

## LICENSING COMMITTEE

ABERDEEN, 19 January 2016. Minute of meeting of the LICENSING COMMITTEE. Present: Councillor Carle, Convener; and Councillors Allan, Boulton, Copland, Cormie, Crockett, Delaney, Lesley Dunbar, Graham, Hutchison, MacGregor, Malik, Malone, Nicoll, Reynolds and Townson.

**The agenda and reports associated with this minute can be found at:-**  
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=149&MId=3789&Ver=4>

**Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.**

### REQUESTS FOR DEPUTATION

1. The Committee had before it a number of requests for deputation as follows:
  - (i) Mr McColl in respect of item 4.1 (Removal of Minimum Engine Size Requirement to Permit Vehicles with Environmentally Friendly Engines);
  - (ii) Mr Steve Robertson and Mr Campbell (Unite Taxi Driver representatives) in respect of item 4.2 (Street Knowledge Testing for Private Hire Drivers);
  - (iii) Mr Cullen in respect of item 4.2 (Street Knowledge Testing for Private Hire Drivers); and
  - (iv) Mr McColl in respect of item 4.2 (Street Knowledge Testing for Private Hire Drivers).

#### **The Committee resolved:-**

to agree to hear each of the requests immediately prior to consideration of the relevant reports.

### DETERMINATION OF EXEMPT BUSINESS

2. The Convener proposed that item 6.7 (Discussion and Legal Advice on HMO Appeal) of today's agenda (article 11 of the minute refers) be considered with the press and public excluded.

#### **The Committee resolved:**

in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the press and public from the meeting during consideration of item 6.7 of business (article 11 of this minute refers) so as to avoid disclosure of exempt information of the classes described in paragraphs 3 and 6 of Schedule 7(A) of the Act.

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### **MINUTE OF PREVIOUS MEETING OF 3 NOVEMBER 2015**

3. The Committee had before it the minute of its previous meeting of 3 November 2015.

**The Committee resolved:**

to approve the minute as a correct record.

### **MINUTES OF MEETINGS OF THE LICENSING URGENT BUSINESS SUB COMMITTEE OF 24 NOVEMBER AND 15 DECEMBER 2015**

4. The Committee had before it the minutes of the Licensing Urgent Business Sub Committee meetings of 24 November and 15 December 2015.

**The Committee resolved:-**

to approve the minutes as accurate records.

### **COMMITTEE BUSINESS STATEMENT**

5. The Committee had before it a statement of Committee Business from the Head of Legal and Democratic Services.

**The Committee resolved:-**

to note the updates as contained in the statement.

### **FILM CLASSIFICATION REQUEST - BELMONT CINEMA**

6. The Committee had before it a single request for film classification for the film "Just Eat It: A Food Waste Story" with a PG suggested rating for screening at Belmont Cinema.

**The Committee resolved:-**

to approve the film classification certificate as detailed above.

### **DECLARATION OF INTEREST**

**Prior to consideration of the following item of business, Councillor Copland declared an interest in the item as a result of a conversation he had previously had. Councillor Copland then withdrew from the meeting and took no part in the deliberations.**

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### REMOVAL OF MINIMUM ENGINE SIZE REQUIREMENT TO PERMIT VEHICLES WITH ENVIRONMENTALLY FRIENDLY ENGINES

7. (A) In terms of Standing Order 10(2), the Committee received a deputation from Mr Mark Cullen, who advised that the Aberdeen Taxi Group was of the view that the Committee should be careful in removing the minimum engine size condition on vehicles with a modern engine type, as although technology had developed since the condition was agreed, it was still important that the vehicle was suitable for the required journeys and passengers. In this regard, Mr McColl questioned whether a car under 1400cc was able to accommodate a full car of 4 passengers all with luggage. He therefore asked that further research regarding this matter was undertaken prior to a decision being made due to the potential safety implications.

Members asked a number of questions of the deputation.

(B) The Committee had before it a report by the interim Director of Corporate Governance which recommended that the Committee remove its policy requirement that all vehicles used as taxis and private hire cars must have as a minimum a 1400cc engine.

#### **The report recommended:-**

that the Committee –

- (a) agree to remove its policy requirement that all taxis and private hire cars must have an engine of 1400cc or greater in respect of vehicles that had a modern engine type, e.g. economical reduced CO2 performance, dual-fuel, hybrid, electric, hydrogen etc.; and
- (b) agree to clarify that all taxis and private hire cars must be able to safely carry a minimum of 4 passengers to a maximum of 8 (which might include a designated wheelchair space) and luggage as well as having a suitably low entry point to allow access for the mobility restricted and persons with a pushchair and/or shopping.

