

Licensing Sub-Committee

Minutes - 13 September 2017

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Ian Claymore
Cllr Daniel Warren

Employees

Elaine Moreton
Richard Phillips
Dereck Francis
Jonathan Lloyd

Section Leader - Licensing
Solicitor/Senior Solicitor
Democratic Services Officer
Licensing Officer

Item No. Title

- 1 **Apologies for absence**
There were no apologies for absence.
- 2 **Declarations of interest**
There were no declarations of interests.
- 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 remaining items of business as they involve the likely disclosure of exempt information falling within paragraph 3 of schedule 12 A of the Act relating to the business affairs of particular persons.
- 4 **Application for a Private Hire Vehicle Driver's Licence (GB) (10:00)**
Consideration of the application was deferred to a future meeting.
- 5 **Application for a Private Hire Vehicle Driver's Licence (ZM) (10:30)**
The Chair invited the applicant (ZM) into the hearing, made introductions and outlined the procedure to be followed.

Elaine Moreton, Section Leader (Licensing), outlined report regarding application for a Private Hire Driver's Licence, which had been circulated to all parties in advance of the meeting. The matter had been referred to the Sub Committee in accordance with Guidelines relating to Relevance of Convictions and Breaches of Licence Conditions specifically paragraph 5.1.7 (b).

All parties were invited to question the Section Leader (Licensing) on the report. No questions were asked.

The Chair invited ZM to make representations.

ZM stated that the conviction for supplying controlled drugs was now cleared from his record. The Convictions 21 and 22 on his criminal record were not repeat offences because they were dealt with on the same day by the Courts. He provided a letter from solicitors, John Delaney supporting this view.

With the agreement of the Chair, there was a brief adjournment whilst the letter was copied and circulated to the Sub Committee and officers within the hearing for them to read.

Following the adjournment, the Section Leader (Licensing) confirmed that paragraph 5.1.7 (b) of the guidelines related to intent to supply and multiple offences.

ZM continued to make his representations. He stated that he came from a good family group but because of peer pressure he started experimenting with drugs. This resulted in a spell of imprisonment. Whilst in prison he completed a lot of training. He left prison early on parole following which he carried out voluntary work. He was now married with four children, was drugs free and was a changed man. He understood

why he was at the hearing. He provided a character reference from the chairperson of Deen Enterprises, a community forum based in Leeds which deals with a wide range of issues and where he undertook his drugs rehabilitation.

The Chair agreed to consider the character reference.

All parties were invited to question the applicant on his submission.

In response to questions ZM stated he was now a changed person to the one of several years ago and that everyone deserves a chance. People need help and once reformed they are better people. He accepted that previously he did have an anger problem but he had now a changed person. He would now walk away if he encountered problems with passengers. If he could not walk away he would deal with the situation. He also explained that for work he had previously been a mechanic and delivered pizza. Regarding the failed test at Leeds, the test required drivers to give directions for different journeys. He failed on some of the points. He also explained his reasons for planning to move to Birmingham; his reasons for applying for a licence with Wolverhampton; who he applied through; and the operators he was considering working for. He confirmed that he used to drink and he no longer takes drugs or 'spliffs' and he had been drugs free for seven years. He also elaborated on the reasons for the events after his prison sentence in 2001 and the conviction in 2010 relating to an argument with his wife.

The Chair invited ZM to make a final statement. He stated that he had said everything. He would be an ideal driver and the work would be something for him to fall back on with his training in mechanics. His criminal record and the pattern of incidents had stopped and he regretted what he had done. He was now a different person and wanted better for himself.

The Senior Solicitor referred to the Guidelines relating to Relevance of Convictions and Breaches of Licence Conditions in so far as it applied to the two convictions on 27 January 2001 for the same offence. In relation to the grounds for the officer recommendation to refuse the licence, the Senior Solicitor suggested that a better word than 'repeated' offences would be 'multiple' offences. There are two convictions for the offence of possessing/ supplying a controlled drug. Under the Council's guidelines they came within the definition of 'repeated' offences.

ZM, the Section Leader (Licensing) and Jonathan Lloyd (Licensing Officer) left that the room to allow the Sub Committee to determine the matter.

The Chair invited ZM, the Section Leader (Licensing) and the Licensing Officer back into the hearing and detailed the decision of the Sub Committee.

