

Minutes of **General Licensing Sub-Committee**

Meeting date **Monday, 13 December 2021**

Members present: Councillor Matthew Lynch (Chair) and Councillors
Mark Clifford, Terry Howarth, Jean Sherwood and
Christine Turner

Officers: Nathan Howson (Enforcement Team Leader (Licensing)),
Alex Jackson (Legal Services Team Leader) and
Coral Astbury

21.5 Declarations of Any Interests

There were no declarations of interest.

21.6 Procedure

The Chair outlined the procedure that would be followed at the hearing.

21.7 Exclusion of the Public and Press

Resolved:

That the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972

21.8 Review of a Private Hire Driver Licence - TF

On the 13 December 2021, a sub-committee hearing was convened in respect of a review of a Private Hire Driver Licence.

The members were Cllr M Lynch (Chair), Cllr Mark Clifford, Cllr Terry Howarth, Cllr Jean Sherwood and Cllr Christine Turner. The Driver and his representative were also present.

The meeting began at 18:45 to provide time for the sub-committee to consider two letters of support which had been provided by the driver and his representative shortly before the meeting.

The Enforcement Team Leader (Licensing) outlined the report of the Director of Planning and Development and explained that the driver had been referred to the sub-

committee because his DVLA licence had been endorsed with penalty points after the grant of his licence and had failed to notify the Council in writing within seven days, breaching condition two on his private hire driver licence (PHD). Members were asked to determine if the driver was still considered to be a fit and proper person to retain his licences.

Members noted that the driver had been a licence holder since 2005 after having his licence granted by a Sub-Committee as he had convictions ranging from 1998 to 2001. The licence was reviewed by a Sub-Committee on 4 February 2009 as the driver had been convicted in 2006 for possessing a controlled drug and being drunk and disorderly. The driver had failed to declare these convictions when renewing his licence in 2008 and 2009. When asked by Officers about the convictions, the driver had provided correspondence and stated the following:

“In response to not declaring my conviction, the 1st time I renewed my badge I thought the police would be informing the council so I didn't think I needed to and 2nd time I thought I only had to declare if I'd any convictions in the last 12 months. I now realise that I was at fault by not declaring my convictions and I can only apologise for this and ensure I was not done intentionally”.

The Enforcement Team Leader (Licensing) explained that the driver had his licences revoked by the Sub-Committee in 2009 but successfully appealed this decision and was granted his licences by the Magistrates' Court. On 5 February 2020 his licence was again reviewed by the Sub-Committee in relation to the driver committing a speeding offence. The driver was found to have breached condition two of his licence and failed to declare the speeding offence to the Council in writing within seven days. The council were only made aware of the offence upon the renewal of the licence. The Enforcement Team Leader (Licensing) advised that the driver had been convicted of a further speeding offence on 13 June 2021 and now had 7 penalty points on his licence and that he had failed to inform the Council, again breaching Condition 2 of his private hire driver licence.

Members were requested to consider the Council's safeguarding policy, the DFT Statutory Guidance and the Council's taxi policy and the fit and proper test when making their decision.

Members referred to the first letter from the driver's wife which had been received prior to the meeting stating that a letter had been sent to the council, and asked the Enforcement Team Leader (Licensing) if anything had been received from the driver. In response, it was confirmed that no letters had been received. The council has a strict procedure for dealing with post and incoming letters were scanned in and promptly sent to the relevant officer.

Members considered the letter from the driver's wife and asked the Enforcement Team Leader (Licensing) what procedures the council had put in place throughout the pandemic for dealing with correspondence. It was confirmed that the council offices had been open throughout the pandemic, although there had been a period in which they were not open to the public. Officers were in the building to deal with administration and post and the post box would be examined every day. In addition, there are two contact emails for the authority which continued to be manned during the pandemic.

The Enforcement Team Leader (Licensing) explained that the licensing function had not experienced any periods where they were unable to accept phone calls, and it was his view that normal service for drivers had continued. When discussing the impact of the COVID 19 pandemic on the availability of officers, the Enforcement Team Leader (Licensing) highlighted that the latest speeding conviction occurred in June 2021, when regulations had begun to ease and business was starting to return to normal.

Referring to the letter provided in support of the driver from Mr A, Members asked the Enforcement Team Leader (Licensing) if he could recall the conversation with Mr A. The Enforcement Team Leader (Licensing) confirmed he had spoken with Mr A, but the conversation was not as described in the letter. Mr A had been in touch with Officers via telephone to arrange a vehicle inspection and asked if the council had received confirmation regarding the driver's offence. He was advised that nothing had been received. The Enforcement Team Leader (Licensing) advised that the only confirmation he had received of the driver's speeding offence was from the phone conversation he had with Mr A.

On behalf of the driver, the representative asked if there was a specific form on the website for drivers to complete to alert the authority of any new convictions. In response, the Enforcement Team Leader (Licensing) confirmed that there was no specific form, however contact information was clearly available on the website along with a copy of the private hire driver licence conditions.

