

## **LICENSING SUB-COMMITTEE (SENSITIVE CASES)**

MEETING, 1<sup>st</sup> DECEMBER, 2017

Present – Councillors Murray (Chairman), L. Byrne (as deputy for Councillor McKeon), Newall and Watters.

Apologies for absence were submitted by Councillors Mrs Fairclough, Greenhalgh and McKeon.

Councillor Murray in the Chair.

### **26. MINUTES OF PREVIOUS MEETING**

The minutes of the proceedings of a meeting of the Sub-Committee held on 14<sup>th</sup> November, 2017 were submitted.

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

### **27. 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.

### **28. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LERSCS/23/17**

The Director of Place submitted a report which set out details of misconduct matters in relation to an application for a licence to drive a private hire vehicle.

The driver attended the meeting and provided verbal evidence.

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

Resolved – That the application for a 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 that the applicant had previously had his licence suspended in 2013 by the Director using emergency powers and then had lapsed. Since then there had been a number of convictions and additional Police intelligence concerning inappropriate behaviour. 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 applicant's private hire driver's licence was suspended in August, 2013 as the decision was taken that the driver was not a fit and proper person to hold a private hire drivers licence. The decision related to allegations concerning the applicant acting inappropriately towards a 16 year old girl and a 14 year old boy whom he had met whilst a private hire driver. The applicant did not subsequently appeal the decision to the magistrates Court and his licence expired on 4<sup>th</sup> September, 2013. It was later established by the Police that he engaged in a relationship with her and she was pregnant by him with twins. The Police also indicate that subsequently the decision was taken to place the unborn twins on a child protection plan under the category of emotional abuse with the subsidiary category of physical abuse. A review in March, 2014 heard that following the birth they continued to be registered and a working agreement was put in place to prevent the applicant from having contact with them or their mother. Due to the working agreement not being adhered to the twins were placed in the care of the local authority ;

- The applicant denied that the girl was 16 years of age and explained that she was aged 17 and a half which the Sub-Committee did not find credible.
- The Police assertion that the applicant is not a fit and proper person to hold a private hire drivers licence, viz –
  - (i) On 27<sup>th</sup> November, 2011 the Police recorded the offence of a section 47 assault, the circumstances being that during a domestic argument the applicant had punched and hit his wife. The applicant received an adult caution in this regard.
  - (ii) On 12<sup>th</sup> September, 2013 the Police received a 999 call that the applicant was threatening to kill his wife. As a result of CPS advice the applicant was charged with the offence of section 4 harassment. On 14<sup>th</sup> August, 2013 responded to a 999 call at the family home and the applicant had allegedly had an argument with his daughter. He chased her into the garden, grabbed her by the throat and threatened to burn her face with an iron and throw acid at her. The applicant was arrested and charged with the offence. On 27<sup>th</sup> September, 2013 the applicant appeared at Bolton Magistrates Court and pleaded guilty to the offence. On 11<sup>th</sup> October, 2013 he received a sentence of 15 weeks imprisonment suspended for 18 months, a supervision requirement and costs. Subsequently on 23<sup>rd</sup> December, 2013 the applicant was sentenced to 15 weeks imprisonment.
  - (iii) On 21<sup>st</sup> December, 2013 the applicant was subject to a non-molestation order imposed by the courts with conditions not to attend the family address and was prohibited from intimidating his estranged wife. He was later arrested for the offence of breaching the non-molestation order and on 23<sup>rd</sup> December, 2013 sentenced to 12 weeks imprisonment.

- (iv) On 17<sup>th</sup> January, 2017 Police received a 999 call regarding alleged inappropriate behaviour by the applicant at a late night pharmacy where the applicant used to work. He told a member of staff, “You need to watch your back you. You might be dead tomorrow”. A report of crime for the offence of Section 4A under the Public Order Act was recorded but no further action was taken due to the victim not wishing to pursue it further.
  - (v) On 19<sup>th</sup> March, 2017 the police received a 999 call regarding an incident of domestic violence which involved the applicant grabbing his daughter by the head and banged it three times into a wall. He was charged with common assault and pleaded guilty and sentenced to a community order until 20<sup>th</sup> September, 2018, an unpaid work requirement and costs. He was also ordered to attend a rehabilitation activity.
  - (vi) On 1<sup>st</sup> May, 2017 the applicant was stopped driving a vehicle and admitted he had no insurance as he had only just bought the car. The vehicle was seized.
  - (vii) On 26<sup>th</sup> July, 2017 the applicant appeared before Greater Manchester Magistrates Court charged with the offence of failing to comply with the requirements of a community order. He was found guilty and the order resulting from the original conviction on 3<sup>rd</sup> March, 2017 was varied and he received a further unpaid work requirement.
- Guidance contained in Council’s Statement of Suitability and Fitness Policy relating to offences of violence –
    - An extremely serious view is taken where a person has been convicted of any offence of violence. Where the commission of a violent offence involves a child or young person then a person applying for a licence will normally have the application refused. Furthermore, a person with offences of common assault and assault

occasioning actual bodily harm, which the applicant has and the conviction date is less than five years would normally mean the application is refused.

