



Licensing Sub-Committee (Private Hire/Hackney Carriage)

Minutes - 22 October 2014

Attendance

Members of the Licensing Sub-Committee (Private Hire/Hackney Carriage)

Cllr Alan Bolshaw
Cllr Bishan Dass (Chair)
Cllr Mark Evans

Employees

Linda Banbury	Democratic Support Officer
Sarah Hardwick	Solicitor
Elaine Moreton	Section Leader - Licensing

Part 1 – items open to the press and public

Item No. *Title*

- 1 Apologies for Absence**
There were no apologies for absence.
- 2 Declarations of Interest**
There were no declarations of interest.
- 3 Exclusion of Press and Public**
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of information falling within paragraph 3 of Schedule to the Act, relating to the business affairs of particular persons.
- 4 Application for a Private Hire Vehicle Operator's Licence**
The applicant, TH, was present at the meeting accompanied by his legal representative, MF.

The Chair made introductions and outlined the procedure to be followed during the meeting. The Section Leader (Licensing) outlined the report which had been circulated to all parties in advance. Immediately prior to the meeting, the applicant and Sub-Committee had been furnished with copies of an email from LS to the Licensing Manager enclosing a witness statement in the name of the applicant, TH. Responding to a concern raised by TH's legal advisor regarding the lack of a written account of the Licensing Manager's discussions with the applicant in respect of the

witness statement, the Council's Solicitor advised that the notes of the Section Leader (Licensing) in this respect should be disregarded by the Sub-Committee.

On behalf of the applicant the legal advisor indicated that, although TH had not held an operator's licence, he had been a private hire vehicle driver for a number of years. He added that the 2006 caution had been dealt with at appeal and had been advised by the licensing authority that the caution did not have to be disclosed as it was not on the DBS (disclosure and barring service form relating to criminal convictions) form, adding that the failure to produce his driving licence was an oversight on the part of TH. He advised that, although TH was a driver at Westside Radio cars, he had no control or managerial responsibility. The legal advisor pointed out that the witness statement was unsigned and TH disputed its contents; the matters at Crown Court had been dealt with in his absence and the appeal had actually been withdrawn. He added that the applicant had co-operated fully with the Council's enforcement team in regard to Westside Radio Cars. He added that the relationship between TH and his brother (former operator of Westside Radio Cars) was estranged. The Sub-Committee were advised that TH had a good driving history and had taken steps to become informed of the duties of an operator. A number of character references, on behalf of the applicant, were produced at the meeting, together with the DBS form and counterpart of his driver's licence.

Responding to questions the applicant and legal advisor indicated that:

- the lease agreement was currently being produced in regard to the proposed business;
- the failure to attend the licensing authority on four occasions, in regard to a review of the private hire vehicle driver's licence, was due to a health problem;
- the counterpart driving licence had been misplaced, but was brought to the licensing authority when located;
- the applicant had commented on the witness statement and these comments had not been included, the witness statement is unsigned (TH disputed the final paragraph);
- TH answered the telephone call from the licensing authority, but was unclear as to whether the call was made by the Licensing Manager. TH first advised that he had not passed on a message to the operator regarding the contents of the call, but then decided he was unsure; it was a misunderstanding as he thought the call related to vehicles which had already been taken off the road;
- the volunteer work was undertaken at a taxi firm for which the applicant was a landlord for the premises;
- the new business would be operated via a sophisticated IT system enabling the operator to lock out cars remotely via his telephone and would employ an experienced manager; the applicant would be the main contact for the Council.

The applicant and his legal advisor were afforded the opportunity to make a final statement.

At this juncture the applicant, his legal advisor and the Section Leader (Licensing) withdrew from the meeting to enable the Sub-Committee to deliberate on the application.

The parties returned and were advised of the following decision:

Resolved:

That, having given careful consideration to the applicant's submissions, the Licensing Sub-Committee is not satisfied that TH a fit and proper person to hold an operator's licence and therefore refuse to grant the application in accordance with Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

The reasons for the decision are as follows:

Whilst TH presented positively about his efforts to gain knowledge and experience as an operator, the Sub-Committee is concerned that he has limited experience as an operator having only recently observed the activities of a new operator and, by his own admission, having had no involvement in running/operating of Westside Radio Cars. The Sub-Committee is also concerned about the issues of non-compliance relating to his private hire drivers licence and his involvement in events at Westside Radio Cars which led to uninsured and unlicensed vehicles being used.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to consider such information as may reasonably be necessary to enable them to determine whether a licence should be granted.

The statement made in his name and presented to Court states that he took a call from the Council regarding three private hire vehicles which needed to come off the road. In his verbal statement today, he has made it clear that he was not the operator of Westside Radio Cars and therefore did not have the authority to take the vehicles off the road, yet he failed to telephone Tahir Hussain (as operator) to advise him of the call from the Council. He stated that he was not responsible for the error which occurred in July 2013, yet failed to pass on a critical message to the operator. He lacked diligence and the ability to comply with procedures.

He states that this type of mistake would not happen if he were an operator and that he would be the point of contact for the Council, yet cannot always be available and the Sub-Committee is not satisfied that he has procedures in place to ensure that issues like this will not happen again.

The Sub-Committee is satisfied that the oral statement the applicant gave today and the written statement prepared for Court differ. If as the applicant states, he does not accept the written statement as his account, the Sub-Committee believes this should have been brought to the attention of the Court.

In addition, the Sub-Committee believes the applicant has not demonstrated diligence with regard to ensuring the requirements in respect of his private hire vehicle driving licence are always met and therefore it has concerns relating to his ability to adequately operate a base.

You have a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.