licensing Sub Committee on 6 February 2023

by virtue of paragraph(s) 3, 6, 12, 14 of Part 1 of Schedule 7A
of the Local Government(Scotland) Act 1973.

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Licensing Sub-Committee of the Regulatory Committee

9.30am, Tuesday, 25 July 2023

Request for Suspension of Private Hire Driver's Licence – Ruhul Amin

Item number	
Report number	B Agenda
Executive/routine	
Wards	Citywide
Council Commitments	N/A

1. Recommendations

1.1 The Directorate recommends that:

- 1.1.1 the Private Hire Car Driver's Licence previously granted to Ruhul Amin should be suspended on the grounds that he is no longer fit and proper to hold the licence; and if the Committee decides to suspend the licence;
- 1.1.2 determines what the period of suspension should be; and
- 1.1.3 determines whether the suspension should take effect immediately.

Andrew Mitchell

Head of Regulatory Services

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Request for Suspension of Private Hire Driver's Licence – Ruhul Amin

2. Executive Summary

- 2.1 Officers have investigated a complaint and now request (Appendix 1) in terms of paragraph 11 of the Civic Government (Scotland) Act 1982 ('the 1982 Act') that the Committee considers suspending the private hire car (PHC) driver's licence ('the licence') previously granted to Mr Ruhul Amin. This report suggests the procedures that the Committee should adopt when considering the request and sets out the various options open to the Committee under the 1982 Act.

3. Background

- 3.1 The Police and other persons can make comments or complaints regarding the holders of licences and, in certain cases, request that the relevant licence should be suspended or revoked. Committee members can consider such comments and requests. The Committee can decide to take no further action, issue a warning to the licence holder, suspend or revoke the licence.

4. Main report

- 4.1 Following an investigation by Enforcement Officers from Regulatory Services the Head of Regulatory Services is requesting that the Committee considers the suspension of a licence. Details of the licence are attached at [Appendix 1](#).
- 4.2 'Bolt' is a mobile app-based private hire company which has offices nationwide, including a booking office in Edinburgh. Bolt operates in a similar manner to platforms such as Uber.
- 4.3 On 5 April 2023 a member of the public contacted the Bolt Safety and Compliance team, which deals with complaints, regarding statements made in conversation during a journey undertaken in one of their driver's PHCs, which the customer described as "incredibly homophobic" and "outlandish" (report from Bolt is attached at [Appendix 3](#)).
- 4.4 On 5 April 2023 a member of Bolt's Safety and Compliance team sent emails to the Council's Licensing Enforcement team to make them aware of a complaint regarding the actions of licensed PHC driver Mr Ruhul Amin.

- 4.5 On 14 April 2023, Council enforcement officers wrote to Mr Amin asking him to attend an in person interview at Council premises on 20 April 2023. During the interview ([Appendix 4](#)) Mr Amin stated that the passenger had initiated the relevant conversation, and further stated that although he had expressed his views, he denied using the language described by the complainer.
- 4.6 On 21 April 2023, the Council received a copy of the customer's audio recordings which had been sent to Bolt along with the complaint from the Bolt Safety and Compliance team ([Appendix 5](#)).
- 4.7 After listening to these recordings, on 2 May 2023 officers of the Licensing Enforcement team again interviewed Mr Amin ([Appendix 6](#)). On that date, Mr Amin's wife Rusbin Khanaham (who had also attended the initial interview with her husband) stated that Mr Amin had been incorrect to deny using the language described by the complainer, and did now admit to saying some of the things in the initial complaint. Mr Amin confirmed that it was his voice in each of the three recordings, but said that he had not really understood what he was saying, and that the customer was encouraging him to say these things. Mr Amin repeatedly apologised during the interview and asked forgiveness for the statements recorded.
- 4.8 The audio clips and the report from BOLT with respect to the customer's complaint suggest that Mr Amin engaged in highly inappropriate behaviour for a person working as a licensed driver. It is the view of Council enforcement officers that the comments could be characterised as both misogynist and displaying prejudice to members of the LGBT+ community. Mr Amin's explanation is that these comments were encouraged by or coaxed from him by the passenger. However, it is officers' view that they are sufficiently serious to call into question his continued fitness to hold a licence, and hence the request for suspension of the licence.
- 4.9 The Directorate is therefore of the view that a hearing under paragraph 11 of the 1982 Act is required, and it is recommended that the licence is suspended on the grounds that Mr Amin is no longer a fit and proper person to be the holder of the licence.
- 4.10 Subsequent to this and whilst this report was being drafted in June 2023, the Bolt Safety and Compliance team sent the Licensing Service details of a report from a customer which had led Bolt to obtain confirmation from Mr Amin that he had been fulfilling Bolt bookings using a vehicle that was not the one registered with Bolt ([Appendix 7](#)).
- 4.11 On 22 June 2023 Licensing Enforcement officers interviewed Mr Amin with respect to the report from Bolt ([Appendix 7](#)). During that interview ([Appendix 8](#)) Mr Amin stated that he was not aware that the conditions of his Private Hire Car Licence require him to report any damage to his licensed vehicle to the Council within two working days, and that he had not done so in this case. The Committee may determine that this further issue is not directly relevant to that of Mr Amin's fitness to hold a licence, but it is included for completeness as it does highlight that there may be an issue with Mr Amin's understanding of his current conditions of licence.