#### **The Committee resolved:**

- (i) to remove its policy requirement that all taxis and private hire cars must have an engine of 1400cc or greater in respect of vehicles that have a modern engine type, e.g. economical reduced CO2 performance, dual-fuel, hybrid, electric, hydrogen;
- (ii) to clarify that all taxis and private hire cars must be able to safely carry a minimum of 4 passengers to a maximum of 8 (which might include a designated wheelchair space) and luggage as well as having a suitably low entry point to allow access for the mobility restricted and persons with a pushchair and/or shopping; and
- (iii) to instruct that a report on the removal of the requirement that all taxis and private hire cars must have an engine of 1400cc or greater in respect of vehicles that had a modern engine type, as well as the uptake by taxis and private hire cars in this regard be submitted to the Taxi Consultation Group in a year's time.

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### DECLARATIONS OF INTEREST

**Prior to consideration of the following item of business, Councillor Copland declared an interest in the item as a result of a conversation he had previously had. Councillor Copland then withdrew from the meeting and took no part in the deliberations.**

**The Convener and Councillors Allan, Crockett, Graham and Malik declared interests as members of Unite. None of the members felt it necessary to leave the meeting during the Committee's deliberations.**

### STREET KNOWLEDGE TESTING FOR PRIVATE HIRE DRIVERS

8. (A) In terms of Standing Order 10(3), the Committee received a deputation from Mr Robertson and Mr Campbell, Unite taxi driver representatives, who advised that Unite understood the position in light of the Sheriff's decision, but could not understand why the Committee had not appealed the decision. In this regard, they questioned whether the Committee could enforce its policy on the basis of the Scottish Government's Tax and Private Hire Car Licensing: Best Practice Guidance for Licensing Authorities.

Thereafter they advised of the concerns Unite Taxi Drivers had in respect of the implications of relaxing/removing any of the qualifying conditions that currently applied to private hire applications as this might impact on the quality of the taxi service that was expected by the Council and customers alike. They also had concerns on the impact of taxi drivers and were of the view that the proposed removal of the conditions was unfair on taxi drivers who would continue to have to pay for and undertake the street knowledge test in their own time and at their own cost.

They advised that they wished the Committee to defer approval any new private hire applications until the Council has undertaken an Equality Impact Assessment and a general impact assessment on impact the removal of the knowledge test might have in causing any potential detriment to the citizens of Aberdeen especially those covered by the Equalities Act, or until the Air Weapons and Licensing (Scotland) Act 2015 had been implemented.

(B) In terms of Standing Order 10(2), the Committee received a deputation from Mr Cullen, who advised that proposal to suspend the administration of the street knowledge test for private hire drivers was one of the most important matters affecting the taxi trade in recent years. In this regard he advised of the importance of the street knowledge test and highlighted that it required a degree of commitment, application and intelligence to pass the test. It also provided an objective, fair and measurable standard for all drivers. Should this requirement be suspended for private hire drivers solely, it would be difficult for the Committee to ensure public safety and order.

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Thereafter he provided examples of fares and advised that he felt a reliance on satellite navigate would provide a poor service and ultimately cause frustration for passengers.

(C) In terms of Standing Order 10(3), the Committee received a deputation from Mr McColl, who advised that the Aberdeen Taxi Group was aware of the Sheriff's judgment in respect of the case on 18 November 2015 between the Council and Sam Murray regarding the requirement for private hire car drivers to undertake the same street knowledge test as taxi drivers and although respectful of the Sheriff's judgment would highlight that the Civic Government (Scotland) Act 1982 did not state that the licensing authority cannot make a private hire driver sit the same test.

In addition, he explained that given the forthcoming implementation of the Air Weapons and Licensing (Scotland) Act 2015, which would allow private hire drivers to be included within the licensing requirements for knowledge testing, the Aberdeen Taxi Group felt that the Committee could form an appeal to the Sheriff's decision.

Mr McColl went on to detail the impact the Aberdeen Taxi Group felt a decision to suspend the policy would have on the public and the taxi trade and questioned whether a reliance on satellite navigation was the future the Committee wanted for the taxi and private hire trade.

(D) The Committee had before it a report by the interim Director of Corporate Governance which informed of a decision from the Sheriff Court which might have implications for the Committee's policy on street knowledge testing for private hire drivers and included recommendations for a review of that policy.

