

Agenda item	11.1
Report no	HLC/097/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 28 November 2023

Report title: Application for the grant of a private hire car driver's licence – Iwona Szenk (Ward 18 – Nairn and Cawdor)

Report by: Acting Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1** This report relates to an application for the grant of a private hire car driver's 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 hearing 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 Iwona Szenk applied for the grant of a private hire car driver's licence on 5 May 2023.

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 nine months from receipt of the application to determine the same, therefore this application must be determined by 4 February 2024. 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 Mrs Szenk 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 Mrs Szenk has still to undergo a right to work check despite several attempts to contact the applicant no contact has been made by the applicant.

6. Foreign conviction check

6.1 Mrs Szenk has still to submit a foreign conviction check as required as she was born out with the UK again despite several attempts to contact the applicant no contact has been made by the applicant.

7. Documentation

7.1 As part of the application process the applicant must submit a copy of their DVLA driving licence and 2 passport photos. The applicant still has to submit passport photos.

8. Determining issues

8.1 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.

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

8.3 A copy of this report has been sent to Mrs Szenk who has been invited to attend and will be provided with an opportunity to be heard by the Committee. She has also been advised of the procedure which will be followed at the meeting.

9. Policies

9.1 The following policies are relevant to this case:

Standard private hire car driver's licence conditions. A copy of these can be accessed at [Private Hire Car Drivers Licence | Private Hire Car Drivers Conditions of Licence \(highland.gov.uk\)](https://www.highland.gov.uk/private-hire-car-drivers-licence) or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 8 November 2023

Author: Michael Elsey

Background Papers: Civic Government (Scotland) Act 1982