

Motherwell, 22 June 2011 at 2 pm.

A Meeting of the AD HOC COMMITTEE

PRESENT

Councillor Martin, Convener; Councillors Delaney, Higgins, Jones and McKendrick.

CHAIR

Councillor Martin (Convener) presided.

IN ATTENDANCE

The Administrative Officer (Committee and Civic Governance Services); Principal Solicitor (Licensing), and Solicitor (Licensing).

ALSO IN ATTENDANCE

Chief Inspector McPhail, Detective Sergeant Russell and John Waddell, Administration Officer (Licensing).

DECLARATIONS OF INTEREST IN TERMS OF THE ETHICAL STANDARDS IN PUBLIC LIFE ETC. (SCOTLAND) ACT 2000

1. No declarations were made.

It was agreed in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting for the following item on the grounds that the business involved the likely disclosure of exempt information as defined in paragraphs 6 and 14 of Part 1 of Schedule 7A of the Act.

HEARING

SECOND HAND DEALER'S LICENCE – COMPLAINT – DAVID KENNEDY

2. With reference to (1) paragraph 14 of the Minute of the meeting of the Policy and Resources Committee held on 16 June 2011, when the Ad Hoc Committee was formed with power to consider a complaint regarding David Kennedy, the holder of a Second Hand Dealer's Licence and to determine whether the licence holder was a fit and proper person to hold such a Licence, and (2) paragraph 2 of the Minute of the meeting of the Corporate Services (Licensing) Sub-Committee held on 2 June 2011, the Principal Solicitor advised (a) that, in terms of paragraphs 11 and 12 of Schedule 1 of the Civic Government (Scotland) Act 1982 (the Act), a complaint had been received from the Chief Constable, Strathclyde Police relative to the behaviour of David Kennedy who currently held a Second Hand Dealer's Licence, and (b) that the Sheriff, on considering an appeal, had referred the matter back to the Council for further consideration in terms of paragraph 11 by an independent panel.

The Committee heard David Kennedy's agent, Mr. McEntegart, Anderson Fyfe, Solicitors, submit, on behalf of his client, for the reasons stated, that the Council had not provided the holder of the Licence with the information required to be provided in terms of Sub-paragraph 8 of paragraph 11 of Schedule 1 to the Act.

Thereafter, David Kennedy, Mr. McEntegart and representatives of the Police withdrew from the meeting and the Committee gave consideration to that submission.

David Kennedy, Mr. McEntegart and representatives of the Police were then re-admitted to the meeting.

The Committee invited the Principal Solicitor to narrate the advice he had given. This was done.

The Committee then heard Mr. McEntegart make further submissions in relation to the advice narrated.

The Committee, having considered Mr. McEntegart's further submissions, determined that they be not upheld.

A copy of the police complaint letter was then tabled.

Chief Inspector McPhail then outlined the Chief Constable's complaint.

During the course of his address, Mr. McEntegart made a further submission that, as the complaint by the Chief Constable referred to Section 12(1) of the Act, and the Committee were considering the matter in terms of paragraph 11 of Schedule 1 of the Act, the Committee should therefore dismiss the hearing.

The Committee having considered Mr. McEntegart's submission (after being provided with advice from the Principal Solicitor in front of both parties), determined that it be not upheld, continued with the paragraph 11 hearing and heard Mr. McEntegart again resume his submission and table character references from Peter Vardy, Gerry Maguire, Group Stock Manager; Stuart Beith, General Manager, Scotland, British Car Auctions; Jim Robertson, Market Area Director, Mercedes Benz; Ross Park, Director, Parks of Hamilton (Holdings) Limited; Mark Brown, General Sales Manager, Stratstone Jaguar, Edinburgh, and Eddie Thomson, Group Sales Director, SMA Vehicle Remarketing.

David Kennedy, Mr. McEntegart and representatives of the Police again withdrew from the meeting and the Committee resumed consideration of the complaint by the Chief Constable and the submissions made and material lodged by Mr. McEntegart.

David Kennedy, Mr. McEntegart and representatives of the Police were again re-admitted to the meeting.

Decided: that, in terms of paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982, the complaint by the Chief Constable relative to the behaviour of David Kennedy be not upheld.

Councillor Delaney, being the mover of a motion which failed to attract a seconder, asked that his dissent be recorded.