- 4.12 The licence holder has been invited to attend, notified of the contents of this report and provided with a copy of this report.
- 4.13 Committee members are reminded that the grounds for suspending a licence are set out in Paragraph 11(2) of Schedule 1 to the 1982 Act. A Licensing Authority may order the suspension or revocation of a licence if in their opinion:
- 4.13.1 The holder of the licence, or, where the holder is not a natural person, any Director of it, or Partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
- 4.13.2 The activity to which the licence relates is being managed by or on carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of a licence under Paragraph 5(3) of the said Schedule;
- 4.13.3 The carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or safety;
- 4.13.4 A condition of the licence has been contravened.
- 4.14 In terms of Paragraph 11(3) of the said Schedule, a Licensing Authority may make an order under sub-paragraph 2(d) above in respect of a contravention of a condition of licence notwithstanding that there has been no conviction in that respect.
- 4.15 In terms of Paragraph 11(4) of the said Schedule, in considering whether to suspend a licence, the Council may have regard to:
- 4.15.1 Any misconduct on the part of the licence holder, whether or not constituting a breach of any provision of Part I or II or the said Schedule of the said Act, which in the opinion of Council has a bearing on the fitness to hold a licence; and
- 4.15.2 Where the licence relates to an activity consisting of or including the use of premises or a vehicle or vessel, any misconduct on the part of persons frequenting or using the premises, vehicle or vessel occurring there or any misconduct in the immediate vicinity of the premises, vehicle or vessel which is attributable to those persons.
- 4.16 Committee members may make such reasonable enquiries as they think fit (and subject to sub-paragraph 11(5) of the said Schedule) include the results of their inquiries in the matters to which they have regard in such consideration.
- 4.17 At the meeting officers will be provided with an opportunity to address the Committee. The licence holder and/or their representative will then be provided with an opportunity to address the Committee. Members of the Committee can then ask questions of the officers and of the licence holder.

- 4.18 If there are matters or allegations raised that are not admitted by the licence holder, the Committee can either arrange an evidential hearing on another date or decide to proceed on the basis of the material presented to them.
- 4.19 If the latter option is adopted, the Committee should allow the licence holder and the officers to make full submissions on the alleged incidents. Both parties should answer any points raised by the other and by the Committee. The Committee will have to:
- 4.19.1 Carefully consider the information they have before them;
 - 4.19.2 Disregard any allegations which they consider to be gossip, speculation or unsubstantiated innuendo;
 - 4.19.3 Identify which matters are admitted or disputed;
 - 4.19.4 Consider whether the source of any statements, their nature and inherent probability gives it greater degree of credibility;
 - 4.19.5 Decide whether, on the balance of probability, the licence holder has committed the alleged misconduct; and
 - 4.19.6 Be in a position to explain their approach and the basis on which they preferred any version of events.
- 4.20 Having heard from all parties the Committee should decide what, if any, action it wishes to take. It can decide to take no further action, issue a warning to the licence holder as to his future conduct or suspend the licence.
- 4.21 If the Committee decides to suspend the licence, it has to consider the period of suspension. The licence holder should be asked to provide his views as to the length of any period of suspension. The Committee can suspend the licence for any unexpired portion of the period of the licence.
- 4.22 If suspending a licence, the Committee can also decide that the circumstances of the case justify immediate suspension. The licence holder's views should be sought as to any proposal to impose immediate suspension. If immediate suspension is not ordered, any suspension would usually only take effect after 28 days had passed or, if an appeal is made, until it has been abandoned or determined.
- 4.23 Suspension of a licence means that the licence remains in existence but has no effect whilst the suspension is in place. The licence holder has to cease the licensed activity during the period of suspension. Any ID badges or plates should be immediately returned to the Council. It is a criminal offence for the licence holder to continue the licensed activity during any period of suspension.

