



Licensing Sub-Committee (Private Hire/Hackney Carriage)

Minutes - 13 August 2014

Attendance

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

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

Employees

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| Linda Banbury | Democratic Support Officer |
| Elaine Moreton | Section Leader - Licensing |
| Kevin O'Keefe | Chief Legal Officer |

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 items of business as they involve the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A to the Act relating to the business affairs of particular persons.
- 4 Review of a private hire vehicle driver's licence**
Mr M was present at the meeting, accompanied by Mr S (legal representative) and Mr L.

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.

Mr S expressed concern that the witnesses were not present at the meeting and he therefore had no opportunity to test their written statements. He advised that Mr M

refuted the written statements. The Chief Legal Officer confirmed that the test was whether Mr M remained a fit and proper person, that a range of powers were available to the Sub-Committee and consideration would be given to the weight to be attributed to the written documentation in order for a reasonable and proportionate decision to be made.

Mr M, supported by his legal representative, believed that nothing improper took place on 14 April 2014 and that MS had advised him to ring her to arrange for the re-inspection of his vehicle. He had requested not to be seen by another member of staff who made him feel uncomfortable. He had rung MS following his appointment on 14 April as he mistakenly thought he had left his driving licence behind. He stated that the comments about pizzas during the phone call some two weeks later were directed to the person sitting next to him and not the Council employee and therefore just a misunderstanding.

With regard to the incident on 2 May 2014, Mr M indicated that the passenger had approached his vehicle and he confirmed that his taxi was her booked vehicle. She had used his phone as she had thought she had left hers in the shop; in the event it had fallen down the side of the seat in the private hire vehicle. He stated the passenger had initiated the general conversation which led to her advising him of her personal, domestic problems. She had asked him if it would be ok for her to text him, but not him text her as her mother would object. He carried her shopping to the front door, adding that he gave such assistance to all his passengers. Whilst he was still stationary she returned to the car and asked if she could book him direct in future, but was advised that all bookings should be made via the operator. He indicated that he had felt sorry for her and had therefore sent the text (exhibit JA/01), to which he had never received a reply and had not followed it up. He did not know where the subsequent complaint had come from.

Responding to questions Mr M, supported by his legal representative, expanded on the convictions between 2002 and 2011. The legal representative pointed out that Mr M had been a private hire vehicle driver for some thirteen years, he had made mistakes and the licensing authority had taken action and his fitness had been reviewed on at least an annual basis. Mr M realised he had made a mistake by texting the passenger, but had felt sorry for her, he was a family man and it was in his nature to want to help people. He stated that the centre cars manager had telephoned to offer an apology following the complaint, which was accepted and an agreement that no further action would be taken.

Mr M was afforded the opportunity to make a closing statement. His legal representative suggested that the incidents should be weighed against the totality of Mr M's record with the Council. The text message in itself was innocuous but could be misinterpreted; it had been sent in isolation and the driver had acted appropriately once the complaint had been made.

The Chief Legal Officer advised the Sub-Committee of the options open to them in determining the matter.

Mr M and his representatives withdrew from the meeting at this point, together with the Section leader (Licensing), to enable the Sub-Committee to determine the matter.

The parties were invited back into the meeting and were advised of the decision. They were advised that the Sub-Committee had considered all the evidence before them, both written and oral, and attached appropriate weight to the written statements. The only test which applies in this case is whether Mr M remains a fit and proper person to hold a Private Hire Vehicle Driver's Licence. The Sub-Committee have noted Mr M's acceptance that the text message to his passenger on 2 May 2014 was inappropriate and further noted the written warning issued to him in relation to breaches of his Licence conditions. In the circumstances the Sub-Committee do not believe that Mr M is a fit and proper person and:

Resolved:

That, in accordance with Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 and paragraph 5.1.25(a) of the guidelines relating to the relevance of convictions and breaches of licence conditions approved by the Licence Committee on 25 July 2012, Mr M's Private Hire Vehicle Driver's Licence be suspended for a period of four months as a necessary and proportionate sanction.

Mr M has a right of appeal to the Magistrates' Court within 21 days of receipt of this decision. If no appeal is made the suspension will take effect from 9 September 2014.

5 **Application for a private hire vehicle operator's licence**

Miss K was present at the meeting, accompanied by her sister-in-law Mrs H.

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. She advised that the Sub-Committee were required to consider whether Miss K was a fit and proper person to hold a Private Hire Vehicle Operator's Licence. She further advised, that since completion of the report, the current business had ceased to exist and that Mr Hussain had indicated that he would withdraw his appeal against revocation if today's application was approved. The appeal had, however, been dismissed in the Wolverhampton Crown Court on 25 July 2014.

Responding to the concerns of the Licensing Authority regarding her knowledge gap, Miss K advised that she was willing to read up on all the necessary legislation, but had knowledge of how to operate the business. Miss H had worked until recently for Wolverhampton City Council for a period of 11 years and would be responsible for the administrative work involved.

Responding to questions, Miss K stated that she anticipated having 30 drivers by the end of the year, adding that the business would operate under the name 'Delta' with a new telephone number. She produced, for the Sub-Committee's information, her degree qualification certificates, and indicated that she wished to undertake a change of career having previously been a prison teacher. She advised that she intended to invest heavily in technology and that the previous proprietors would not be involved as they were employed elsewhere. The lease for the premises was now in her name. Miss K indicated that she would be there full-time but would employ a manager for

the day to day running of the base and her sister-in-law would carry out the administrative tasks. She added that she wished to employ more women in the trade, particularly from the ethnic minority groups. She also wished to work alongside the Job Centre to assist in reducing unemployment in the City.

The Chief Legal Officer advised that the Sub-Committee had to satisfy themselves whether Miss K was a fit and proper person to hold a Licence. Miss K and Mrs Hussain withdrew from the meeting, together with the Section Leader (Licensing) to enable the Sub-Committee to determine the application.

The parties returned to the meeting and the Chair advised the parties of the decision to refuse the application, which would be supplied to the applicant in writing as follows:

Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence. This matter was referred to the Sub-Committee in accordance with the Council's guidelines relating to the relevance of convictions and breaches of licence conditions approved by the Licensing Committee on 25 July 2012.

Resolved:

That, having considered all the evidence before them, both written and oral, the Sub-Committee conclude that Miss K currently has a lack of knowledge and understanding in regard to the running of a business and of the taxi trade and therefore refuse to grant a Private Hire Vehicle Operator's Licence.

The applicant has a right of appeal to the Magistrates' Court within 21 days of written receipt of this decision.