

LICENSING SUB-COMMITTEE (SENSITIVE CASES)

MEETING, 10th OCTOBER, 2017

Present – Councillors Murray (Chairman), Mrs Fairclough, Greenhalgh, McKeon, Newall and Watters.

Councillor Murray in the Chair.

14. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Sub-Committee held on 21st August, 2017 were submitted.

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

15. 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.

16. APPLICATION TO RENEW A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LERSCS/17/17

The Director of Place submitted a report which set out details of an application which had been received to renew a licence to drive a private hire vehicle. The report went onto set out details of a misconduct matter by the applicant.

The applicant and his wife attended the meeting .

The Sub-Committee heard a verbal request from the Licensing Officer for the matter to be deferred to the next meeting to enable the complainant to attend.

Resolved – That the consideration of the matter be deferred until the next meeting when the complainant will be able to attend and give evidence.

17. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LERSCS/18/17

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

The driver and his solicitor attended the meeting and provided verbal evidence.

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

Resolved – That the licence to drive a private hire vehicle be suspended for a period of two months 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 that the driver had received a caution on 7th July, 2017 of Common Assault / assault by beating.

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 –

- The driver had received a caution on 7th July, 2017 for the offence of Common Assault / assault by beating. Police intelligence stated that the assault related to a domestic assault of the father hitting his son with a stick. The driver had admitted the offence.

- The Council's Licensing Policy indicates that an extremely serious view is taken where a person has been convicted of any offence of violence and that a driver would normally have his licence revoked for an assault matter when the date of the conviction is less than 5 years. The Policy also explains that offences of violence against a young person would normally mean a licence is revoked;
- On questioning the driver admitted hitting his son two or three times with a stick as a result of the son talking back to him and being disobedient. He also indicated that his son had made the complaint to the Police;
- The Sub-Committee noted the driver's regret and contrition and the driver's good record for over ten years.

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.

There is therefore reasonable cause to suspend the private hire driver's licence as a warning and a deterrent.

18. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LERSCS/19/17

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 went onto set out details of misconduct matters by the applicant.

The applicant, his wife, solicitor and trade representative attended the meeting and provided verbal evidence.

The Sub-Committee also 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 applicant is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Sub-Committee noted that the applicant had been accused of two counts of child abduction and had been caught using a vehicle uninsured against third party risks and illegally plying for hire. 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 concerning the applicant being previously accused of two counts of child abduction. The Director of Place, in accordance with the Council's Scheme of Delegation had previously revoked the applicant's private hire drivers licence on 15th May, 2015 on the grounds of public safety and included in the Director's decision was the fact that the applicant's vehicle was in the vicinity of the alleged attempted abductions at the time and he was on bail at the time on suspicion of two counts of attempted child abduction. The applicant did not appeal against the decision to the Magistrates Court of the decision to revoke his licence;
- The Police assertion that the applicant is not a fit and proper person to hold a private hire driver's licence. The applicant was charged with attempted abduction and the case was heard at the Crown Court on 5th December, 2016. The prosecution offered no evidence in relation to the offences on the basis there was insufficient evidence to present to a jury. The decision was made based on the criminal test of proving the case beyond reasonable doubt;

- One of the girls involved in the attempted abduction positively identified the applicant as the driver in a video identification parade electronic recording and the records from Metro Cars of Bolton show that the applicant's vehicle was in the area at the time of the incident. The applicant accepts he was in the area of the incident;
- The Sub-Committee are satisfied, on the balance of probabilities, that the attempted abduction incident did occur. The applicant denied the events and denied knowing the two girls which the Sub-Committee did not find credible;
- The applicant had been found guilty of using a vehicle uninsured against third party risks and illegally plying for hire on 15th May, 2015. The applicant alleged that the officers making the journey were persistent when they asked him to take the fare. The Sub-Committee did not accept the applicant's version of events as licensing officers explained a strict protocol was followed and officers do not repeatedly ask to be taken on a journey. This led the Sub-Committee to doubt the applicant's credibility. Using a vehicle uninsured against third party risks is a major offence under the Council's Licensing Policy and a person applying for a licence with such a conviction would normally have their application refused if the date of the conviction was less than three years; and
- The applicant tabled several references in support of his application which the Sub-Committee gave limited weight to.

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.

There is therefore reasonable cause to refuse to grant the private hire driver's licence.

(The meeting started at 10.00am and finished at 1.28pm)