5. Next Steps

- 5.1 Decisions on individual licences have to be considered on their own merits.
- 5.2 The process outlined takes account of the relevant statutory provisions.

5.3 The licence holder has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

6. Financial impact

6.1 None, as the costs of these matters are recovered through taxi and private hire car vehicle and driver licence application fees.

7. Stakeholder/Community impact

7.1 None.

8. Background reading/external references

8.1 None.

9. Appendices

9.1 Appendix 1 – Request for suspension of Private Hire Driver’s Licence

9.2 Appendix 2 - Licence referred to in this report.

9.2 Appendix 3a – Report from Bolt Safety and Compliance team

9.3 Appendix 3b – Follow-up report from Bolt Safety and Compliance team

9.4 Appendix 4 – note of meeting with Ruhul Amin 20 April 2023

9.5 Appendix 5 – 3 x voice recordings

9.6 Appendix 6 - note of meeting with Ruhul Amin 2 May 2023

9.7 Appendix 7 - Report from Bolt Safety and Compliance team

9.8 Appendix 8 – note of meeting with Ruhul Amin 22 June 2023

by virtue of paragraph(s) 3, 6, 12, 14 of Part 1 of Schedule 7A
of the Local Government(Scotland) Act 1973.

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Licensing Sub-Committee of the Regulatory Committee

9.30am, Tuesday, 25 July 2023

Request for Suspension of Private Hire Driver’s Licence – Shakti Singh

Item number	
Report number	B Agenda
Executive/routine	
Wards	Citywide
Council Commitments	N/A

1. Recommendations

1.1 The Directorate recommends that:

- 1.1.1 the Private Hire Car Driver’s Licence previously granted to Shakti Singh should be suspended on the grounds that he is no longer a fit and proper person to hold the licence; and if the Committee decides to suspend the licence;
- 1.1.2 determines what the period of suspension should be; and
- 1.1.3 determines whether the suspension should take effect immediately.

Andrew Mitchell

Head of Regulatory Services

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Request for Suspension of Private Hire Driver's Licence – Shakti Singh

2. Executive Summary

- 2.1 Officers have investigated a complaint and now request (Appendix 1) in terms of paragraph 11 of the Civic Government (Scotland) Act 1982 ('the 1982 Act') that the Committee considers suspending the private hire car (PHC) driver's licence ('the licence') previously granted to Mr Shakti Singh. This report suggests the procedures that the Committee should adopt when considering the request and sets out the various options open to the Committee under the 1982 Act.

3. Background

- 3.1 To operate a vehicle as a private hire car ('PHC') in the Scotland the operator must obtain a **Private Hire Car Licence** from the local authority in which it is intended to operate. In addition to the PHC vehicle licence, to drive a PHC for the purpose of transporting paying passengers, the driver requires a **Private Hire Car Driver's Licence**.
- 3.2 The Police and other persons can make comments or complaints regarding the holders of licences and, in certain cases, request that the relevant licence should be suspended or revoked. Committee members can consider such comments and requests. The Committee can decide to take no further action, issue a warning to the licence holder, suspend or revoke the licence.

