

LICENSING SUB-COMMITTEE
21 DECEMBER 2015

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Delyn Committee Room, County Hall, Mold on Monday, 21 December 2015

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Jim Falshaw and Ian Dunbar (substitute for Councillor Mike Reece)

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:

Licensing Team Leader (Gemma Potter), Solicitor (Tim Dillon) and Committee Officer (Tracy Waters)

Applicant

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 items 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).

3. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman welcomed the applicant and introduced the panel members. He queried whether the applicant was happy to accept the substitution of Councillor Ian Dunbar for Councillor Reece who was unwell; the applicant confirmed that they were. The Chairman 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 introduced the report to consider the conduct of a Private Hire/Hackney Carriage (Joint) Driver.

The applicant had declined to make written representations at the time of collating the report and was happy to answer any questions at this meeting.

In presenting the report, the Licensing Team Leader provided background information and key considerations, as set out in the report, and explained that due to the nature of the applicant's admission of the offences, the panel was required to determine whether the applicant remained a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976

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to continue to hold a Private Hire/Hackney Carriage (Joint) Driver Licence. The report detailed information on the applicant's offences and the Council's adopted guidance on dealing with such matters.

Following the presentation of the report to the panel, the Chairman confirmed with the applicant that they had received a copy of the report and appendices.

In response to a question from the Chairman, the applicant confirmed that the written representations within the report and appendix were a correct record. The applicant explained the circumstances leading up to the committing of the offences. The Chairman and the panel asked questions of the applicant relating to their family background and medical history.

The Solicitor sought clarification on the offences committed and explained that this was necessary to determine whether the applicant remained a fit and proper person to continue to hold a licence. The applicant provided a detailed response, accepting they had committed the offences and expressing regret. The Solicitor questioned the applicant on whether they could be easily influenced and pressured into committing such offences in the future. In response, the applicant stated that they would not be and had learnt their lesson. .

When asked by the Chairman, the applicant said that they did not wish to raise any questions with the panel.

The Licensing Team Leader and the applicant were asked to leave the meeting whilst the application was determined.

4.1 Determination of the Application

In determining the application, the panel considered the Council's guidance on the treatment of convictions, cautions, criminal charges or other recorded sanctions, which was appended to the report. Whilst each case was considered on its own merits, the panel paid particular attention to paragraph 4.21 (in respect of dishonesty) of the Flintshire County Council Guidance on the Treatment of Convictions, Cautions, Criminal Charges or other recorded sanctions and paragraph 1.10 (section iii) of the report that referred to Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976. This provided that the Committee may suspend or revoke the licence on any of the following grounds:

- a) That since the grant of a licence the holder has:
 - i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - ii) Been convicted of an offence under, or failed to comply with the provisions of Part II of the Act
 - iii) Any other reasonable cause.

The panel felt that the actions of the applicant had been pre-meditated and the offences were very serious involving dishonesty. Due to the

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circumstances, including court proceedings pending, as the applicant has already admitted the offences then technically 'Section 61 (1) (a) iii any other reasonable cause' applied and not Section 61 (1) (a) (i) of the Act.

It was noted and considered that much of the applicant's work involved the transportation of children. This was of great concern for the panel and the panel was of the view that the overarching duty was the protection of the public when determining whether or not someone is a fit and proper person to have such a licence. It was felt that the protection of the public principle could be undermined in the event the applicant continued to have a licence due to nature of the offences committed.

Following consideration of all the representations made, the panel was of the view that the applicant was not a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976 to continue to hold a Private Hire/Hackney Carriage (Joint) Drivers Licence.

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

4.2 Decision

The Chairman advised that the panel had decided that the applicant was not a fit and proper person to continue to hold a private hire driver licence and would therefore revoke the licence. The panel, when considering the application, had an overriding consideration for the protection of the public.

The applicant was reminded of their right to appeal the decision, within 21 days, if should they wish to do so.

The Chairman advised that the Solicitor would read out the decision of the panel, which was as follows:-

'The Licensing Sub-Committee considered all representations made, both verbal and written.

The Licensing Sub-Committee were very concerned about the dishonesty offences committed of which you have admitted criminal liability.

The Sub-Committee note your Private Hire Taxi duties include the transportation of children. When determining whether or not you are a fit and proper person to hold a Private Hire Licence, the primary consideration is the protection of the public.

In consideration of this, the Licensing Sub-Committee are of the view that you are not a fit and proper person to hold a licence.

As a result of this, the Sub-Committee have decided to revoke your Private Hire Taxi Licence forthwith by virtue of Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 (a) (iii), namely any other reasonable cause.'

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RESOLVED:

That in light of the evidence produced both in written form and orally at the meeting, the Sub-Committee decided to revoke the Private Hire Taxi Licence forthwith by virtue of Section 61 (1) of the Local Government Miscellaneous Provisions Act 1976 (a) (iii) namely any other reasonable cause.

(The meeting started at 2.00 pm and ended at 3.10 pm)

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