

LICENSING SUB-COMMITTEE
3 APRIL 2017

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Clwyd Committee Room, County Hall, Mold CH7 6NA on Monday, 3 April 2017

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

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

INTERESTED PARTIES:
Private Hire Operator, Complainant

Prior to the start of the meeting the Chairman was informed that the Licence Holder had said he had not received the agenda in advance of the day of the meeting. The Licensing Team Leader explained that a copy of the agenda and enclosed report had subsequently been given to the Licence Holder before commencement of the meeting. In acknowledging that there may have been a delay in the applicant receiving the agenda, the Chairman asked him if he had been given sufficient time for preparation and if he wished to proceed with the hearing today. The Licence Holder replied that he did wish to proceed with the hearing and asked that his employer be allowed to speak on his behalf if necessary.

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).

3. HEARING AND DETERMINATION OF THE APPEAL

The Chair welcomed the Licence Holder, the complainant, and the Private Hire Operator, and introduced the Members of the Sub-Committee and Council officers.

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

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

The Licensing Team Leader introduced the report to consider the conduct and breach of conditions of a Private Hire/Hackney Carriage (Joint) Driver, licensed by the Authority. She provided background information and referred to the main considerations, as detailed in the report, concerning a complaint which had been received that the Licence Holder had acted inappropriately and not in accordance with the conditions of his licence. The Panel was asked to consider whether the Licence Holder 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 Chairman referred to the statement provided by the complainant which was appended to the report and asked her if she wished to provide any further information. The complainant explained the circumstances which had lead up to the offences being committed. In response to the Panel's questions she described the nature of the Licence Holder's behaviour towards herself and her fellow passengers on the day of the booking. She said she had been concerned for the safety and well-being of her fellow passengers in the vehicle on their return journey.

The Chairman thanked the complainant for her detailed responses to Members questions and her attendance at the hearing.

The complainant withdrew from the meeting.

The Panel questioned the Licence Holder regarding the difficulty he had experienced in obtaining the full pick-up addresses for his passengers and how he had sourced that information. The Panel asked further questions around the fare agreed for the booking and the request for an additional payment. The Licence Holder responded to the questions and asked the Operator to explain how the computerised booking system worked in his company.

The Chairman asked the Licence Holder to explain the arrangements for seating the passengers in the vehicle on the return journey and especially the passenger who was in a wheelchair. The Chairman asked if the wheelchair had been securely anchored in the vehicle. In his response the Licence Holder stated that the wheelchair had been securely anchored in the vehicle. The Chairman referred to the statements which had been provided by the passengers which disputed the Licence Holder's explanation of how they had been seated and his statement regarding the securing of the wheelchair.

The Solicitor asked the Licence Holder to explain why he had contacted the person who had arranged the booking at her home address and his manner towards her that day. The Licence Holder said he had made direct contact with

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the individual to obtain the full details of the addresses for his passengers because she had been responsible for arranging the booking. The Licence Holder said he had been positive and approachable in his behaviour towards her.

The Solicitor questioned the Licence Holder further on his actions on the return journey and how he had instructed the passengers to get into their seats in the vehicle. The Solicitor asked the Licence Holder to describe how he had secured the passenger who was seated in a wheelchair into the vehicle. The Solicitor referred to the allegations by the complainant that the Licence Holder's driving had been "erratic" and "too fast". The Solicitor asked the Licence Holder if he was fully aware of the needs and requirements of disabled people.

The Solicitor reminded the Licence Holder of the standard conditions of licence concerning the conduct of a Driver as detailed in the report.

The Licensing Team Leader drew attention to discrepancies between the Licence Holder's account of events at the hearing and the information he had provided to the Licensing Team when invited to County Hall to discuss the complaint.

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. He said he had not received any complaints from either customers or staff regarding the Licence Holder's behaviour or driving during his employment. The Operator explained that he ensured his drivers maintained good standards and that his business had a good reputation.

The Licensing Team Leader, the Licence Holder, and the Licence Holder's employer, were asked to leave the meeting whilst the application was determined.

4.1 Determination of the Application

Following consideration of the Licence Holder including all representations, the Sub-Committee was of the view that it was very concerned about the applicant being a fit and proper person to continue to hold a Private Hire/Hackney Carriage (Joint) Driver Licence. The Panel were concerned about the applicant's credibility, his driving, and his behaviour towards his customers.

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

4.2 Decision

The Sub-Committee considered all the representations made by everyone. The Sub-Committee are very concerned about the licence holder being a fit and proper person to continue to hold a Private Hire/Hackney Carriage (Joint) Driver Licence.

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The Sub-Committee when considering the application expressed concern about the licence holder's credibility, especially in relation to the claim that the licence holder had failed to ensure a passenger's wheelchair had been securely anchored in the vehicle; the applicant's driving as well as the allegations about his treatment of disabled customers. The Sub-Committee take the review that, on balance, the allegations against the licence holder are probably correct especially given the fact there were multiple witnesses. The Sub-Committee concluded that the licence holder was in breach of some of Flintshire County Council's Joint Driver Licences, in particular 1 (a) and 1(g).

The Sub-Committee, when considering the application, had an overriding consideration for the protection of the public and this is at the forefront of their mind when making decisions of this nature

The Sub-Committee, given the nature of the allegations, the resultant breaches of his licence and the concerns about him being a fit and proper person to have a driver's private hire licence felt it would be proportionate and justified to therefore impose a requirement that the licence holder sits and pass an accredited Safeguarding course (Vulnerable Adults and Children) either online or in person within 12 months of the date of the hearing (3 April 2017). The course must be undertaken at the licence holder's own expense and to the satisfaction of the Licensing Authority.

RESOLVED:

That the licence holder must sit and pass an accredited Safeguarding course (Vulnerable Adults and Children) either online or in person within 12 months of the date of the hearing (3 April 2017). The course must be undertaken at the applicant's own expense and to the satisfaction of the Licensing Authority.

(The meeting commenced at 2.00 pm and ended at 4.10 pm)

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