**The report recommended:-**

that the Committee –

- (a) agree to suspend the administration of the street knowledge test for private hire drivers thereby setting aside the decision of the Committee of 2 February 1990;
- (b) instruct officers from Legal and Democratic Services to include training for private hire driver licences as part of the current consultation on taxi driver training instructed by the Committee at its meeting on 1 September 2015; and
- (c) instruct officers to report to Committee with proposals for street knowledge testing for private hire drivers once section 64 of the Air Weapons and Licensing (Scotland) Act 2015 was in force.

The Convener, seconded by the Councillor Townson, moved –  
that the Committee –

- (1) approve recommendation (a) contained in the report;
- (2) instruct officers from Legal and Democratic Services to include training for private hire driver licences as part of the current consultation on taxi driver training instructed by the Committee at its meeting on 1 September 2015 and to advise future private hire driver applicants of the opportunity to voluntarily undertake the street knowledge test;
- (3) instruct officers to report to Committee with proposals for street knowledge testing for private hire drivers once section 64 of the Air

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- Weapons and Licensing (Scotland) Act 2015 was in force or if earlier when guidance on the Act was made available; and
- (4) agree to write to the Scottish Government to request in the strongest of terms that the new provisions of section 64 of the Air Weapons and Licensing (Scotland) Act 2015 be implemented as a priority and that this letter be copied to all Aberdeen local constituency MSPs.

Councillor Reynolds, moved as an amendment –

that the Committee approve recommendations (b) and (c) contained in the report and agree to defer consideration of the suspension of the administration of the street knowledge test for private hire drivers approved by the Committee on 2 February 1990 to enable information to be received from other local authorities on how they processed applications for private hire driver licences with regard to street knowledge, in particular Dundee City Council to identify how it had introduced street knowledge tests as part of the licensing of private hire driver licences.

Councillor Reynolds' amendment failed to attract a seconder and therefore was not put to the vote.

### **The Committee resolved:-**

to adopt the motion.

## **APPLICATION FOR LICENCES**

9. The Committee had before it, for its consideration, the applications listed in Appendix A to this minute.

### **The Committee resolved:-**

that all applications be determined on the basis shown in Appendix A and that all licences were subject to the Council's standard conditions unless otherwise stated.

## **EXEMPT INFORMATION**

**IN ACCORDANCE WITH THE DATA PROTECTION ACT 1988 (PRINCIPLE 1), THE PRESS AND PUBLIC WERE EXCLUDED FROM THE MEETING DURING CONSIDERATION OF THE FOLLOWING ITEM.**

## **APPLICATION FOR LICENCES**

10. The Committee had before it, for its consideration, the applications listed in Appendix B to this minute.

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**The Committee resolved:-**

that all applications be determined on the basis shown in Appendix B and that all licences are subject to the Council's standard conditions unless otherwise stated.

**EXEMPT INFORMATION**

In accordance with the decision taken at article 2 of this minute, the following item of business was considered with the press and public excluded.

**MATTER OF URGENCY**

The Convener intimated that he had directed in terms of Section 50(B)(4)(b) of the Local Government (Scotland) Act 1973, that the following item be considered as a matter of urgency to enable the Committee to consider whether to defend the HMO appeal lodged in accordance with the timescale set by the court.

**DISCUSSION AND LEGAL ADVICE ON HMO APPEAL**

11. The Committee received a verbal report and legal advice in relation to the HMO appeal which had been lodged.

The Convener, seconded by Councillor Nicoll moved:-  
that the HMO appeal should not be defended.

Councillor Allan, seconded by Councillor Cormie moved as an amendment:-  
that the HMO appeal be defended.

On a division, there voted:- for the motion (8) – the Convener and Councillors Copland, Crockett, Lesley Dunbar, MacGregor, Malik, Nicoll and Townson; for the amendment (5) – Councillors Allan, Cormie, Delaney, Graham and Hutchison.

**The Committee resolved:-**

to adopt the motion.

In terms of Standing Order 15(6), Councillors Allan and Cormie intimated that they wished the minute in respect of the above article to record their dissent in relation to the decision taken by the Committee.

- COUNCILLOR SCOTT CARLE, Convener

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**APPENDIX A**

1. **GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**  
**Application Reference Number – 5/01**  
**Premises – 26 Balmoral Road, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and six letters of representation.

The Committee heard from five of the respondents, namely: Mr and Mrs Gill, Mr McCormac, Mrs Tough, Mr Davies on behalf of his mother Mrs Davies and Mr and Mrs King.

One respondent, Mrs A Massie, was not present, and was not represented.

The Committee then heard from the applicant, Mr Stewart, in support of the application.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

2. **GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**  
**Application Reference Number – 5/02**  
**Premises – 12 Woodlands Walk, Cults, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and four letters of representation.

