



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE

Held: TUESDAY, 1 DECEMBER 2020 at 10:00 am

P R E S E N T:

Councillor Pickering (Chair)

Councillor Cank

Councillor Thomas

Councillor Shelton

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108. APPOINTMENT OF CHAIR

Councillor Pickering as Chair of the Committee led on introductions.

109. APOLOGIES FOR ABSENCE

There were no apologies for absence.

110. DECLARATIONS OF INTEREST

There were no declarations of interest.

111. MINUTES OF PREVIOUS MEETING

AGREED:

That the minutes of the meeting of the Licensing Enforcement Sub Committee held on 3 November 2020 be confirmed as a confirmed as a correct record.

112. PRIVATE SESSION

**113. DETERMINATION OF CONTINUED ENTITLEMENT TO RETAIN A
HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS LICENCE**

The Director of Neighbourhoods and Environmental Services submitted a report that required Members to determine a driver's continued entitlement to retain a Hackney Carriage and Private Hire vehicles driver's licence.

The driver was not present. The Licensing Team Manager, Licensing

Enforcement Officer and Legal Adviser to the Sub-Committee were present.

It was noted that all relevant documents had been sent to the driver who had provided written representations. The driver had been spoken to on the telephone by the Licensing Enforcement Officer and visited at home by the Officer the previous day. The Licensing Team Manager telephoned the driver at the start of the meeting, but there was no response. Members agreed that the meeting should proceed in the driver's absence.

The Licensing Team Manager presented the report to the Committee and outlined details of the application including the relevant City Council Policy Guidelines. Questions from the Sub-Committee were answered.

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 the reasons made during private deliberation would be publicly announced within five working days. The Chair informed the meeting that 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 in order to consider their decision.

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

RESOLVED:

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

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

The driver had held a Hackney Carriage and Private Hire Vehicle Driver's Licence since 3 April 2014.

On 27 February 2019 the driver was convicted at Leicester Magistrates' Court of offences on 8 and 23 July 2018. The offences related to the supply of tobacco in packets which did not detail the required health warnings, possession of goods for sale with a false trademark and supplying a dangerous

product. 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 driver did not immediately notify the Licensing Section of the convictions as he was required to do in accordance with his Licence.

The driver did not declare the convictions when he applied to renew his Licence on 24 September 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 then signed a declaration as to the correctness of the information he had provided.

The driver did not declare the convictions in his latest renewal application made on 28 August 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.

Following that renewal application, the driver's licence had been renewed. The Council had become aware of the driver's convictions for the first time when the Licensing Section received his three-yearly enhanced Disclosure and Barring Service check on 19 October 2020 which was required as part of the licence renewal process.

Members had not been advised of any history of customer complaint against the driver.

Members did not find any exceptional circumstances whereby the Council's Guidelines on Relevance of Convictions should not be followed.

Members took a serious view of the driver's offending and his subsequent actions, both of which brought into question his integrity. Members were mindful that the protection of the public was their overriding consideration. 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 driver's criminal offending and his continued 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 driver's Hackney Carriage and Private Hire Vehicle Driver's Licence.

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

114. PERSONAL LICENSE REVIEW APPLICATION

The Director of Neighbourhoods and Environmental Services submitted a report that required Members to determine an application for the review of an existing Personal Licence.

The Personal Licence Holder (PLH) was present with a representative. The Licensing Team Manager, Licensing Enforcement Officer, and Legal Adviser to the Sub-Committee were present.

The Licensing Team Manager outlined details of the application including the relevant City Council Policy Guidelines and drew Members' attention to the conviction referred to in the report. Questions from the Sub-Committee Members were answered.

The PLH addressed the Sub-Committee and answered questions.

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 the reasons made during private session would be publicly announced within five working days. The Chair informed the meeting that 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 in order to consider their decision.

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

RESOLVED:

That the Personal Licence be REVOKED.

Members of the Sub-Committee had listened carefully to all the representations and had taken account of the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy.

