

# Notice of meeting and agenda



## General Purposes Committee

**Venue:** Council Chambers, Midlothian House, Dalkeith, EH22 1DN

**Date:** Tuesday, 31 January 2017

**Time:** 10:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Verona MacDonald

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Clerk Email: [verona.macdonald@midlothian.gov.uk](mailto:verona.macdonald@midlothian.gov.uk)

**Further Information:**

This is a meeting which is open to members of the public.

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

<b>1</b>	<b>Welcome, Introductions and Apologies</b>	
<b>2</b>	<b>Order of Business</b>	
<b>3</b>	<b>Declarations of Interest</b>	
<b>4</b>	<b>Minutes of Previous Meeting</b>	
<b>4.1</b>	Minute of Meeting of General Purposes Committee of 15 November 2016 Public	<b>3 - 6</b>
<b>4.2</b>	Minute of Meeting of General Purposes Committee of 15 November 2016 Private	
<b>5</b>	<b>Public Reports</b>	
<b>5.1</b>	Civic Government (Scotland) Act 1982 Procedure for Disposal of Applications for Licences - Report by Director, Resources	<b>7 - 10</b>
<b>6</b>	<b>Private Reports</b>	
<b>6.1</b>	Application for a Second Hand Car Dealers Licence - Z. Gilani	
	<ul style="list-style-type: none"><li>• 3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.</li><li>• 6. Information relating to the financial or business affairs of any particular person (other than the authority).</li><li>• 14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</li></ul>	



## General Purposes Committee

Date	Time	Venue
15 November 2016	2 pm	Council Chamber

### Present:

Councillor Andrew Coventry (Chair)	Councillor Baxter
Councillor Bennett	Councillor Bryant
Councillor Constable	Councillor Imrie
Councillor Montgomery	Councillor Parry
Councillor Pottinger	Councillor Rosie
Councillor Russell	Councillor Young
Councillor Wallace	

### In attendance:

Alan Turpie	Legal Services Manager
Inspector Smith	Police Scotland
Verona MacDonald	Democratic Services Team Leader
Paul Aitken	Solicitor, Midlothian Council
Chief Inspector Simpson	Police Scotland

### 1. Apologies

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- 1.1 Apologies were received from Councillors de Vink, Johnstone, Milligan and Muirhead.

## 2. Order of Business

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- 2.1 The order of business was confirmed as outlined in the agenda circulated. Paul Aitken advised that the Chair had consented to an additional item which would be raised under the Private Reports section relating to an application previously dealt with by the Committee.

## 3. Declarations of interest

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There were no Declarations of Interest intimated.

## 4. Minutes of Previous Meetings

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- 4.1 On the Motion of Councillor Parry, seconded by Councillor Young, the Minutes of Meeting of 4 October 2016 were approved as a correct record.

## 5. Public Reports

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Report No.	Report Title	Presented by:
5.1	Suitability of Electric Cars Report by Director, Resources	Alan Turpie
<b>Outline of report and summary of discussion</b>		
Alan Turpie spoke to the terms of the Report and explained that the Committee was being asked to consider whether electric and hybrid vehicles should be licensed as Private Hire Cars or Taxis and to agree any consequential changes to the licensing conditions pertaining to private hire cars should the Committee agree to licence such vehicles.		
He advised that the technology relating to electric vehicles had advanced considerably since the licensing conditions were last reviewed. Electric and hybrid vehicles are cheaper to run and reduce emissions and air pollution. He noted that Midlothian Council is one of only 7 local authorities in Scotland who do not allow electric or hybrid vehicles to operate as private hire or taxi cars. Should the Committee be minded to allow electric and hybrid vehicles to operate as taxi and private hire cars Condition 14 of the standard licensing conditions pertaining to private hire cars would need to be replaced to accommodate such vehicles.		
<b>Decision</b>		
The Committee agreed to:		
(a) allow electricity powered vehicles including hybrid to be licensed as taxi and private hire cars;		
(b) amend Condition 14 for private hire cars to read "The vehicle must have an engine capacity with a "Power to Weight" ratio equal to or greater than 0.0690 hp per kg".		
<b>Action</b>		
Director, Resources		

Report No.	Report Title	Presented by:
5.2	Street Naming and Numbering – Policy and Procedure – Report by Director, Resources	Verona MacDonald
<b>Outline of report and summary of discussion</b>		
<p>Verona MacDonald spoke to the terms of the Report which sought to introduce a Council policy for street naming and numbering in Midlothian. She advised that in terms of Section 97 of the Civic Government (Scotland) Act 1982, the Council is the responsible authority for the naming of streets and the numbering of properties and in terms of the Scheme of Administration, these functions are remitted to the Director, Resources and carried out at no cost to developers and/or property owners.</p> <p>She explained that the majority of applications received relate to new developments such as larger developments by national house-builders or single houses, proposed by individuals. Occasionally, a street renaming or renumbering exercise may also be required to avoid or ease confusion and/or duplication.</p> <p>Presently there is no approved policy and procedure for undertaking the service and the proposed Policy, annexed to the Report aims to set out a framework for street naming in Midlothian. Furthermore, the Council does not currently charge for the service and a review of the service provided by other Councils in Scotland had identified that a number of them charge a fee relative to the administrative cost of providing the service. She confirmed that any income generated would contribute towards the Council's responsibility to where possible maximise its income thus ensuring best value for the public purse whereby tasks undertaken in this regard are met from money generated by applications.</p> <p>Thereafter, questions were put by several Councillors relating to the process of identifying suitable and appropriate street names. Verona MacDonald advised that it was not envisaged that the current process would change and that she understood the Provost welcomed suggestions from elected members. She mentioned that the Policy and Procedure document included the drawing-up of a list of suitable names to enable a quicker turnaround of applications and suggested that the list could be circulated to elected members for their feedback. Members indicated that this would be welcomed.</p>		
<b>Decision</b>		
<p>The Committee unanimously agreed:-</p> <p>(a) to approve the Policy and Procedure for Street Naming and Numbering contained in Appendix I of the Report including the level of charges for carrying out the function, with effect from 1 April 2017 and;</p> <p>(b) that the charges levied be included in the annual review of charges made by the Council for services provided, undertaken by the Director, Resources as part of the annual budget setting process.</p>		
<b>Action</b>		
Director, Resources		

