

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE**

MEETING, 17th NOVEMBER, 2015

Present – Councillors Donaghy (Chairman), Haworth (Vice-Chairman), D. Burrows, L. Byrne, Chadwick, Mrs Fairclough, Gillies, Graham, Martin, Richardson, Watters and Wild.

Apologies for absence were submitted by Councillors Greenhalgh, Haslam and Murray.

Councillor Donaghy in the Chair.

34. MINUTES OF PREVIOUS MEETINGS

The minutes of the proceedings of a meeting of the Committee held on 20th October, 2015 were submitted.

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

**35. MINUTES OF THE LICENSING SUB-COMMITTEE
(TRAFFIC MATTERS)**

The minutes of the proceedings of meetings held on 4th November, 2015 were submitted.

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

36. PET SHOPS – REVIEW OF LICENCE CONDITIONS

(The Committee agreed to consider this item in Part A, in the public section of the meeting, as its contents did not warrant exclusion of the press and public)

The Director of Environmental Services submitted a report which set out proposed amendments to the licence conditions for pet shops in Bolton. A revised report was tabled at the meeting.

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By way of background information, the Trading Standards Unit (TSU) within the Council's Regulatory Services Section had responsibility for issuing licences for a range of companion animal premises including dog and cat boarding establishments, home boarders of dogs and cats, riding establishments and pet shops.

For each category of premises there were conditions with which the business had to comply before a licence could be issued or renewed. Compliance was monitored by means of inspections, investigation of complaints received and trader self-assessment questionnaires.

The Council's existing licence conditions for companion animal premises were based upon Local Government Association model conditions produced in 1998 and had not been reviewed since their introduction. Given the resources of the TSU it would not be possible to review the licence conditions for all the different companion animal premises concurrently.

In deciding the prioritisation of the licence condition reviews consideration was given to the level of complaints received in connection with each business sector, together with the number of licensed businesses and the historical levels of non-compliance found on inspection. On that basis it had been decided to review at the conditions for pet shops in the first instance.

The report went on to explain matters around existing pet shop licence conditions and the proposed changes, the differences between the existing conditions and model conditions, proposed new conditions and transitional requirements.

Resolved – That approval be given to the amended licence conditions for pet shops in Bolton and the transitional period for their introduction.

37. 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.

38. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/31/15

The Director of Environmental Services submitted a report which set out details of the misconduct of a driver licensed to drive a private hire vehicle.

The driver attended the meeting.

The Committee heard verbal representations from Mrs Pritchard, Principal Licensing Officer.

The meeting gave careful consideration to all the evidence and the submissions made.

Resolved – That the licence to drive a private hire vehicle be suspended for a period of two weeks and that the driver undertakes appropriate additional licensing training on the provisions of the Equality Act, at the earliest opportunity, 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 Committee find, the driver did commit the offence of refusing to complete a booking taken from a disabled person with an accompanying assistance dog and noted that the driver was convicted for the offence in the Magistrates' Court in October 2015. Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

In coming to its decision, the Committee specifically also took account of, viz-

- the driver has been convicted on 19th October, 2015 of a Section 170 Equality Act, 2010 offence of refusal to take an assistance dog accompanying a disabled person in a private hire vehicle;
- The duties of the Equality Act in relation to private hire vehicle drivers and no exemption certificates have been issued by Bolton Council in this regard;
- The driver had previously completed the training and knowledge test concerning the implications of the Equality Act; and
- The driver had not reported the conviction in accordance with the conditions of his licence.

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. Passengers often travel alone and are vulnerable to inappropriate behaviour.

The Committee disregarded matters around the driver's loss of livelihood and effect on his family as this is an irrelevant consideration.

There is therefore reasonable cause to suspend the licence and for the driver to undertake additional appropriate training as a warning and a deterrent.

39. MISCONDUCT BY LICENSED PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LER/32/15

The Director of Environmental Services submitted a report which set out details of complaints of misconduct of a driver licensed to drive a private hire vehicle and a hackney carriage vehicle.

The driver and his legal representative attended the meeting as did witness called by the Licensing Unit referenced KL.

The Committee heard verbal representations from Mrs Pritchard, Principal Licensing Officer, the witness KL and the driver and his legal representative.

The meeting gave careful consideration to all the evidence and the submissions made, including two references tabled on behalf of the driver.

Resolved – That the licence to drive a private hire vehicle and a hackney carriage vehicle be revoked 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 Committee find, that on the balance of probabilities, the driver did overcharge a passenger and was abusive to the passenger on 1st July 2015, that on 26th July 2015 whilst acting as a taxi driver he drove too fast which resulted in a crash and injury to a passenger and that on 19th August 2015 he had a dispute with a passenger over the correct fare which resulted in the assault of a passenger. Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

In coming to its decision, the Committee identified a pattern of inappropriate behaviour by the driver and specifically also took account of, viz-

- The evidence from a complainant on 1st July, 2015 of being overcharged for a return journey and being abusive by calling the passenger “white trash” which the Committee found to be credible. The driver indicated in an informal interview with a licensing officer on 20th July 2015 that he did not recall the incident, but explained to the Committee in detail his version of events of the incident. The Committee found it difficult to accept that the driver’s evidence was credible given he had claimed not to remember the incident in July but now

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remembered it in detail. Booking records show he was the driver at the time;

- The written and oral evidence from a complainant alleging the driver in the early hours of 26th July 2015 whilst driving a black cab had driven too fast which resulted in a crash due to loss of control and injuries to the passengers and considerable upset. The incident was reported to the Police and the complainant confirmed a visit to the doctors the next day. The Committee found the evidence of the complainant to be credible despite being challenged by the driver's legal representative. It was noted that the complainant had telephoned 999 during the course of the journey. The Committee noted the dispute between the complainant's version of events and that of the driver but preferred the complainant's version. It was noted that the driver said that he had a cctv camera within his vehicle but did not provide any recordings of the incident to the Committee.
- Matters around Police evidence of an alleged assault by the driver on a passenger on 15th August, 2015 which included visible evidence of an injury to the complainant's lip and the subsequent arrest of the driver. The complainant subsequently decided not to pursue the matter further but the Committee find on the balance of probabilities, that the driver did cause injury to the passenger and the injuries were witnessed by the Police;
- The driver has previous convictions for speeding and careless driving and also has a caution relating to attempting to pervert the course of justice;
- Limited weight was given to the two character references; and
- The Committee did not find the driver's version of events to be credible in relation to the June 2015 incident as he was able to recall events of the incident at the meeting yet when interviewed by the Licensing Officer on 20th July 2015 had been unable to recall.

- They also noted that there had been 3 complaints against the driver within a short space of time, from different complainants who did not appear to be connected, and this led the Committee to believe on the balance of probabilities that the 3 allegations of misconduct had indeed occurred. They also noted that most drivers carry out their duties without receiving any complaints against them. They also found the evidence of the witness KL credible.

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

There is therefore reasonable cause to revoke both licences with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act, 1976 in the interests of public safety, as the number of complaints made by passengers against the driver were numerous and demonstrated a pattern of unacceptable behaviour which would put members of the public at immediate risk if the driver was allowed to continue to drive.

(The meeting started at 2.00pm and finished at 5.20pm)