In response to the Sub-Committee's legal advisor, it was confirmed that notifications in relation to other drivers had been received along with post and correspondence.

The representative, on behalf of the driver advised the Sub-Committee that the driver's wife did write to the council advising them of the points. He explained that the driver attended a meeting of the Sub-Committee in 2020 and understood the council would take a dim view of another failure to notify. The driver's representative stated that they did not blame licensing as they knew what the postal system was like.

The representative advised that two letters had been written by the driver's wife on behalf of her husband as he was dyslexic. The driver advised that he would have personally brought the first letter, notifying the council of the offence but the offices were closed at the time.

The driver explained to the Sub-Committee that he was sorry for speeding and had not realised the speed limit had changed. At the time he was using the vehicle for personal use and was desperate to go to the toilet. The driver stated that he was on the road every day of the week and did not purposefully go around speeding. The driver only became aware that the council did not receive his letter after the Enforcement Team Leader (Licensing) had a conversation with Mr A.

The driver's representative confirmed that the driver currently has seven points on his licence with four due to be removed in April 2022.

Members asked the driver if he had completed a speed awareness course, in response the driver explained that he had previously completed one. The driver's representative stated, it was his view that the driver was not at the point of needing to complete another speed awareness course and he had advised the driver to be careful.

Members asked the driver if he recorded the delivery of the letter which was alleged to have been written by the driver's wife notifying the council of the speeding conviction. The driver confirmed that he did not.

Members explained the ramifications of not declaring a conviction and highlighted the importance of recording the delivery of the notification letter and asked the driver if he considered contacting officers to check that it had been received. The driver explained that he had spoken to his boss, Mr A, who asked if he had heard anything from the council. The driver had not, so Mr A brought it to the attention of the Enforcement Team Leader (Licensing). The driver advised that during the pandemic, the council offices were not open, or he would have hand delivered the letter.

The Chair referred to the previous meeting of the Sub-Committee and asked the driver to confirm what support had been given to avoid a re-occurrence of the failure to notify and asked the driver to demonstrate his understanding of what support was available from the council to assist with licensing issues. The driver explained that he used to have his late father in law but now he only had his wife. It was his view that there was no help from the council with filling forms in.

The Chair stated that he appreciated that paperwork can be a struggle when you have accessibility issues, but at the last Sub-Committee meeting he had made clear that assistance would be given from officers should it be needed. The Chair asked the driver if he was aware that he was responsible for any application which was made, ensuring that all details contained within it are correct. The driver confirmed that he understood.

The Enforcement Team Leader (Licensing) stated that he disagreed with the driver's assertion that the latest speeding offence occurred during the pandemic. The conviction was in June 2021 and the authority was open for business at that time.

The Enforcement Team Leader (Licensing) asked the driver if he had been convicted for failure to give information given that he was unaware of the four points received in 2018. The driver advised that he had only become aware of the points when he attended the office to renew his licence and they had appeared on his licence check. The Enforcement Team Leader (Licensing) explained, in order to receive those points a notice would have been issued from the police giving the driver 28 days to respond. If no response had been given the police would have prosecuted the driver for failing to give information. It was his view that as points had been issued, the driver must have received the notice from the police making him aware of the 2018 speeding conviction. The driver stated again that he did not know about the speeding offence at the time and that he only found out when he applied to renew his licence.

In summing up, the driver's representative confirmed that the driver denies that no letter was sent to the council informing them of the speeding conviction. The driver is aware of his position; it was their view that the driver would not ignore the advice of the previous Sub-Committee in relation to failing to notify. The driver was aware that he could have his licence revoked. The representative requested the Sub-Committee to consider the two letters carefully and consider them when deliberating.

Decision

Resolved:

Members have resolved to revoke the private hire driver licence under section 60(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 for the following reasons:

1. The driver had engaged in a pattern of failing to disclose motoring convictions to the Council.
2. His motoring convictions had led to 7 points on his DVLA licence which is concerning when the driver drives passengers for a living.
3. His licence had been revoked in 2009 which should have impressed on him what his obligations are.
4. He was warned following an appearance at sub-committee in February 2020 for failing to report a motoring conviction.
5. The Enforcement Team Leader (Licensing) gave evidence that there had been no issues with receipt of mail by the council, council offices had not been closed and he had received no notification from or on behalf of the driver in respect of the 2021 speeding conviction, in breach of condition 2 attached to his private hire driver licence.
6. Members were not convinced by the letter from the driver's wife. She had not given evidence in person before the sub-committee. Members considered that the lack of acknowledgement by the council (which was common ground) suggested it was never received and therefore never sent.
7. Mr Howson's recollection of the conversation with Mr A diverges from that of Mr A. Mr Howson recalls Mr A asking if Mr Howson had received confirmation from the driver about his 2021 speeding conviction.
8. Members were not convinced given his behaviour over the years that the driver could be trusted to report concerns about his work as a taxi driver.

The driver has 21 days to appeal to the Magistrates' Court on receipt of the Decision Notice.

Chair

Date