Members were informed that on 6 April 2006, the Council issued a Personal Licence. Subsequent to the grant, the PLH was convicted on 8 June 2020 at Leicester Magistrate's Court of an offence contrary to section 5 of the Road Traffic Act 1988, of driving or being in charge of a motor vehicle on a road or other public place on 01 March 2020, with an alcohol concentration above the prescribed limit, namely 70 micrograms per 100 millilitres of breath, the legal limit being 35.

The conviction was a relevant offence as listed in Schedule 4 of the Licensing Act 2003. The conviction was not spent for the purposes of the Rehabilitation of Offenders Act 1974 and therefore gave ground for suspension or revocation of the licence holder's Personal Licence in accordance with section 132A(3) of the Licensing Act 2003.

Members had taken account of the PLH's personal circumstances and noted his indication as to the effect on his livelihood should his Licence be suspended or revoked. Prior to the listing of the matter before the Committee, the PLH had been the Designated Premises Supervisor (DPS) at a local shop he had managed for the past 14 years. A DPS must hold a Personal Licence. As at the date of the Sub-Committee hearing, the DPS had been changed so that the PLH no longer fulfilled the role. However, he continued to manage the shop.

The PLH had completed a Drink Drive Rehabilitation Course. Members noted his explanation of the offending and his assurance that it would not be repeated.

However, the PLH's offending clearly demonstrated his unsuitability to hold a Personal Licence. A Personal Licence authorised an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a Premises Licence. The Council's Licensing Policy detailed: "The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason, personal licence holders are required to have prescribed training and not have relevant convictions that would indicate their unsuitability".

The Sub-Committee's decision, made under section 132A(8) of the Licensing Act 2003, was that to promote the licensing objectives, it was appropriate to revoke the Personal Licence.

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

115. PERSONAL LICENSE REVIEW APPLICATION

The Director of Neighbourhoods and Environmental Services submitted a report that required Members to determine an application for the review of an existing Personal Licence.

The Personal Licence Holder (PLH) was not present. The Licensing Team Manager, Licensing Enforcement Officer, and Legal Adviser to the Sub-Committee were present.

It was noted the PLH had indicated by email that he would not be putting a case forward and that he had left the bar industry. Members agreed that the meeting should proceed in the PLH's absence.

The Licensing Team Manager outlined details of the application including the

relevant City Council Policy Guidelines. Questions from the Sub-Committee Members were answered.

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 the reasons made during private session would be publicly announced within five working days. The Chair informed the meeting that 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 in order to consider their decision.

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

RESOLVED:

That the Personal Licence be REVOKED.

Members of the Sub-Committee had listened carefully to all the representations and had taken account of the Statutory Guidance, the Regulators' Code and the Council's Licensing Policy.

Members were informed that in January 2017, the Council had issued a Personal Licence. Subsequent to the grant, the PLH was convicted on 31 January 2020 at Leicester Crown Court of an offence of affray contrary to section 3 of the Public Order Act 1986. The brief circumstances of that offending were that on 28 September 2018, the PLH was involved in a large-scale fight between two groups of males on Belvoir Street, Leicester. The PLH assaulted another male during the disturbance. By way of sentence, the PLH was made subject to a 12-month Community Order with a requirement to undertake 120 hours unpaid work.

The conviction was a relevant offence as listed in Schedule 4 of the Licensing Act 2003. The conviction was not spent for the purposes of the Rehabilitation of Offenders Act 1974 and therefore gave ground for suspension or revocation of the licence holder's Personal Licence in accordance with section 132A(3) of the Licensing Act 2003.

The PLH did not appear before the Committee and made no representations. He had previously indicated that he would not be putting a case forward and that he had left the bar industry.

The PLH's offending clearly demonstrated his unsuitability to hold a Personal

Licence. A Personal Licence authorised an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a Premises Licence. The Council's Licensing Policy detailed "The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason, personal licence holders are required to have prescribed training and not have relevant convictions that would indicate their unsuitability".

The Sub-Committee's decision, made under section 132A(8) of the Licensing Act 2003, was that to promote the licensing objectives, it was appropriate to revoke the Personal Licence.

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

116. ANY OTHER URGENT BUSINESS

There being no other items of urgent business the meeting closed at 11:43 am.