## **Exclusion of Members of the Public**

**In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 6 and 14 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-**

6.1 Application for a Private Hire Car Driver's Licence – W. McKinney

6.2 Application for a Private Hire Car Driver's Licence – S. Mitchell

6.3 Application for a Window Cleaner's Licence – A. Pearson

Additional Item – Application for a Licence for a House in Multiple Occupancy – Inveravon House, Loanhead

The Meeting terminated at 2.37 pm

**Civic Government (Scotland) Act 1982**  
**Procedure for Disposal of Applications for Licences**

Report by Director, Corporate Resources

**1 Purpose of Report**

This report outlines the procedure to be adopted for a Hearing; and this report should be considered along with each application.

**2 Procedure for Considering Applications at Hearings**

The Procedure for considering applications is as follows:-

- 1 The objectors are given the opportunity to explain the basis of their objection (copies of the representations have been previously circulated to the applicant).
- 2 The applicant and the Members are given the opportunity to question the objectors.
- 3 The applicant is given the opportunity to speak in support of the application; and respond to the comments which have been made.
- 4 The objectors and the Members are given the opportunity to question the applicant.
- 5 The objectors and then the applicant are given the opportunity to sum up.
- 6 The Committee take a decision on the matter in the presence of the applicant and the objectors. The Committee may first adjourn but only for the expressly stated purpose of seeking procedural or legal advice (normally from the Clerk or Legal Adviser) and not for the purpose of taking the decision in private. The reasons for making the decision should be explained when conveying the decision.

**3 Disposal of Applications for Licences**

In disposing of an application for the grant of a licence the Committee may:-

- (a) grant the licence unconditionally;

- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence.

The Committee may refuse an application for a licence if, in their opinion –

- (i) the applicant or any other person responsible for the management of the activity is not a fit and proper person to be the holder of the licence;
- (ii) the activity to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would be refused the grant of such a licence if he made application himself;
- (iii) where the application relates to premises, those premises are not suitable or convenient for the activity having regard to –
  - (i) the location, character or condition of the premises;
  - (ii) the nature and extent of the proposed activity;
  - (iii) the kind of persons likely to be in the premises;
  - (iv) the possibility of undue public nuisance;
  - (v) public order or public safety; or
- (iv) there is other good reason for refusing the application.

Otherwise the Committee must grant the application.

If the Committee grant conditionally or refuse the application, the applicant has the right of appeal to the Sheriff. The Sheriff may uphold an appeal only if he considers that the Licensing Authority in arriving at their decision:-

- (a) erred in law;
- (b) based their decision on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

There is no right of appeal against the Council's decision in relation to applications for Temporary Licences.



#### **4 Spent Convictions**

Where the Chief Constable intends to libel convictions which are 'spent', if the Committee agree that justice could not be done without disclosure of these, the spent convictions shall be heard and details will be circulated if so agreed together with the report.

#### **5 Treatment of Fixed Penalties, Police Warnings and other Alternatives to Prosecution**

In terms of the Rehabilitation of Offenders Act 1974 certain convictions become "spent" after several years and cannot be considered by Committee ie with the exception of taxi and private hire car drivers, which Licensing Authorities were permitted to consider;

Representations by the Chief Constable either objecting to applications or seeking suspension may also contain details of conduct of the applicant which are not convictions, classed as ATPs, the main types of which included (1) warnings given by the Police or Procurator Fiscal; (2) Conditional Offers and Compensation Offers made by the Procurator Fiscal under Section 302 of the Criminal Procedure (Scotland) Act 1995; (3) a Fixed Penalty offered by the Police under Section 129 of the Antisocial Behaviour etc (Scotland) Act 2004; and (4) certain foreign warnings or fixed penalties;

ATPs are "spent"; warnings become "spent" as soon as they are issued; and the remainder are regarded as "spent" within three months of issue;

Most ATPs appearing on such objections will be "spent"; offences that resulted in ATPs which are "spent" cannot be considered by the Committee; and the exemption allowing the Committee to consider "spent" convictions did not apply to ATPs;

The Chief Constable can ask the Committee to consider "spent" ATPs, by exercising discretion under Section 7(3) of the Rehabilitation of Offenders Act 1974, which permits the Committee to consider them if it is satisfied that justice cannot be done except by considering them ie subject to the driver being asked for a view as to whether the information should be submitted (and before the Committee decide whether or not to consider any ATPs);

Many road traffic offences are dealt with through the issue of Conditional Offers of Fixed Penalties under the Road Traffic Offenders Act 1988 which are not ATPs and therefore can be considered by the Committee.

Letters from the Chief Constable objecting to applications may also contain details of complaints and allegations against the driver which have not resulted in conviction or ATPs and details of pending criminal court cases; and as these are not convictions or ATPs, can be considered by the Committee.

## **6 Recommendations**

The Committee is recommended to note the terms of the report.

**J BLAIR**  
**Director**

**21 November 2016**

<b>Contact Person:</b>	<b>A Turpie</b>	<b>Tel No: 0131 271 3667</b>
<b>Background Papers:</b>	<b>File 211 (2016/0906/SECHCD)</b>	