

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE**

MEETING, 10TH FEBRUARY, 2015

Present – Councillors A. Connell (Chairman), Jones (Vice-Chairman), L. Byrne, Bury, Chadwick, Cunliffe (as deputy for councillor D. Burrows), Mrs Fairclough, Hall, Haslam, Haworth, Murray, Sherrington (as deputy for Councillor J. Byrne), Mrs Swarbrick and Wild.

Councillor A. Connell in the Chair.

Apologies for absence were received from Councillors J. Byrne, D. Burrows and Greenhalgh.

25. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Committee held on 21st October, 2014 were submitted.

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

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

The minutes of the proceedings of the Licensing Sub-Committee (Sensitive Cases) held on 21st October and 24th November, 2014 were submitted.

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

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

The minutes of the proceedings of the Licensing Sub-Committee (Traffic Matters) held on 30th October and 12th December, 2014 were submitted.

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

28. APPLICATIONS FOR AWP GAMING MACHINE PERMIT ON PREMISES WHICH HOLD A PREMISES LICENCE

The Director of Environmental Services submitted a report which set out details of an application for a permit for Amusement with Prizes (AWP) gaming machines in a public house.

By way of background information, the report explained that the Licensing Team had received an application which related to The Saddle, 55 Lee Lane, Horwich, Bolton.

The application was submitted by Sceptre Leisure Solutions Ltd on behalf of the premises licence holder, Amber Taverns.

The application was for a new permit and requested permission for three AWP machines, all category c.

The Committee was advised that no complaints concerning the presence or the operation of the existing machines had been received.

The permit duration was indefinite and it was linked to the Licensing Act, 2003 Premises Licence.

Resolved – That the application for a new Gaming Machine Permit in relation to The Saddle, 55 Lee Lane, Horwich, Bolton. be granted as set out in the report.

29. 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 item 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.

**30. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER
LER/01/15**

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

The driver and his representative attended the meeting.

The Committee heard representations both verbally and in writing from Ms. P. Clyne, Principal Licensing Officer and from Ms. K. Lowden, Licensing Enforcement Officer.

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

Resolved – That in respect of report number LER/01/15 the driver be required to sit and pass the relevant elements of the Council's Knowledge Test at his own cost in order to receive updated information on customer care and safeguarding issues.

In coming to its decision, the Committee is mindful of its duty to protect the public and the complaint related to one of inappropriate behaviour towards two school age girls in terms of verbal abuse and causing them to be scared and upset.

Following consideration of all the evidence and the representations made, the Committee find that on the balance of probabilities inappropriate behaviour did take place between the driver and two school age girls. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times.

The Committee also took account of the matter of a previous complaint which included inappropriate hand gestures to members of the public.

There is therefore reasonable cause to require the driver to sit and pass the relevant elements of the Council's Knowledge Test as a warning and a deterrent.

31. APPLICATION TO EXTEND A HACKNEY CARRIAGE VEHICLE LICENCE LER/03/15

The Director of Environmental Services submitted a report which asked the Committee to give consideration to an application which had been received which sought approval for a hackney carriage to be licensed beyond the permitted 15 year period for a further year.

The vehicle was registered in September, 2000.

The applicant and his representative attended the meeting.

Resolved – (Councillor Chadwick abstained) That in the exceptional circumstances of the case and in view of the condition of the vehicle, the Committee is prepared for the Policy regarding the maximum 15 year age not to be applied for a further twelve months in relation to application LER/03/15, as detailed in the report.

32. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE LER/04/15

The Director of Environmental Services submitted a report which detailed an application to licence a hackney carriage vehicle as the previous licence had expired.

The applicant and his representative attended the meeting.

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

The Committee noted that the Licensing Unit had tried to contact the driver to remind him of the expiry of his licence and

indeed had written to him three months before. The telephone number the Licensing Unit had on file was unobtainable.

The Committee also found that the driver was well aware of the need to renew his licence having held a licence for 18 years and was aware of the consequences of the licence lapsing and indeed had previous experience of this in 2013.

Resolved – That the application be refused as the Committee find that there are no exceptional circumstances under the Council's Policy in this case with the plate reverting to the Council to be re-issued.

This was the second occasion within 18 months that the Committee had considered an application from the applicant concerning a lapsed licence.

33. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/02/15

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

The driver attended the meeting.

The Committee heard representations both verbally and in writing from Ms. P. Clyne, Principal Licensing Officer.

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 suspended, with immediate effect, pending the completion and passing of the relevant elements of the Council's Knowledge Test as the Committee is not satisfied that the driver is a fit and proper person at this time.

In coming to its decision, the Committee is mindful of its duty to protect the public and the complaint related to one of

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inappropriate behaviour towards members of the public in terms of verbal abuse and causing them to make a complaint.

Following consideration of all the evidence and the representations made by both the Licensing Officer and the driver concerned, the Committee find that on the balance of probabilities inappropriate behaviour did take place between the driver and members of the public. Drivers are placed in a position of trust and have a duty to conduct themselves in a professional manner at all times.

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

- The evidence provided by the complainants which the Committee finds to be credible;
- The driver's own admission that he loses his temper with customers sometimes and it was hard to be courteous, helpful and professional all the time. The driver provided no evidence of how the matter could be remedied in future;
- The background of previous complaints about the driver which support a pattern of similar inappropriate behaviour.

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 therefore reasonable cause to suspend the licence with immediate effect on the grounds of public safety and require the driver to undertake and pass the relevant elements of the Council's Knowledge Test as a warning and a deterrent.

(The meeting started at 3.00pm and finished at 5.50pm)