

LICENSING SUB-COMMITTEE
18 DECEMBER 2023

Minutes of the Licensing Sub-Committee of Flintshire County Council held as a remote attendance meeting on Monday 18 December 2023

Present:

Councillors: Rosetta Dolphin (Chair), Glyn Banks and Geoff Collett

Officers of Flintshire County Council:

Licensing Team Manager (Gemma Potter), Solicitor (Matthew Powell) and Democratic Services Officer (Sharon Thomas)

Licence holder

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

2. 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).

3. CONVICTIONS, CONDUCT AND BREACH OF CONDITION OF A LICENSED PRIVATE HIRE/HACKNEY CARRIAGE DRIVER

The Licensing Team Manager presented the report to consider the convictions, conduct and breach of condition of a Licensed Private Hire/Hackney Carriage (Joint) Driver and to determine whether that person remains fit and proper to continue to hold such a licence.

In response to questions, the driver shared background on the delays in providing information requested by the Licensing team and the circumstances surrounding the repeated offences and caution for battery. The driver also provided details of steps he had taken to improve documenting processes.

When the Chair was satisfied that all relevant questions had been raised, she asked that the driver and the Licensing Team Manager leave the meeting to enable the panel to reach a decision.

Following a brief adjournment, the Licensing Team Manager and driver were invited to return so that the meeting could be reconvened.

It was explained that Members of the Sub-Committee had considered all of the information including the licencing officer's report, details of convictions, the

Council's guidance on the treatment of convictions and the statutory guidance as well as the explanations given by the driver.

The Sub-Committee considered all of the motoring convictions to be relevant. They had regard to the driver's explanations and mitigating circumstances but could not get behind the fact of the convictions which had resulted in the driver's DVLA licence being endorsed with 15 points. This would have resulted in disqualification had it not been for the Court accepting reasons of exceptional hardship. They considered that the guidance on disqualification within the Council's guidance on the treatment of convictions was relevant. This provides that where sufficient penalty points have accrued within a three year period under the "totting up" system to cause or merit disqualification, an applicant would not be granted a licence until 12 months following the end of the disqualification period notwithstanding the decision of the court to waive the disqualification for reasons of exceptional hardship.

The Sub-Committee also had regard to the caution from 2020. The circumstances that resulted in this caution were of concern and with regards to the Council's guidance on the treatment of convictions, the Members considered that the date of the caution meant that it was still relevant. They also considered the fact that the driver had not provided details of this caution on a renewal application or in line with the standard conditions to be relevant as was the fact that the driver needed to be reminded several times by the licencing authority to return important paperwork including a DBS. The Members considered this conduct did not meet the levels of professionalism expected from a licenced driver.

The Sub-Committee also considered that all of the relevant matters taken together meant that on the balance of probability the driver is not a fit and proper person as under the Local Government (Miscellaneous Provisions) Act 1976 to hold a Hackney Carriage and Private Hire Driver's Licence and that as such there was reasonable cause under section 61 of the Local Government (Miscellaneous Provisions) Act 1976 to suspend or revoke the licence.

The Sub-Committee considered both options open to them under section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976. They did not consider a period of suspension to be appropriate based on the circumstances at this time but noted from the licencing officer's report that the decision to revoke does not prevent the reissuing of a licence in the future, should there be further information that alters the balance of probability. The Members resolved unanimously that the driver's Hackney Carriage and Private Hire Driver's Licence should be revoked.

RESOLVED:

That the licence holder is no longer deemed fit and proper to hold a Private Hire / Hackney Carriage (Joint) Driver Licence within the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and therefore the licence should be revoked.

Having read out the decision of the Sub-Committee (as above) and before closing the meeting, the Chair advised the driver that he had the right of appeal against the decision and that the decision would be issued to him in writing.

(The meeting started at 10am and ended at 12.45pm)

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Chair