4. Main report

- 4.1 Enforcement Officers from Regulatory Services have investigated a complaint and as a result the Head of Regulatory Services is requesting that the Committee considers the suspension of a licence (Appendix 1). Details of the licence are attached at Appendix 2.
- 4.2 'Bolt' is a mobile app-based private hire company which has offices nationwide, including a booking office in Edinburgh. Bolt operates in a similar manner to platforms such as Uber. Booking Office Licence conditions require a booking office to ensure that any booking taken results in a hire from a licensed driver in a licensed vehicle. As part of this process, Bolt requires its registered drivers to provide proof that both the relevant vehicle and the driver are appropriately licensed.

- 4.3 On 19 April 2023 Bolt contacted the City of Edinburgh Council's Licensing Service (Appendix 3) to advise that Shakti Singh, a driver registered with the platform, had uploaded a potentially falsified document to the Bolt platform. As a result Bolt had suspended Mr Singh's account and he was therefore unable to accept bookings for Bolt.
- 4.4 On 4 May 2023, Council enforcement officers wrote to Mr Singh asking him to attend an in-person interview at Council premises on 11 May 2023. During that interview (Appendix 4) Mr Singh admitted to changing the expiry date on the Private Hire Car Licence document before submitting it to Bolt, stating that as the owner of the vehicle had sent him the original Private Hire Car Licence document with a date of 2023 on it, he thought he could change the date to 2024.
- 4.5 This appears to be an admission of deliberate falsification of a licence document and amounts to inappropriate behaviour for a person working as a licensed driver. It is sufficiently serious to call into question Mr Singh's continued fitness to hold a licence, and hence the request for suspension of the licence.
- 4.6 The Directorate recommends that the licence is suspended on the grounds that Mr Singh is no longer a fit and proper person to be the holder of the licence.
- 4.7 The licence holder has been invited to attend, notified of the contents of this report and provided with a copy of this report.
- 4.8 Committee members are reminded that the grounds for suspending a licence are set out in Paragraph 11(2) of Schedule 1 to the 1982 Act A Licensing Authority may order the suspension or revocation of a licence if in their opinion:
- 4.8.1 The holder of the licence, or, where the holder is not a natural person, any Director of it, or Partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
- 4.8.2 The activity to which the licence relates is being managed by or on carried on for the benefit of a person, other than the licence holder, who would have been refused the grant or renewal of a licence under Paragraph 5(3) of the said Schedule;
- 4.8.3 The carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or safety;
- 4.8.4 A condition of the licence has been contravened.
- 4.9 In terms of Paragraph 11(3) of the said Schedule, a Licensing Authority may make an order under sub-paragraph 2(d) above in respect of a contravention of a condition of licence notwithstanding that there has been no conviction in that respect.
- 4.10 In terms of Paragraph 11(4) of the said Schedule, in considering whether to suspend a licence, the Council may have regard to:

- 4.10.1 Any misconduct on the part of the licence holder, whether or not constituting a breach of any provision of Part I or II or the said Schedule of the said Act, which in the opinion of Council has a bearing on the fitness to hold a licence; and
- 4.10.2 Where the licence relates to an activity consisting of or including the use of premises or a vehicle or vessel, any misconduct on the part of persons frequenting or using the premises, vehicle or vessel occurring there or any misconduct in the immediate vicinity of the premises, vehicle or vessel which is attributable to those persons.
- 4.11 Committee members may make such reasonable enquiries as they think fit (and subject to sub-paragraph 11(5) of the said Schedule) include the results of their inquiries in the matters to which they have regard in such consideration.
- 4.12 At the meeting officers will be provided with an opportunity to address the Committee. The licence holder and/or their representative will then be provided with an opportunity to address the Committee. Members of the Committee can then ask questions of the officers and of the licence holder.
- 4.13 If there are matters or allegations raised that are not admitted by the licence holder, the Committee can either arrange an evidential hearing on another date or decide to proceed on the basis of the material presented to them.
- 4.14 If the latter option is adopted, the Committee should allow the licence holder and the officers to make full submissions on the alleged incidents. Both parties should answer any points raised by the other and by the Committee. The Committee will have to:
- 4.14.1 Carefully consider the information they have before them;
- 4.14.2 Disregard any allegations which they consider to be gossip, speculation or unsubstantiated innuendo;
- 4.14.3 Identify which matters are admitted or disputed;
- 4.14.4 Consider whether the source of any statements, their nature and inherent probability gives it greater degree of credibility;
- 4.14.5 Decide whether, on the balance of probability, the licence holder has committed the alleged misconduct; and
- 4.14.6 Be in a position to explain their approach and the basis on which they preferred any version of events.
- 4.15 Having heard from all parties the Committee should decide what, if any, action it wishes to take. It can decide to take no further action, issue a warning to the licence holder as to his future conduct or suspend the licence.
- 4.16 If the Committee decides to suspend the licence, it has to consider the period of suspension. The licence holder should be asked to provide his views as to the length of any period of suspension. The Committee can suspend the licence for any unexpired portion of the period of the licence.

