

Agenda item	7.2
Report no	HLC/053/20

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 1 December 2020

Report title: Application for the grant of a private hire car drivers licence – Jilson Joy

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1** This report relates to an application for the grant of a private hire car drivers' licence.
- This item is subject to a formal hearing procedure

2. Recommendation

- 2.1** Members are asked to determine the application in accordance with the Council's hearings procedure.

3. Background

3.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 (the "Act") a licence will be required for the driving of a private hire car. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

4. Application

4.1 Mr Jilson Joy applied for the grant of a private hire car driver's licence on 20 December 2019.

4.2 The application was circulated to both Police Scotland and the Council's Trading Standards Service.

4.3 There have been no objections received in relation to the application.

4.4 In terms of the abovementioned Act the Licensing Authority have twelve months (due to temporary amendments to the legislation during the coronavirus period) from receipt of the application to determine the same, therefore this application must be determined by 19 December 2020. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued to Mr Joy for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

5. Immigration Act - Right to work check

5.1 Mr Joy underwent a right to work check on 20 January 2020. During this check it was noted from his residency permit that he held a Tier 4 visa. Holders of these types of visa are not permitted to be self-employed, they have to be on an employer's payroll.

5.2 Mr Joy was advised of this and asked to submit evidence that he was on an employer's payroll.

5.3 Licensing staff have tried contacting Mr Joy by phone and email but, to date, have received no response from him.

6. Determining issues

6.1 Paragraph 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 states that a licensing authority may refuse an application to grant or renew a licence where:

(a) the applicant or anyone else detailed on the application is not a fit and proper person;

(b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;

(c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to

(i) the location, character or condition of premises or the character or condition of the vehicle or vessel,

- (ii) the nature and extent of the proposed activity,
- (iii) the kind of persons likely to be in the premises, vehicle or vessel,
- (iv) the possibility of undue public nuisance, or
- (v) public order or public safety; or

(d) there is other good reason for refusing the application.

If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

6.2 Separately, section 13(3A) of the Act, inserted by the Immigration Act 2016, prohibits licensing authorities from granting a taxi or private hire car driver's licence to any person unless first satisfied that the person is not disqualified from working in the UK by reason of his or her immigration status.

6.3 A copy of this report has been sent to Mr Joy who has been invited to attend the meeting.

7. Policies

7.1 The following policies are relevant to this case:

Standard PHC driver's licence conditions. A copy of these can accessed at https://www.highland.gov.uk/directory_record/738739/taxi_and_private_hire/category/501/taxi_and_private_hire or a hard copy can be supplied where requested.

8. Implications

8.1 Not applicable.

Date: 2 November 2020

Author: Michael Elsey

Background Papers: Civic Government (Scotland)Act 1982