

LICENSING SUB-COMMITTEE
27 JULY 2017

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Delyn Committee Room, County Hall, Mold CH7 6NA on Thursday, 27 July 2017

PRESENT: **Councillor Tony Sharps (Chairman)**
Councillors David Cox and Mike Reece

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:
Solicitor, Licensing Team Leader, and Committee Officer

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received.

2. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following item as it was considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

The Chair welcomed the applicant and introduced the Members of the Sub-Committee and Council officers. He explained the procedure for the hearing, including how the application would be determined.

3. APPLICATION FOR A PRIVATE HIRE / HACKNEY CARRIAGE (JOINT) DRIVER LICENCE

The Licensing Team Leader presented the report to consider an application for a Private Hire/Hackney Carriage (Joint) Driver, licensed by the Authority.

The Licensing Team Leader explained that the application had asked for details of any previous convictions and the applicant had disclosed a conviction. On receipt of the applicant's Disclosure and Barring Service (DBS) criminal records disclosure further convictions were shown. Written explanations of all the convictions were appended to the report. Due to the nature of the convictions the applicant was invited to appear before the Licensing Sub Committee to determine whether he was a fit and proper person to hold a Joint Driver Licence.

The Chairman invited the applicant to give a full explanation of his previous convictions as detailed on the Disclosure and Barring Service (DBS) criminal records disclosure.

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The applicant referred to the written explanations which were appended to the report to address his convictions and provided further background information and explanation of all offences. He also responded to the questions raised concerning his personal and family circumstances and employment background and took the opportunity to circulate supporting evidence to the Panel.

The Solicitor sought clarification on why the applicant had failed to disclose all his convictions on the licence application form and had recorded only one conviction when the application had requested particulars of any offences. The applicant explained that he had wrongly assumed that just the last conviction was relevant and that the previous convictions, which dated back many years, were spent and did not need to be declared. The applicant said he regretted all his offences and reiterated the personal circumstances which had provoked them. He said he had committed some of the offences in his youth and that he had since been free of convictions for many years.

The Solicitor questioned the applicant in detail concerning his last conviction and asked him to provide further clarification around the circumstances which had caused him to commit the offence and the sentence he had served.

When asked, the applicant replied that he regarded himself as a fit and proper person to hold a licence and reiterated that the omission of his previous convictions on his application form had been an unintentional mistake. In response to a request from the Panel the applicant provided information on his future employment prospects should his application be successful.

When the Chairman was satisfied that all relevant questions had been raised, he requested that the applicant and the Licensing Team Leader leave the meeting whilst the application was determined.

3.1 Determination of the Application

In determining the application, the Sub Committee considered the Council's guidance on the treatment of convictions which was appended to the report. During consideration concerns were expressed about the honesty of the applicant as he had failed to disclose all his convictions. The Panel considered the circumstances involved in each case and the length of time since the last conviction and felt that the applicant had given a full and credible account of his actions. The Panel agreed that the applicant was a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Driver Licence.

The Licensing Team Leader and the applicant were invited to return and the meeting was reconvened.

3.2 Decision

The Chairman advised the applicant that the Sub Committee had decided that he had given a full and credible account of his actions and his previous convictions and had agreed to grant the application.

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RESOLVED:

That the applicant was a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Driver Licence under the Local Government (Miscellaneous Provisions) Act 1976 and that the Licence be granted.

(The hearing commenced at 10.00 am and ended at 10.45 am)

HEARING TWO

INTERESTED PARTIES:

Private Hire Operator, and Applicant's Partner

Applicant

Prior to the start of the meeting the Licensing Team Leader explained that the Licence Holder had asked that the interested parties be present at the meeting. The Chairman asked the Licence Holder if he wished the interested parties to be present whilst confidential information was disclosed during the meeting. The Licence Holder confirmed that he wished the interested parties to be present during the hearing and asked that his employer be allowed to speak on his behalf if necessary.

The Chair welcomed the Licence Holder and the Interested Parties and introduced the Members of the Sub-Committee and Council officers.

He explained the procedure for the hearing, including how the application would be determined.

4. CONDUCT OF A PRIVATE HIRE / HACKNEY CARRIAGE (JOINT) DRIVER

The Licensing Team Leader presented the report to consider the conduct of a Private Hire/Hackney Carriage (Joint) Driver and to determine whether he remained a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976 to continue to hold such a licence.