- 4.17 If suspending a licence, the Committee can also decide that the circumstances of the case justify immediate suspension. The licence holder's views should be sought as to any proposal to impose immediate suspension. If immediate suspension is not ordered, any suspension would usually only take effect after 28 days had passed or, if an appeal is made, until it has been abandoned or determined.
- 4.18 Suspension of a licence means that the licence remains in existence but has no effect whilst the suspension is in place. The licence holder has to cease the licensed activity during the period of suspension. Any ID badges or plates should be immediately returned to the Council. It is a criminal offence for the licence holder to continue the licensed activity during any period of suspension.

5. Next Steps

- 5.1 Decisions on individual licences have to be considered on their own merits.
- 5.2 The process outlined takes account of the relevant statutory provisions.
- 5.3 The licence holder has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

6. Financial impact

- 6.1 None, as the costs of these matters are recovered through taxi and private hire car vehicle and driver licence application fees.

7. Stakeholder/Community impact

- 7.1 None.

8. Background reading/external references

- 8.1 None.

9. Appendices

- 9.1 Appendix 1 – Request for suspension of Private Hire Driver's Licence
- 9.2 Appendix 2 - Licence referred to in this report.
- 9.2 Appendix 3 – Report from Bolt (received 19 April 2023)
- 9.4 Appendix 4 – note of meeting with Shakti Singh (11 May 2023)

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by virtue of paragraph(s) 3, 6, 12, 14 of Part 1 of Schedule 7A
of the Local Government(Scotland) Act 1973.

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Licensing Sub-Committee of the Regulatory Committee

9.30am, Tuesday, 25 July 2023

B Agenda

Suspension of Private Hire Driver’s Licence – David Sutherland

Executive/routine	
Wards	All
Council Commitments	N/A

Executive Summary

The Licence Service has requested the suspension of a Private Hire Driver’s Licence on the grounds of a serious threat to public safety and therefore has been referred to the Committee for consideration of suspension of the licence under Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

This report outlines the procedures that the Committee should adopt when considering whether to suspend the licence and sets out the various options open to the committee.

Andrew Mitchell

Head of Regulatory Services

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Suspension of Private Hire Driver's Licence – Mr David Sutherland

1. Recommendations

- 1.1 After hearing from Council officers and the licence holders, the Committee is asked to:
 - 1.1.1 note the request by the Licencing Service to suspend the Private Hire Driver's Licence;
 - 1.1.2 whether to take no action, issue a warning or suspend the licence; and
 - 1.1.3 if necessary determine whether any suspension made shall be of immediate effect.

2. Background

- 2.1 The Licensing Service and other persons can make comments or complaints regarding the holder of a licence and, in certain cases, request that the relevant licence should be suspended. The Committee can consider such comments and requests. It can decide to take no further action, issue a warning to the licence holder or suspend the licence.
- 2.2 On 28 September 2022 the applicant applied to renew their existing Private Hire Driver's licence. As an existing licence holder, the applicant can continue to operate while their renewal application is being determined.
- 2.3 The applicant was sent for a medical examination as part of the renewal application process as they were over 60 year old during the renewal period. This is to ensure that they meet the DVLA group 2 medical standards which the Council have adopted for their Private Hire Drivers.
- 2.4 The medical report stated that while further tests were required the applicant was assessed as fit to continue to drive on 28 February 2023. Accordingly, the licence was renewed.
- 2.5 On 14 April 2023 an updated medical report was provided following the additional tests. It stated that applicant did not meet the DVLA group 2 standards, and this is expected to be permanent.

