



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE
(MICROSOFT TEAMS MEETING)

Held: TUESDAY, 6 OCTOBER 2020 at 10:00 am

P R E S E N T:

Councillor Pickering (Vice Chair in the Chair)

Councillor Cank
Councillor Gee

Councillor Shelton
Councillor Thomas

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94. APPOINTMENT OF CHAIR

RESOLVED:

That Councillor Karen Pickering be appointed as Chair for the meeting.

95. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Fonseca.
Councillor Cank was present as substitute for Councillor Fonseca.

96. DECLARATIONS OF INTEREST

Members were asked to declare any interests they may have in the business to be discussed.

There were no declarations of interest.

97. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting of the Licensing Enforcement Sub-Committee held on 1 September 2020 be confirmed as a correct record.

98. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to an individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 3

Information relating to the financial affairs of any particular person (including the authority)

B1) Application for the Renewal of a Hackney Carriage and Private Hire Vehicle Driver's Licence

B2) Determination of Continued Entitlement to retain a Hackney Carriage and Private Hire Vehicle Driver's Licence

99. APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Director of Neighbourhood and Environmental Services submitted a report concerning the application for the renewal of a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The applicant, the Licensing Team Manager, the Licensing Enforcement Officer, and the Legal Adviser to the sub-committee were also present.

Introductions were made and the Chair outlined the procedure of the meeting to those present.

The Licensing Team Manager outlined details of the application, including the relevant City Council Policy Guidelines and drew Member's attention to the conviction referred to in the report.

The applicant set out the reasons why he thought his application to renew his Hackney Carriage and Private Hire Vehicle Driver's Licence should be granted and answered questions from Members.

The applicant was then given the opportunity to sum up and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced in writing within five working days.

The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Sub-Committee recalled the Legal Adviser to give advice on the wording of the decision.

RESOLVED:

That the application for the renewal of a Hackney Carriage and Private Hire Vehicle Driver's Licence be REFUSED.

The Sub-Committee Members had carefully considered the Committee Report placed before them. Members had taken account, where appropriate, of the Department for Transport's "Statutory Taxi & Private Hire Vehicle Standards", the Regulators' Code and the Council's "Guidelines on relevance of convictions Hackney Carriage and Private Hire Vehicle Drivers". Members had taken account of the oral and written representations.

The Sub-Committee were informed that on 10 October 2001, when the applicant was 21, he was convicted at Leicester Magistrates' Court of offences of using threatening behaviour and criminal damage on 12 April 2001 for which he was sentenced to 1 day's detention.

Fifteen years later, on 27 September 2016, the applicant first made an application to the Council for a Hackney Carriage & Private Hire Vehicle Driver's Licence. He did not disclose his convictions in that application. Instead, he incorrectly indicated that he had not been convicted of any offences and signed a declaration as to the correctness of the information he had provided. The applicant was granted the Licence on 21 June 2017.

On 16 October 2018, the applicant was convicted at Leicester Magistrates' Court of an offence of assault by beating on 1 July 2018. The conviction fell within the category of 'Other Offences' under the Council's Guidelines on Relevance of Convictions which in the absence of exceptional circumstances, provide for a period free from conviction for such offending which was 'dependent on circumstances'.

The meeting noted that the applicant did not immediately notify the Licensing Section of that conviction. He had indicated that he did not know that he was required to notify the Council of the conviction. However, the first page of his Licence informed him: *“The licence holder must contact the Licensing Section immediately if you are reported or convicted of any offences, including endorsements on your DVLA Driving Licence. Failure to do this will result in your renewal application being delayed.”*

It was further noted that the applicant also did not declare the conviction when he applied to renew his Licence on 14 June 2019. In that application he incorrectly indicated that he had not been convicted of any offences since he had last been issued with his Licence. He then signed a declaration as to the correctness of the information he had provided.

On 11 June 2020 the applicant made his latest renewal application in which he declared that he had a conviction for fighting. The three-yearly Disclosure and Barring Service check which was required as a part of the renewal process revealed the assault by beating conviction and for the first time the Council became aware of the 2001 convictions.

Due to the age of the convictions, Members disregarded the April 2001 offending and the September 2016 application for a Licence. Those matters had not played any part in the Members’ decision. Members also noted there was no history of any customer complaint against the applicant.

REASON FOR THE DECISION

The Sub-Committee Members found the circumstances presented to them for the application constituted grounds under section 61(1)(a)(i) and section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 to refuse to renew the Licence and that it was appropriate to do so.

In relation to section 61(1)(a)(i), the applicant had, since the grant of his Licence, been convicted of an offence involving violence, in that he was convicted on 16 October 2018 at Leicester Magistrates’ Court of assault by beating on 1 July 2018. The applicant had indicated that the assault arose from a fight with his ex-wife’s current partner and described the matter as a domestic incident. However, members noted the nature and type of the offending, and were mindful that the protection of the public was their overriding consideration.