The Licensing Team Leader provided background information and referred to a hearing of the Sub Committee which had been held on 3 April 2017. She advised that following the Sub Committee hearing, information was received from the Notifiable Occupations section of North Wales Police (NWP) which had been disclosed for the purpose of informing the Licensing Section of a potential risk. The matter was referred to the Licensing Sub Committee as the incident had happened prior to the hearing on 3 April 2017 and it was felt that the Panel should have been given the opportunity to take this into consideration at that meeting.

The Chairman asked the Licence Holder to explain the circumstances of the incident as detailed in the report. The Licence Holder explained that it had

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been alleged that he had acted inappropriately when he had taken a passenger to her home address. He denied the allegation and said he had “gone out of his way” to provide assistance to the passenger and had helped her by carrying her shopping to her door. The Licence Holder said he was surprised by the complaint because he had been sociable with the customer but had not made any personal remarks or gestures towards her. When questioned by the Chairman the Licence Holder confirmed that he had given the customer a “peck on the cheek” as he said goodbye to her to return to his vehicle but said he had not intended to cause offence. He explained that he regarded his action as normal “sociable” behaviour and said he enjoyed his job and meeting people. When questioned further the Licence Holder said he did not know the customer and had not taken a “booking” for her previously. The Licence Holder acknowledged, that his behaviour may be deemed inappropriate. .

The Panel questioned the Licence Holder and Private Hire Operator regarding the follow-up action which had been taken by North Wales Police.

The Solicitor asked the Licence Holder to explain why he had failed to disclose the allegation at a previous hearing. The Solicitor questioned the Licence Holder further about his actions when he had taken his customer to her home address. The Licence Holder and the Private Hire Operator confirmed that whilst the incident had occurred prior to the hearing the allegation had not been made known to either party until after the hearing on 3 April 2017. When asked, the Licence Holder replied that he considered himself to be a fit and proper person to hold a licence and reiterated that he enjoyed his job and provided assistance to his customers if necessary and engaged with them in a social manner.

The Panel asked the Licence Holder why he had not reported the incident to his employer after it had occurred. The Licence Holder explained he was not aware he had caused his customer any offence and said there had been no indication, verbally or otherwise, from her at the time that he had acted inappropriately towards her. He stated that the customer had thanked him for his assistance when he left.

The Chair allowed the Licence Holder’s employer (the Operator) to speak on his behalf. The Operator spoke in support of the Licence Holder who had worked for his business for a number of years. The Operator explained that he ensured his drivers maintained good standards and that his business had a good reputation. He explained that he had taken measures to ensure the incident was not repeated and that his business did not accept future bookings from the customer.

The Chairman asked the other interested party present if she believed the Licence Holder to be a fit and proper person to continue to hold such a licence. The interested party confirmed she did and said the Licence Holder was a genuine, sociable person who enjoyed helping and engaging with his customers.

The Licensing Team Leader, the Licence Holder, and the interested parties were asked to leave the meeting whilst the application was determined.

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4.1 Determination of the Application

The Sub-Committee considered the allegation which had been received and all the representations made. The Sub Committee considered all the information provided to determine whether the Licence Holder remained a fit and proper person to continue to hold a Joint Driver Licence.

When considering the application, the Sub Committee had an overriding consideration for the protection of the public and this was at the forefront when making decisions of this nature.

The Sub Committee considered the decision of the Licensing Sub Committee at a meeting which had been held on 3 April 2017.

Having considered the complaint the Sub Committee decided that no further action would be taken and that the Licence Holder remained a fit and proper person to continue to hold a Joint Driver Licence.

The Licensing Team Leader and the applicant were invited to return and the meeting was reconvened.

4.2 Decision

The Chairman advised the Licence Holder that the Sub Committee had considered the complaint and had decided no further action would be taken. The Sub Committee had determined that the Licence Holder remained a fit and proper person to continue to hold a Joint Driver Licence.

RESOLVED:

That the Licence Holder remained a fit and proper person to continue to hold a Private Hire/Hackney Carriage (Joint) Driver Licence under the Local Government (Miscellaneous Provisions) Act 1976.

The second hearing commenced at 10.55 am and ended at 11.55 am.

(The meeting started at 10.00 am and ended at 11.55 am)

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