

LICENSING SUB-COMMITTEE (SENSITIVE CASES)

MEETING, 28th February, 2017

Present – Councillors Murray (Chairman), Mrs Fairclough, Watters (as deputy for Councillor McKeon) and P. Wild (as deputy for Councillor Greenhalgh).

Apologies for absence was received from Councillors Bury, Gillies, Greenhalgh and McKeon.

Councillor Murray in the Chair.

16. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Sub-Committee held on 11th January, 2017 were submitted.

Resolved – That the minutes be agreed and signed as a correct record.

17. URGENT BUSINESS

The meeting was informed of a matter of urgent business which related to the misconduct of a licensed private hire driver. The reason for urgency was that a serious allegation of misconduct had been made against a current driver.

Resolved – That the report numbered LERSCS/06/17 be considered as a matter of urgency at this meeting.

18. EXCLUSION OF PRESS AND PUBLIC

Resolved – That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 (financial and business affairs) of Part 1 of Schedule 12A to the Act; and that it be deemed that, in all the

circumstances of the case, the public interest in its exemption outweighs the public interest in its disclosure.

19. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LERSCS/03/17

The Director of Place submitted a report which set out details of misconduct complaints against a driver licensed to drive a private hire vehicle.

The driver attended the meeting and provided verbal evidence.

The Sub-Committee heard verbal evidence from the Licensing Officer.

Resolved – That the licence to drive a private hire vehicle be not renewed on the basis that the Sub-Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Sub-Committee noted the Police intelligence concerning a domestic assault, violent behaviour, criminal damage and a public order offence.

Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

The Sub-Committee also took account of the following –

- Police intelligence that the driver admitted the offence of a Section 47 Assault which took place on 7th September, 2015 and involved the driver physically gripping his victim round the neck and lifting her and throwing her. The victim attended hospital for treatment for bruising to the arms, chest and neck. The driver accepted and received an adult caution in this regard. On questioning the driver denied these events and explained that he only pushed the victim which the Sub-Committee did not find credible;

- Police intelligence that the driver was involved in an incident of road rage on 9th November, 2009 which involved the driver punching another vehicle driver. The victim attended the Police station to report the incident. The driver admitted hitting the victim. No further action was taken due to there being no independent witnesses;
- Police intelligence that on 5th May, 2009 the driver received a fixed penalty for the offence of criminal damage after a domestic incident in Merseyside;
- Police intelligence that the driver received a fixed penalty notice for a public order offence on 22nd April, 2006 after causing harassment, alarm or distress;
- Police intelligence that on 8th March, 2006 an allegation of assault was made against the driver. The driver denied punching his victim but admitted pushing his victim. No further action was taken on the advice of the CPS;
- The Police assertion that the driver is a risk to public safety and is not a fit and proper person to drive a private hire vehicle;
- The Council's Policy on convictions for assault explains that an extremely serious view will be taken where a person has been convicted or arrested of any offence of violence. A person would normally have their licence revoked if the date of conviction is less than 5 years; and
- The driver failed to declare details of the adult caution and the fixed penalty for criminal damage and the Section 5 public order offence in accordance with the conditions of his licence. The driver informed the Sub-Committee that whilst he had been acting as a private hire driver he had never received any complaints. The Sub-Committee noted this but considered in the light of the driver's caution for assault and his previous convictions for violence that he posed a risk to the public.

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety and wellbeing to private hire drivers whenever they take a journey. Passengers often travel alone and are vulnerable to inappropriate behaviour.

The Sub-Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the driver would be working in an unsupervised environment.

There is therefore reasonable cause to refuse to renew the private hire drivers licence.

20. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LERSCS/04/17

The Director of Place submitted a report which set out details of an application which had been received for a licence to drive a private hire vehicle. The report also set out details of misconduct complaints against the applicant.

The driver and his representative attended the meeting and provided verbal and written evidence.

The Sub-Committee heard verbal evidence from the Licensing Officer.

Resolved – That the licence to drive a private hire vehicle be refused on the basis that the Sub-Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Sub-Committee noted the finding of this Sub-Committee from 2015 when the applicant's licence to drive a private hire vehicle was revoked and additional information from the Police concerning an

alleged assault and the driver continuing to act as a private hire driver after having his licence revoked.

Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

The Sub-Committee also took account of the following –

- Matters concerning the decision of this Sub-Committee in July, 2015 which included –
 - Inappropriately using facebook messages, text messages and phone calls to a complainant;
 - The applicants admittance of sending Facebook messages to the young female adult and text messages which included messages of an abusive nature;
 - The background of previous complaints about inappropriate behaviour towards a 15 year old girl from July, 2013, a young lady from September, 2013 and a fourteen year old girl in July, 2009 all of which showed a pattern of inappropriate behaviour; and
- Police intelligence concerning the applicants arrest for a section 47 assault on 14th April, 2013. The alleged victim was 17 years old and the applicant refused to take the girl directly to her home. The applicant allegedly punched the victim on the right cheek and also hit her with a baseball bat on the stomach and leg. No further Police action was taken following an investigation. The applicant explained that he had not been arrested in this regard despite him circulating part of a police interview log which indicated that he had been arrested;

- Police intelligence that the applicant has continued to drive as a private hire driver following his licence revocation and still displayed the Council livery for private hire on his vehicle. The applicant denied this to be the case but the Sub-Committee did not find the applicant's denial to be credible;
- The fact that the applicant's licence had been revoked in July, 2015 and that the circumstances surrounding the revocation were still relevant;
- Matters concerning the applicant's aggressive behaviour when dealing with the Council's Licensing Officers;
- The Sub Committee considered various references but gave limited weight to these;
- The applicant's request that the Sub-Committee grant him a licence to provide a livelihood for his children was disregarded as an irrelevant consideration; and
- The Sub-Committee did not consider that the applicant was a changed person as alleged.

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety and wellbeing to private hire drivers whenever they take a journey. Passengers often travel alone and are vulnerable to inappropriate behaviour and the Sub-Committee were most concerned about the pattern of inappropriate behaviour over a number of years.

The Sub-Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the driver would be working in an unsupervised environment.

There is therefore reasonable cause to refuse to grant a private hire drivers licence.

**21. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER
LERSCS/05/17**

The Director of Place submitted a report which set out details of misconduct complaints against a driver licensed to drive a private hire vehicle.

The driver and his legal representative attended the meeting and provided verbal and written evidence.

The Sub-Committee heard verbal evidence from the Licensing Officer.

Resolved – That the driver's application to renew his private hire drivers licence be granted. In coming to its decision the Sub-Committee found several inconsistencies in the witness evidence relating to the alleged issue of misconduct and found the driver to be a fit and proper person to hold a private hire drivers licence.

**22. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER
LERSCS/06/17**

The Director of Place submitted a report which set out details of a misconduct complaint against a driver licensed to drive a private hire vehicle.

The driver attended the meeting.

The Licensing Officer confirmed that arrangements had been made for the driver not to act as a private hire driver pending consideration of this matter.

Resolved – That consideration of this matter be deferred pending the receipt of additional Police information and the driver giving consideration to bringing someone to interpret on his behalf / representative with him to the next meeting.

(The meeting started at 10.30am and finished at 2.10pm)