The Committee heard from three of the respondents, namely: Mr Skinner and Mr Hopkins. Mr Hopkins, by virtue of owning two properties in the area, had submitted two letters of representation and spoke in respect of both. One of the respondents, Dr Johnston, was not present, and was not represented.

The Committee then heard from the applicant, Mr Miller and his solicitor, Mrs Wilson, in support of the application.

The Convener, seconded by Councillor Townson moved:-  
that the application be granted.

Councillor Boulton moved as an amendment:-

that the application be refused on the grounds that the location and condition of the property was unsuitable for occupation as an HMO.



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Councillor Boulton's amendment failed to attract a seconder and therefore was not put to the vote.

**The Committee resolved:**

to approve the terms of the motion.

**3. GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION****Application Reference Number – 5/03****Premises – 25 Bonnymuir Place, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mrs Melvin, was not present, and was not represented.

The Committee then heard from the applicant's husband, Mr McPherson, in support of the application. The applicant was not present.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

**4. GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION****Application Reference Number – 5/04****Premises – 2 Roslin Terrace, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mrs Coutts, was not present, and was not represented.

The Committee then heard from the applicant, Mrs Mitchell, in support of the application.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

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**5. GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**

**Application Reference Number – 5/05**

**Premises – 30A Spital, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mr Birchley, was not present, and was not represented.

The Committee then heard from the applicant's agent, Ms Neithercut - Aberdein Considine and Co, in support of the application. The applicant was not present.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

**6. GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**

**Application Reference Number – 5/06**

**Premises – 30B Spital, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mr Birchley, was not present, and was not represented.

The Committee then heard from the applicant's agent, Ms Neithercut – Aberdein Considine and Co, in support of the application. The applicant was not present.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

**7. GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**

**Application Reference Number – 5/07**

**Premises – 6 Sunnyside Avenue, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mr Thain, was not present, and was not represented.

The Committee then heard from one of the applicants, Mrs Claire Macdonald, and the applicants' agent, Mr McDonald – Raeburn, Christie and Clark, in

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support of the application. One of the applicants, Mrs Fiona McDonald, was not present.

**The Committee resolved:**

to grant the application.

### DECLARATION OF INTEREST

Prior to consideration of the following item of business, the Convener declared an interest in the subject matter by virtue of renting a property from the agent of the following application. The Convener then withdrew from the meeting and took no part in the deliberations. At this juncture, Councillor Boulton assumed the Chair.

#### 8. **GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**

**Application Reference Number – 5/08**

**Premises – 2 Aboyne Place, Aberdeen**

The Committee had before it a report by Mr Ally Thain, Private Sector Housing Manager in respect of the application and one letter of representation.

The respondent, Mrs Reid, was not present, however was represented by Mr Foglia.

The Committee then heard from the applicant, Mr Reece, in support of the application.

**The Committee resolved:**

to defer consideration of the application until the works were completed, after which time the Private Sector Housing Manager could grant the application under delegated powers if appropriate.

**At this point the Convener resumed the Chair.**

#### 9. **RENEWAL OF A STREET TRADER'S LICENCE – SUSAN LAW**

**Application Reference Number – 5/09**

**Location – Blackness Road, East Side, 200m south of Hareness Road**

**Operating Hours – Monday to Saturday, 07:30am – 4.30pm**

The Committee was advised that the application had been granted under delegated powers.

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10. **RENEWAL OF A STREET TRADER'S LICENCE – WENDY CHRISTINE COOPER**  
**Application Reference Number – 5/10**  
**Location – Kirkton Avenue, north side, 100m west Cothal View**  
**Operating Hours – Daily, 07:00am – 7pm**

The Committee was advised that the application had been granted under delegated powers.

11. **RENEWAL OF A TAXI LICENCE – JOHN NOBLE (T059)**  
**Application Reference Number – 5/11**

The Committee was advised that the application had been granted under delegated powers.

12. **RENEWAL OF A TAXI LICENCE – GRAHAM JAMES HANSLEY (T883)**  
**Application Reference Number – 5/12**

The Committee was advised that the application had been granted under delegated powers.

13. **RENEWAL OF A TAXI LICENCE – RAINBOW CARS LTD (T836)**  
**Application Reference Number – 5/13**

The Committee was advised that the application had been granted under delegated powers.

14. **RENEWAL OF A TAXI LICENCE – RAINBOW CARS LTD (T916)**  
**Application Reference Number – 5/14**

The Committee was advised that the application had been granted under delegated powers.

15. **RENEWAL OF A PRIVATE HIRE CAR LICENCE – PATRICIA MCPHERSON (PH262)**  
**Application Reference Number – 5/15**

The Committee was advised that the application had been granted under delegated powers.