- Information relating to Child Sexual Exploitation (grooming) in particular inappropriate contact both physically and in communication form.
- Matters concerning the key characteristics of domestic violence.
- The Sub-Committee found there to be a pattern of violent and aggressive behaviour together with inappropriate behaviour towards young people and the Sub-Committee were most concerned by this. Such behaviour is unacceptable for a licensed private hire driver. Furthermore, the Sub-Committee were concerned that the applicant clearly has anger management problems.
- On questioning, the applicant sought to minimise the violent conduct and dismissed the incidents either as a family matter or as a staff matter.

Prior to the end of the Sub-Committee's questions to the applicant, the applicant stormed out of the meeting saying, "you can keep your licence and I will now claim JSA".

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 well-being of the public.

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

## **29. MISCONDUCT BY A LICENSED PRIVATE HIRE DRIVER LERSCS/24/17**

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

The driver 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 revoked on the basis that the Sub-Committee is not satisfied tha 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 a caution for Battery and Police intelligence of various other alleged offences. 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 driver had received a caution for Battery on 9<sup>th</sup> August, 2013. The driver admitted pushing his wife although he claimed she pushed him back;
- A pending trial for Common Assault from 8<sup>th</sup> September, 2017 with a trial date set for 6<sup>th</sup> December, 2017. The driver explained to the Sub-Committee that he pushed the victim who fell to the ground but that this was in response to the other party pushing him first. The Sub-Committee had regard to the photographs showing the injury to the victim;
- The driver failed to declare the Battery Caution from 2013 on the application forms submitted for the renewal of his licence dated 19<sup>th</sup> December, 2013, 2nd February, 2015

and 10<sup>th</sup> March, 2016. He made a false declaration on the application forms submitted on these dates. He claimed he did not know he should declare the offences which the Sub-Committee did not find credible;

- The Police assertion that the driver is not a fit and proper person to hold a private hire drivers licence. Intelligence from 29<sup>th</sup> July, 2008 alleged that whilst operating as an ice cream trader the driver assaulted a customer by grabbing a child by the arm and pulling him towards the counter causing reddening to the child's arm. Officers recorded the offence of Section 47 assault. Also on 28<sup>th</sup> July, 2008, it was alleged the driver said, "prove that you're a boy show me your willy". The matters were referred to the CPS but the decision was made to take no action due to the victims age and inconsistencies in the accounts. The driver denied both allegations to the Sub-Committee which the Sub-Committee did not find credible;

An allegation that on 3<sup>rd</sup> April 2010 the driver assaulted an ice cream trader by punching his victim in the face and threatening to stab the victim if he came here again. Officers recorded this as a Section 39 Common Assault but due to there being no witnesses no further action was taken.

A report of a section 47 assault was made against the driver whilst operating as an ice cream vendor which involved the driver slamming the window shut trapping a child's finger and calling the victim, a stupid bitch. The matter was reported to the Police but the driver denied the offence and no further action was taken.

The driver denied this to the Sub-Committee and said he was not the driver at the time, which the Sub-Committee did not find credible following consideration of the Police information. The Sub-Committee also had regard to the photographs showing the injury to the child.

A report of assault on 12<sup>th</sup> April, 2012 which involved the driver punching a neighbour in the face. A crime was

recorded but the victim did not want to pursue any Police investigation and no further action was taken.

- An extremely serious view is taken where a person has been convicted of any offence of violence. Furthermore, a person with an offence of Battery and the conviction date is less than five years would normally mean the licence is revoked as set out in the Council's Statement of Fitness and Suitability.
- The Sub-Committee found there to be a pattern of inappropriate violent and aggressive behaviour and were concerned by this and is not acceptable behaviour for a licensed driver. The Sub-Committee were concerned that the driver clearly has anger management problems.

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 well-being of the public.

There is therefore reasonable cause to revoke the private hire driver's licence with immediate effect on the grounds of public safety.

(The meeting started at 10.00am and finished at 12.00pm)