

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE**

MEETING, 17TH MARCH, 2015

Present – Councillors A. Connell (Chairman), Jones (Vice-Chairman), D. Burrows, Bury, L. Byrne, J. Byrne, Chadwick, Greenhalgh, Hall, Haslam, Haworth, Murray, Mrs Swarbrick and Wild.

Councillor A. Connell in the Chair.

An apology for absence was received from Councillor Mrs Fairclough .

34. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Committee held on 10th February, 2015 were submitted.

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

**35. MINUTES OF THE LICENSING SUB-COMMITTEE
(SENSITIVE CASES)**

The minutes of the proceedings of the Licensing Sub-Committee (Sensitive Cases) held on 4th February, 2015 were submitted.

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

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

The minutes of the proceedings of the Licensing Sub-Committee (Traffic Matters) held on 9th February, 2015 were submitted.

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

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. APPLICATION FOR A LICENCE TO OPERATE PRIVATE HIRE VEHICLES LER/06/15

The Director of Environmental Services submitted a report which set out details of an application for a licence to operate private hire vehicles, where the booking process used new technology.

The report reminded the Committee that the operators of private hire vehicles were licensed and regulated by the Council by virtue of the Local Government Miscellaneous Provisions Act, 1976. Furthermore, the report also detailed the Council's Private Hire Operator Conditions.

The report went onto set out details of the business concerned.

The Committee also received a presentation on the operation and use of the proposed new technology from the applicants.

Resolved – That the Committee find that the applicants are fit and proper to hold an operator's licence and that the licence to operate private hire vehicles be approved, subject to the application of the standard private hire operator conditions, as set out in the report.

39. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/07/15

The Director of Environmental Services submitted a report which set out details of a criminal conviction which had been imposed against a private hire driver during the period of his licence.

The driver and his representatives attended the meeting.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer, the driver and his legal representative and also a character referee.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the driver.

Resolved – That the licence to drive a private hire vehicle be revoked on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time in that since the grant of the licence he has been convicted of an offence of dishonesty.

In coming to its decision the Committee was mindful of its duty to protect the public and the offence related to one of theft of a purse including cash from a customer and using her bank card to purchase food.

Following consideration of all the evidence the Committee find that the driver was convicted of theft, being a dishonesty offence, during his employment as a private hire driver. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times.

The Committee, in coming to its decision, specifically also took account of, viz-

- The reporting of the missing purse to the Police by the complainant;

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- The evidence of the friend of the complainant who discovered the purse in the vehicle and handed it to the driver as set out in his statement;
- The Police investigation and subsequent charging of the driver of the offence of theft;
- The driver's conviction of the theft of the purse and his guilty plea;
- The Committee believed the account given by the complainant as set out in her statement;
- The customer's conversation with the driver after the theft when he denied seeing the purse;
- The Council's Licensing Policy relating to offences of dishonesty and the justification for the Policy;
- The Committee did not consider the account of the incident given by the driver today to be credible and this contradicted what he said previously;
- The Bolton Crown Court case summary which concluded that the driver had demonstrated that he is not a fit and proper person to hold a Bolton Council licence. He is a convicted thief who had ample opportunity to admit his involvement in the offence. By continuing to deny the offence he has further demonstrated dishonesty. If the driver continues to operate as a private hire driver there is a risk that he will commit further thefts from his customers; and
- The testimonials supplied by the driver were not considered adequate to satisfy the Committee that he is a fit and proper person.

The 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 reasonable cause to revoke the licence with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act, 1976 in the interests of public safety as –

- The driver was convicted of theft;

- The theft was of a passenger's purse and the offence was committed whilst acting as a private hire driver;
- Drivers are in a position of trust and deal with vulnerable people;
- The Committee consider that the public would be placed at risk if the driver was allowed to continue to drive;
- The driver had a previous warning which he ignored; and
- The loss of livelihood is not a relevant consideration.

40. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LER/08/15

The Director of Environmental Services submitted a report which outlined an application which had been received to drive a private hire vehicle.

The report explained that the applicant's previous licence had been revoked in 2012 owing to allegations of aggressive behaviour, overcharging and leaving the scene of an incident which resulted in violence.

The driver was also advised at the time that should he wish to re-apply for a licence in the future, then he would be advised to seek and evidence further training such as an NVQ in driver customer care.

The applicant attended the meeting.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer and verbally from the applicant.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the applicant.

Resolved - That the licence to drive a private hire vehicle be not granted as the Committee are not satisfied that the applicant is a fit and proper person at this time.

The Committee find it to be too soon since the revocation of the previous licence in December, 2012 to consider granting the

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applicant a new licence and remain unconvinced that the applicant's behaviour and conduct has changed and does not remain a threat to public safety.

In coming to its decision the Committee was mindful of its duty to protect the public and the applicant's previous licence had been revoked in 2012 owing to allegations of aggressive behaviour, overcharging and leaving the scene of an incident which resulted in violence and there was no evidence that the applicant's behaviour and conduct had changed and could be trusted in an unsupervised environment with passengers.

The Committee, in coming to its decision, specifically also took account of, viz-

- The background of previous recent complaints as set out in the report;
- The fact that the applicant had not undertaken additional training or an NVQ in driver customer care;
- Additional information from the Police concerning the applicant's admittance of the theft of an iphone adapter in September, 2013 where restorative justice was used. This was subsequent to his licence revocation in 2012; and
- There being no supporting evidence of how the applicant had changed his ways, for example, verbal or written testimonials.

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

There is therefore reasonable cause to refuse to grant the licence.

(The meeting started at 2.00pm and finished at 4.55pm)