Members had not been advised of any exceptional circumstances to suggest that the Council’s Guidelines on Relevance of Convictions should not be followed.

In relation to section 61(1)(b), the applicant’s failure to notify the Council at the time of his 16 October 2018 conviction for assault by beating, together with the provision of incorrect information in his 14 June 2019 renewal application and the signing of an incorrect declaration of correctness in that application, constituted any other reasonable cause. When a driver failed to provide the

Council with required information, and failed to provide information which was truthful, the driver hindered the Council's ability to exercise its regulatory functions.

Members therefore refused to renew the Licence.

The applicant would be informed he had 21 days to appeal the decision to the Magistrate's Court should he wish to do so.

100. DETERMINATION OF CONTINUED ENTITLEMENT TO RETAIN A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Director of Neighbourhood and Environmental Services submitted a report concerning the determination of continued entitlement to a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The applicant, the Licensing Team Manager, the Licensing Enforcement Officer, and the Legal Adviser to the sub-committee were also present.

Introductions were made and the Chair outlined the procedure of the meeting to those present.

The Licensing Team Manager outlined details of the application, including the relevant City Council Policy Guidelines and drew Member's attention to the conviction referred to in the report.

The applicant was invited to set out the reasons why he ought to be allowed to continue to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence. He was given the opportunity to answer questions from the Sub-Committee Members but stated that he had no comment on the matter.

The applicant was then given the opportunity to sum up and make any final comments but declined to do so.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced in writing within five working days.

The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officers to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Sub-Committee recalled the Legal Adviser to give advice on the wording of the decision.

RESOLVED:

That the applicant's Hackney Carriage and Private Hire Vehicle Driver's Licence be REVOKED.

The Sub-Committee Members had carefully considered the Committee Report placed before them. Members had taken account, where appropriate, of the Department for Transport's "Statutory Taxi & Private Hire Vehicle Standards", the Regulators' Code and the Council's "Guidelines on relevance of convictions Hackney Carriage and Private Hire Vehicle Drivers". Members had taken account of the oral and written representations.

Members were informed that the applicant had held a Hackney Carriage and Private Hire Vehicle Driver's Licence since 29 July 2014.

Members noted that on 3 December 2018 the applicant was convicted at Staffordshire Magistrates' Court of offences committed on 13 December 2017. The offences related to his involvement in a Mini Market store in Burton upon Trent, the Premises Licence for which he held. The applicant pleaded guilty to engaging in an unfair commercial practice by exposing alcohol for sale at the premises on which no UK duty had been paid. He also pleaded guilty to knowingly allowing cigarettes, on which duty had not been paid, to be kept on the premises and those cigarettes did not carry the required health warnings.

The convictions fell within the category of 'Other Offences' under the Council's Guidelines on Relevance of Convictions which in the absence of exceptional circumstances, provided for a period free from conviction for such offending which was 'dependent on circumstances'.

The applicant had not immediately notified the Licensing Section of the convictions as he was required to do in accordance with his Licence.

The applicant did not declare the convictions when he applied to renew his Licence on 29 June 2019. In that renewal application, he incorrectly indicated that he had not been convicted of any offences since he had last been issued with his Licence. He signed a declaration as to the correctness of the information he had provided. The applicant did not declare the convictions in his latest renewal application made on 13 July 2020, although Members noted that technically, he did not provide incorrect information in that application when he indicated that he had not been convicted of any offence since he had last been issued with his Licence.

The Council had become aware of the applicant's convictions for the first time when they received his three-yearly enhanced Disclosure and Barring Service check dated 5 August 2020, which was required as part of the Licence renewal process.

Members had not been advised of any history of customer complaints against the applicant, nor had Members been advised of any exceptional circumstances to suggest that the Council's Guidelines on Relevance of Convictions should not be followed.

The applicant's offending and subsequent actions had brought into question his integrity. Members were mindful that the protection of the public was their overriding consideration, and that when a driver failed to provide the Council with required information, and failed to provide information which was truthful, the driver hindered the Council's ability to exercise its regulatory functions.

Members found the applicant's criminal offending, his failure to notify the Council of his convictions together with the provision of incorrect information in his 2019 renewal application and the signing of an incorrect declaration of correctness in that application constituted 'any other reasonable cause' under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, and that it was appropriate to revoke the Licence.

Members therefore revoked the Licence.

The applicant would be informed he had 21 days to appeal the decision to the Magistrate's Court should he wish to do so.

101. ANY OTHER URGENT BUSINESS

There being no other business, the meeting closed at 11:32am.