16. **RENEWAL OF A PRIVATE HIRE CAR LICENCE – RAINBOW CARS LTD (PH268)**  
**Application Reference Number – 5/16**

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The Committee was advised that the application had been granted under delegated powers.

**17. RENEWAL OF A PRIVATE HIRE CAR LICENCE – IAN CHRISTIE (PH037)  
Application Reference Number – 5/17**

The Committee was advised that the application had been withdrawn.

**18. GRANT OF A TAXI DRIVER'S LICENCE – SOHAIL AYOB  
Application Reference Number – 5/18**

The Committee was advised that the application had been withdrawn.

**19. GRANT OF A PRIVATE HIRE CAR DRIVER'S LICENCE – SAM MURRAY  
Application Reference Number – 5/19**

With reference to (1) article 16 of appendix A of the minute of the meeting of the Licensing Committee of 25 November 2015, and (2) article 8 of this minute, the Committee had before it an information note by the Head of Legal and Democratic Services which advised that this application had previously been considered on 24 November 2015. At that time, the Committee had a policy requiring applicants for private hire car driver licences to complete the same street knowledge test as applicants for taxi driver licences and the applicant, Mr Murray, had not made an appointment to sit the test and therefore the Committee refused the application. This decision was appealed by the applicant on the ground that the policy was flawed and the Sheriff had remitted the application back for the Committee to consider anew.

The applicant, Mr Murray, was in attendance.

**The Committee resolved:**  
to grant the application.

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**APPENDIX B**

**1. GRANT OF A SPECIAL EVENTS PRIVATE HIRE CAR DRIVER'S LICENCE**  
**Application Reference Number – 6/01**

The Committee had before it a letter of representation from the Chief Constable, Police Scotland, c/o Aberdeen City Division and heard Sergeant Gillian Flett speak in its support.

The applicant was in attendance and spoke in support of the application.

**The Committee resolved:**  
to grant the application.

**2. GRANT OF A SPECIAL EVENTS PRIVATE HIRE CAR LICENCE**  
**Application Reference Number – 6/02**

The Committee had before it a letter of representation from the Chief Constable, Police Scotland, c/o Aberdeen City Division and heard Sergeant Gillian Flett speak in its support.

The applicant was in attendance and spoke in support of the application.

**The Committee resolved:**  
to grant the application.

**3. GRANT OF A TAXI DRIVER'S LICENCE**  
**Application Reference Number – 6/03**

The Committee was advised that the application had been withdrawn.

**4. GRANT OF A TAXI DRIVER'S LICENCE**  
**Application Reference Number – 6/04**

The Committee had before it (1) a letter from the Committee's nominated Occupational Health Service Provider (OH Assist) dated 20 November 2015, in relation to the applicant; and (2) a letter of representation from the Chief Constable, Police Scotland, c/o Aberdeen City Division.

Mr Paul Connolly, Legal Advisor, advised the Committee that a further letter from OH Assist had been received and sought approval for this letter to be circulated.

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The applicant was in attendance and had no objection to the further letter from OH Assist being circulated.

**The Committee resolved:**

that the further letter from OH Assist be entered into proceedings.

The Committee then heard from Sergeant Gillian Flett speak in support of the letter from the Chief Constable, Police Scotland.

The applicant was in attendance and spoke in support of the application.

**The Committee further resolved:**

to grant the application.

### 5. GRANT OF A TAXI DRIVER'S LICENCE

**Application Reference Number – 6/05**

The Committee had before it a letter from the Committee's nominated Occupational Health Service Provider (OH Assist) dated 20 November 2015, in relation to the applicant.

The applicant was not present.

**The Committee resolved:**

to defer consideration of the application to the next meeting of the Committee on 8 March 2016 to enable the applicant to be present.

### 6. RENEWAL OF A TAXI DRIVER'S LICENCE

**Application Reference Number – 6/06**

With reference to article 7 of Appendix B of the minute of the meeting of the Licensing Committee of 27 January 2015, the Committee had before it (1) an information note by the Head of Legal and Democratic Services; and (2) a letter of objection from the Chief Constable, Police Scotland, c/o Aberdeen City Division.

The Committee heard from the applicant's solicitor who, as a preliminary matter, requested that the application be deferred to another date to enable the applicant's QC and expert witness to be present. The applicant was also in attendance.

Mr Connolly, the Committee's legal advisor, confirmed that he had no objection to the request.

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Sergeant Gillian Flett advised that she had no objection to the application being deferred.

**The Committee resolved:**

to defer consideration of the application to a meeting of the Evidential Hearings Sub-Committee on a date mutually agreeable by all parties.