Resolved:

That having considered all the evidence before them both written and oral, provided at the hearing. The Sub-Committee is not satisfied that ZM is a fit and proper person and therefore, in accordance with s51 of the Local Government (Miscellaneous Provisions) Act 1976, have decided not to grant ZM a Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraph 5.1.7 (b) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 26 April 2017.

The applicant has a right of appeal, against the decision of the Sub-Committee, to the Magistrates' Court within 21 days of receipt of this decision. Should an appeal be unsuccessful, the Council would seek the costs incurred in defending the appeal.

ZM left the room.

6 Review of a Private Hire Vehicle Driver's Licence (MH) (11:00)

The Chair invited the applicant (MH), his wife and his solicitor, Ms Ghinday, from Dennings Solicitors into the hearing, made introductions and outlined the procedure to be followed.

Jonathan Lloyd, Licensing Officer read out the summary of the licence history, convictions/offences and other information relating to MH's Private Hire Drivers Licence set out in the report which had been circulated to all parties in advance of the meeting.

Elaine Moreton, Section Leader (Licensing) reported that the review hearing was as a result of information brought to the attention of the Compliance Team on a complaint relating to the conduct of a driver. The matter had been referred to the Sub Committee in accordance with the Guidelines relating to Relevance of Convictions and Breaches of Licensing Conditions, specifically paragraph 5.1.25 (a) conduct of hackney carriage and private hire vehicle drivers, proprietors and operators.

All parties were invited to question the Section Leader (Licensing) on the report.

In response to questions the Section Leader (Licensing) reported that the service became aware of the situation through an anonymous complaint. Regarding completing the online application form, the form contained a question 'Have you held or are you currently licensed to drive a hackney carriage or private hire vehicle with any other Council'. The applicant answered 'No' to the question. If he had answered 'Yes' we would have investigated it.

MH's solicitor had no questions to the Section Leader (Licensing) on the report.

The Chair invited MH's solicitor to put the case on his behalf. She stated that MH had said that he did not submit the initial Private Hire Vehicle Driver's licence application form. It was completed by a person at Falcon Cars without MH being present. He had provided Falcon Cars with the information to complete the application form. He is embarrassed about the Viagra and sexual enhancement drugs found in his vehicle. He cannot leave them at home because of his children and he cannot leave them in a cupboard at his home. The cocaine found in the vehicle was not his and he does not know how it got there. Regarding the tyre lever, he had a puncture and after changing the tyre he did not put the bar away in the boot. On the issue of non-disclosure, the application form was completed by someone else. MH did not feel that he needed to disclose the incident because he was not under investigation or convicted. She concluded by saying that MH finds it difficult without his licence to obtain work. He had bills and young children.

All parties were invited to question MH on his submission.

In response to questions MH through his solicitor stated the he regards himself as an experienced private hire driver; he understands basic or simple English but cannot understand legal or technical language. He went onto explain how he changed the tyre using the lever. He accepted that he was naïve (in not checking the details on the online application) and trusted Falcon Cars to complete it on his behalf. He gave Falcon Cars his documents and they took copies. He was not present when they completed the application process. Regarding the console where drugs were found, he maintained that he never touched the console. The console where the drugs were found was closed and that his friends may have put it (the drugs) there or it might have been a passenger who are sometimes in the front of the vehicle. He also maintained that he followed the police officer when requested (he was not distracted).

The Chair invited the applicant MH to make a final statement. MH's solicitor said there was nothing more to add. MH had trusted someone with the application form. Yes, he was naive in not checking it. He did not want to leave the sex items at home. Taxi driving is the only thing he has done. He cannot live on a factory minimum wage and he asked that he be given another chance.

The Section Leader (Licensing) summed up by saying the question for the Sub Committee was whether MH was a fit and proper person to hold a Private Hire Vehicle Driver Licence. The circumstances give rise to questions about his conduct as a driver and dishonesty.

MH, his wife and solicitor, the Section Leader (Licensing) and the Licensing Officer left the room to allow the Sub Committee to determine the matter.

All parties were later invited back into the hearing and the Senior Solicitor detailed the decision of the Sub Committee.

Resolved:

That, having considered all the evidence before them both written and oral, provided at the hearing, the Sub-Committee is not satisfied that MH is a fit and proper person and therefore, in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976, have MH's decided to revoke MH's Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraph 5.1.25 (a) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 26 April 2017.

MH has a right of appeal, against the decision of the Sub-Committee, to the Magistrates' Court within 21 days of receipt of this decision. Should an appeal and be unsuccessful, the Council would seek the costs incurred in defending the appeal.

MH, his wife and his solicitor left the room.