

LICENSING SUB-COMMITTEE
20 OCTOBER 2021

Minutes of the remote attendance meeting of the Licensing Sub-Committee of Flintshire County Council held on Wednesday, 20 October 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 and representative

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 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 a recent incident which had been reported to the Council's Transportation Department. The report, which included statements by the licence holder and a witness to the incident, highlighted the relevant sections of the Council's adopted guidance on the treatment of convictions, cautions and other recorded sanctions to enable the panel to determine whether the driver should be allowed to continue to hold his

licence or whether it should be suspended or revoked. The panel was informed that the incident was currently being investigated by the Police.

In response to questions, the licence holder provided background on the circumstances surrounding the incident, explaining that he had taken an illegal substance (cannabis) to alleviate the pain caused by an injury. He said that he had taken a small amount after dropping off a customer, who he was due to drive home. His former employer, who accompanied him at the hearing, spoke in support of his prior conduct and said that on the day in question, he had contacted her to profusely apologise and explain the situation and that she had advised him not to drive and to wait by his car so that she could collect him. She explained that arrangements had been made for an alternative driver to take over and that following the incident, the licence holder had been suspended until the matter could be resolved.

In his defence, the licence holder said that he had a clean Disclosure and Barring Service (DBS) record dating back some years but admitted that a series of challenges in his personal life had led to him making some bad decisions.

During questioning, it emerged that the licence holder had not received the meeting agenda pack containing the Licensing Officer's report and appendices including statements. The Chairman agreed with the Solicitor's suggestion that the agenda be emailed immediately to the licence holder and that the panel adjourn for a 15 minute break to allow him to read it. The licence holder confirmed that this was acceptable and after 15 minutes, the meeting was re-convened.

In response to questions from the Solicitor, the licence holder said that he was aware of the standard conditions of licence for private hire drivers and had been remiss not to notify the Council of his injury, as set out in section 9 of the conditions. He explained his reasons for not seeking medical attention for his injury and that an acquaintance had given him the illegal substance following his operation. He said that he had not driven during that time as he had no access to a vehicle. Under questioning, he accepted that he was aware of cannabis being an illegal substance and that possession and driving under the influence of illegal substances could be an offence. He accepted that he should not have been doing so, and said the effect could be seen to be similar to that of drink driving.

The licence holder and his representative were asked if they wished to make any further representations.

The licence holder said that the incident was completely out of character and would not happen again, adding that he hoped that his past record would be taken into consideration. During the discussion, it emerged that after taking the illegal substance and contacting his employer, the licence holder had then driven the car a short distance to the end of the road to await pick up. He said that he had panicked and was embarrassed about being seen. He described the incident as a catalogue of 'stupid decisions' which would not be repeated.

When the Chairman was satisfied that all relevant questions had been raised, he asked that the licence holder (and representative) 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 considered the licence holder's written and verbal representations together with the Council's Guidance on the Treatment of Convictions, Cautions, Criminal Charges or other recorded sanctions. Whilst noting the licence holder's past record, the panel considered the conduct was serious given the nature of the driving contract that was being carried out at the time and risk to public safety. The licence holder was aware of the possible repercussions of his conduct, but despite that, had driven a short distance afterwards having taken a substance he knew to be illegal.

The panel was therefore not satisfied that the driver was a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Driver Licence and unanimously determined that it should be revoked, with immediate effect because of the risk to public safety.

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

5.2 Decision

The Solicitor read the decision (below) and before closing the meeting, the Chairman confirmed the licence holder's right to appeal.

RESOLVED:

After carefully considering all of the information, the Sub Committee has decided to revoke the Licence Holder's Private Hire / Hackney Carriage (Joint) driver's licence. The Sub Committee is satisfied that the conduct of the Licence Holder (including having smoked a substance which he knew to be illegal and having driven a short distance afterwards) means that he is no longer a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976 to hold a Private Hire / Hackney Carriage (Joint) driver's licence. The Sub Committee has further determined that in the interest of public safety the revocation take immediate effect because in conducting himself the Licence Holder has shown a significant degree of recklessness and extremely poor decision making.

(The meeting started at 10am and ended at 12.15pm)

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Chairman