

LICENSING SUB-COMMITTEE
1 SEPTEMBER 2021 (10AM)

Minutes of the remote attendance meeting of the Licensing Sub-Committee of Flintshire County Council held on Wednesday, 1 September 2021

Present: Councillor Tony Sharps (Chairman)

Councillors: Ron Davies and Ralph Small

Officers of Flintshire County Council:

Licensing Officer (James Lowe) and Democratic Services Officer (Sharon Thomas)

Legal Officer

Solicitor (Matt Powell)

Licence Holder

1. APOLOGIES

None.

2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

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

RESOLVED

That the press and public be excluded from the meeting for the following item as this 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).

4. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman welcomed the licence holder and introduced the panel members. He explained the procedure for the hearing including how the application would be determined.

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

The Licensing Officer presented the report to consider the conduct of a Private Hire/Hackney Carriage (Joint) Driver in respect of additional information disclosed on his Disclosure and Barring Service (DBS) Enhanced Certificate at the discretion of the Chief of Police. The report detailed the key considerations involving the reasons for the hearing, the written representation provided by the licence holder and relevant sections of the Council's adopted guidance on the treatment of convictions, cautions and other recorded sanctions. Prior to the

meeting, the Licensing Officer had also shared with the panel a press article relating to the licence holder's conduct on a previous occasion.

In response to questions from the panel and Solicitor, the licence holder provided clarification on events leading up to his decision to initiate contact with the Police. The licence holder accepted that he had engaged in communications in an adult chat room but denied sending any videos or images and denied that the communications amounted to criminal conduct. The licence holder did not know who had complained to the Police or why they would do so. He was unable to explain why the messages were said to have included his telephone number although mentioned that such information may be in the public domain. He said that whilst he co-operated with the Police, he chose to give a "no comment" interview in accordance with advice from his Solicitor. The Police investigation of the allegations made against the licence holder concluded that no further action would be taken against him.

Following that outcome, the licence holder said that retention of the disclosure on his Enhanced Disclosure and Barring Service (DBS) form had caused him considerable distress. Whilst he accepted that the Licensing Authority could have regard to relevant information disclosed at the discretion of the Chief Constable, he reiterated that there were no charges, convictions or cautions arising from the Police investigation and was subject to ongoing legal challenge through his Solicitor. The licence holder explained the circumstances of the newspaper report and said that it did not relate to the information disclosed in the DBS.

When asked by the Chairman if he wished to make further representations, the licence holder thanked the panel for their consideration and urged them to take account of the facts; that the information had remained on his DBS form despite the outcome of the Police investigation. He spoke about his willingness to provide reassurance to the panel in order to move on from what had been a difficult period in his life.

When the Chairman was satisfied that all relevant questions had been raised, he asked that the licence holder and the Licensing Officer leave the meeting to enable the panel to reach a decision.

5.1 Determination of the Application

In determining the application, the panel took into account all written and verbal representations together with the Council's Guidance on the Treatment of Convictions, Cautions, Criminal Charges or other recorded sanctions and the Statutory Disclosure Guidance. The panel considered the options available but noted representation had been made that there was ongoing legal challenge against the inclusion of the information disclosed by the Police. There was insufficient information to understand the nature of that challenge and the Sub-Committee determined to adjourn the meeting to allow further information to be provided by the licence holder and any that may be forthcoming from the Police.

The Licensing Officer and licence holder were invited to return so that the meeting could be reconvened.

5.2 Decision

The decision below was read out.

RESOLVED:

The Sub-Committee resolved to adjourn the hearing in order to allow further enquiries to be made of the Chief Constable and to allow the driver to produce his Solicitor's correspondence with North Wales Police relating to the ongoing challenge which may be of assistance to the Sub-Committee.

(The meeting started at 10am and ended at 11.45am)

.....
Chairman