3. Main report

- 3.1 The Committee has adopted the medical standards published by the DVLA for group 2 licence holders for both Taxi and Private Hire Drivers. It is a condition of the licence that the licence holder has a current certificate of medical fitness.
- 3.2 The Licensing Service contracts a medical service provider to provide certificates of medical fitness to the Council and licence holder's are required to attend such medical examinations as are necessary to obtain a certificate.
- 3.3 The Licensing Manager received an updated medical certificate (Appendix 1) from its medical service provider in respect to a Private Hire Driver's Licence holder following additional tests to assess their fitness to drive. The report stated that the existing licence holder did not meet the DVLA group 2 standards as they failed a cardiac test and therefore was no longer fit to drive.
- 3.4 The medical report stated that Private Hire Driver's Licence holder had been informed to stop operating as a Private Hire Driver.
- 3.5 The licence holder was contacted by the Licensing Service, and they stated that they were not operating as Private Hire Driver and would voluntarily return their badge. The badge was duly returned to the Council however the licence holder remains licenced.
- 3.6 It is the opinion of the Council's medical service provider that the licence holder will be permanently unfit to drive however the licence holder is having further independent tests.
- 3.7 The licence holder states that the failed the cardiac test is due to lifestyle issues. The licence holder states that have made lifestyle changes and by improving their fitness they will be able to meet the DVLA group 2 medical standards. They are awaiting an appointment with an NHS consultant, and they are requesting time to allow them to become fit again.
- 3.8 The Committee is now asked to consider if any other action is required – for example whether there are grounds to suspend the licence under Paragraph 11 of the Act.
- 3.9 The licence holder has been invited to attend.
- 3.10 In terms of Paragraph 11(4) of the said Schedule, in considering whether to suspend a licence, the Council may have regard to:
 - 3.10.1 any misconduct on the part of the licence holder, whether or not constituting a breach of any provision of Part I or II or the said Schedule of the said Act, which in the opinion of Council has a bearing on the fitness to hold a licence;
 - 3.10.2 where the licence relates to an activity consisting of or including the use of premises or a vehicle or vessel, any misconduct on the part of persons frequenting or using the premises, vehicle or vessel occurring there or any misconduct in the immediate vicinity of the premises, vehicle or vessel which is attributable to those persons.
- 3.11 At the meeting the Licensing Service will be provided with an opportunity to address the Committee. The licence holder and any representative will then be provided

with an opportunity to address the committee. Members of the Committee can then ask questions of the licence holder.

- 3.12 If there are matters or allegations raised in the case that are not admitted by the licence holder, the committee can either arrange an evidential hearing on another date or decide to proceed on the basis of the material presented to them.
- 3.13 If the latter option is adopted, the Committee should allow Council officers and the licence holder to make full submissions on the alleged incidents. All parties should answer any points raised by the other and by the committee. The committee members will have to:
 - 3.13.1 carefully consider the information they have before them;
 - 3.13.2 disregard any allegations which they consider to be gossip, speculation or unsubstantiated innuendo;
 - 3.13.3 identify which matters are admitted or disputed;
 - 3.13.4 consider whether the source of any statements, their nature and inherent probability gives it greater degree of credibility
 - 3.13.5 decide whether, on the balance of probability, the licence holder has committed the alleged misconduct;
 - 3.13.6 be in a position to explain their approach and the basis on which they preferred any version of events.
- 3.14 Having heard from all parties the Committee should decide what, if any, action it wishes to take. It can decide to take no further action, issue a warning to the licence holder as to future conduct or suspend the licence.
- 3.15 If committee members decide to suspend the licence, they have to consider the period of suspension. The licence holder should be asked to provide their views as to the length of any period of suspension. The Committee can suspend a licence for any unexpired portion of the period of the licence, or such shorter period as the licensing authority may fix.
- 3.16 If the Committee's decision is to suspend the licence, the suspension may take immediate effect or may commence up to 28 days later.
- 3.17 Suspension of a licence means that the licence remains in existence but has no effect whilst the suspension is in place. The licence holder must cease the licensed activity during the period of suspension. Any ID badges or plates should be immediately returned to the Council. It is a criminal offence for the licence holder to continue the licensed activity during any period of suspension.

