



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE

Held: TUESDAY, 2 NOVEMBER 2021 at 10:00 am

P R E S E N T:

Councillor Cank (Chair)

Councillor Fonseca

Councillor Gee

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1. APPOINTMENT OF CHAIR

Councillor Cank was appointed as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Pickering.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting of the Licensing Enforcement Sub-Committee held 12 October 2021 be confirmed as a correct record.

5. 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 any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

Paragraph 7

Information relating to the any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime

B1) Determination of continued entitlement to retain a Hackney Carriage and Private Hire Vehicle Driver's Licence

6. 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 requiring Member's to make a determination of continued entitlement to retain a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The applicant was present with a translator, Matthew Robinson (Licensing Enforcement Officer, the Licensing Team Manager, and the Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager outlined details of the application, including the relevant City Council Guidelines,

The applicant was invited to set out the reasons why he ought to be allowed to retain his Hackney Carriage and Private Hire Vehicle Driver's Licence and answered questions from Members and Officers.

All parties were 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 evidence on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officers to leave the meeting. the Sub-Committee then deliberated in private to give advice on the wording of the 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 **SUSPENDED FOR 2 MONTHS**

Members of the Sub-Committee had carefully considered the report placed before them and 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 of the Sub-Committee had also considered the oral and written representations including the references submitted by the applicant.

The applicant was 44. Members were informed the applicant had been licensed by the Council as a driver since August 2009.

On 02 July 2019, the applicant pleaded guilty at Leicester Magistrates' Court to an offence of harassment committed on 26 February 2019. The Magistrates made him subject to a Conditional Discharge for 12 months and ordered him to pay costs of £85 and a victim surcharge of £20. 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, provided for a period free from conviction for such offending which was dependent on circumstances.

Members of the Sub-Committee had considered the nature, type and circumstances of the applicant's offending. The offending did not relate to his employment as a taxi driver. Rather, the applicant had repeatedly contacted his cousin by telephone and was abusive and caused a general nuisance. The applicant's cousin was the new partner of the applicant's now ex-wife. The applicant had indicated that his cousin's actions had led directly to the breakdown of the applicant's marriage. Members of the Sub-Committee noted that the Magistrates did not award any compensation to the applicant's cousin.

Members noted the applicant was required, in accordance with his licence, to immediately notify the Licensing Section of the conviction which he had not done. Neither did the applicant declare the conviction in his 03 August 2021 online application to renew his licence against the question as to whether he had been convicted of any offences including non-motoring offences, and the applicant's licence was renewed. The applicant's explanation for the failure to declare his conviction was that, he was a manual worker who was not very good with paperwork and, having received a discharge for the offending, he did not appreciate that it was a criminal conviction. His now ex-wife was the person who would ordinarily have completed the renewal application for him to sign and in submitting the form himself, he had made a mistake.

Members were further informed that, on 24 September 2021, an enhanced

DBS check submitted by the applicant to the Council in connection with his earlier renewal application, disclosed his harassment conviction to the Council for the first time.

REASON FOR THE DECISION

Members of the Sub-Committee had considered the matter on its own merits. Their overriding consideration was the protection of the public and all other matters, including unemployment, were secondary to the public safety factor.

Members of the Sub-Committee took into account that, apart from a failure to display plates or door signs, dealt with in 2018 by the imposition of three points under the Council's Driver Penalty Points Scheme, there was no history of customer complaints against the applicant in his 11 years as a licensed driver.

It was stated that whilst a driver's personal circumstances were irrelevant, except in very rare cases to explain or excuse some conduct of the driver, it was relevant in this case, due to the particular circumstances of his offending, to note that the applicant had now remarried.

Members overriding consideration was the protection of the public. However, the applicant's offending was not related to his employment as a taxi driver. Members of the Sub-Committee had noted the applicant's explanation of the individual circumstances of the offending and accepted that it would not be repeated.

Members of the Sub-Committee noted that when a driver failed to provide the Council with required information at the correct time, the driver hindered the Council's ability to exercise its regulatory functions. The applicant had indicated that he was represented by the Duty Solicitor when he pleaded guilty at the Magistrates' Court. He should have realised that he had a criminal conviction and he should have been aware of the requirement to notify the Council of that conviction. He had been licensed by the Council for 11 years and the requirement was detailed on the front page of his Licence. He should have realised when he submitted the online renewal application on 03 August 2021 that he was providing incorrect information. However, Members of the Sub-Committee took due note of the absence of customer complaints against the applicant in his 11 years as a driver licensed by Leicester City Council.

Members of the Sub-Committee found the circumstances presented in the case, namely the applicant's offending, his failure to correctly notify his conviction to the Council and the provision of incorrect information in his renewal 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 suspend his Hackney Carriage & Private Hire Vehicle Driver's Licence for a period of two months. It was considered that a period of suspension would emphasise to the applicant the need for future compliance which in turn would protect the public.

The applicant was informed of his right to appeal the decision to the

Magistrates' Court within the period of 21 days beginning with the day on which he was notified of the decision. The suspension would not have effect until the 21-day period had expired, or if the decision was appealed against, until the appeal was disposed of.

7. ANY OTHER URGENT BUSINESS

There being no other business, the meeting closed at 10.55am.