4. Measures of success

- 4.1 Not relevant, as decisions on individual licences must be considered on their own merits.

5. Financial impact

- 5.1 None, as the costs of these matters are recovered through taxi and private hire car vehicle and driver licence application fees.

6. Risk, policy, compliance and governance impact

- 6.1 The process outlined takes account of the relevant statutory provisions.
- 6.2 The licence holder has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

7. Equalities impact

- 7.1 There is no equalities impact arising from the contents of this report.

8. Sustainability impact

- 8.1 There is no environmental impact arising from the contents of this report.

9. Consultation and engagement

- 9.1 None.

10. Background reading/external references

- 10.1 None.

Andrew Mitchell

Head of Regulatory Services

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11. Appendices

- 11.1 Appendix 1 – City Health Clinic Fit Note – 14 April 2023 – Derek Sutherland

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of the Local Government(Scotland) Act 1973.

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Licensing Sub-Committee of the Regulatory Committee

9.30am, Tuesday, 25 July 2023

Request for Recall of Suspension – Noor Murtaza

Item number	
Report number	B Agenda
Executive/routine	
Wards	Citywide
Council Commitments	N/A

Executive Summary

Police Scotland requested the immediate suspension of a Private Hire Driver's Licence which was implemented on 2 December 2021. On 11 January 2022 the Committee made a decision to suspend the licence. On 13 June 2023 the Sheriff disposed of the connected criminal charges, and the licence holder has now requested that the suspension should be recalled.

Andrew Mitchell

Head of Regulatory Services

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Request for Recall of Suspension – Noor Murtaza

1. Recommendations

- 1.1 After hearing from the Police and the relevant licence holder, the Committee will be required to decide:
 - 1.1.1 Whether to recall the suspension or not as requested by the Licence Holder.

2. Background

- 2.1 The Police and other persons can make comments or complaints as regards the holders of licences and, in certain cases, request that the relevant licence should be suspended or revoked. Committee members can consider such comments and requests. The Committee can decide to take no further action, issue a warning to the licence holder, suspend or revoke the licence.
- 2.2 On 2 December 2021 the Council received a letter from Police Scotland requesting the immediate suspension or revocation of Mr Murtaza's licence, and immediate suspension was implemented on that day. On 11 January 2022 the Licensing Sub-Committee decided to suspend Mr Murtaza's Private Hire Driver's Licence (Appendix 1).

3. Main report

- 3.1 Police Scotland has confirmed (Appendix 2) that the criminal charges which led to the suspension of the licence have now been disposed of by the Sheriff. The licence holder has requested that his licence should now be reinstated (Appendix 3).
- 3.2 The Licence remains suspended until the committee determines to recall the suspension. If the suspension is recalled the licence would be returned and the Licensing Holder can resume use of their licence.
- 3.3 The licence holder has been invited to attend and notified of the Police letter.

4. Measures of success

- 4.1 Not relevant, as decisions on individual licences have to be considered on their own merits.

5. Financial impact

- 5.1 None, as the costs of these matters are recovered through taxi and private hire car vehicle and driver licence application fees.

6. Risk, policy, compliance and governance impact

- 6.1 The process outlined takes account of the relevant statutory provisions.
- 6.2 There is no right of appeal under the 1982 Act against a decision not to recall the suspension though the licence holder may have the option to pursue a Judicial Review.

7. Equalities impact

- 7.1 There is no equalities impact arising from the contents of this report.

8. Sustainability impact

- 8.1 There is no environmental impact arising from the contents of this report.

9. Consultation and engagement

- 9.1 None.

10. Background reading/external references

- 10.1 None

11. Appendices

- 11.1 Appendix 1 – extract from action note of Licensing Sub Committee 11 January 2022
- 11.2 Appendix 2 – letter from Police Scotland dated 28 June 2023
- 11.3 Appendix 3 – Email from Noor Murtaza dated 16 April 2023

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