

Licensing Sub-Committee

Minutes - 22 March 2017

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Zee Russell

Conservative

Cllr Patricia Patten

Employees

Sarah Hardwick
Elaine Moreton
Colin Parr
Chis Howell
Mike Hooper

Senior Solicitor
Section Leader (Licensing)
Head of Governance
Licensing Manager (*observing*)
Democratic Services Officer

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 remaining 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 Application for a Private Hire Vehicle Driver's Licence (14:00)

The Chair invited Elaine Moreton, Section Leader (Licensing) and the Applicant (AR) into the Hearing, made introductions and outlined the procedure to be followed. AR confirmed understanding of the procedure.

The Section Leader (Licensing), outlined the report regarding an application for a Private Hire Driver 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 paragraphs 5.1.6(a), 5.1.13(a) and 5.1.3(a).

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

AR confirmed that the information contained within the report was accurate.

The Chair invited AR to make representations.

With the agreement of the Chair, AR circulated a character reference from an employer, M.M Travel, for whom he worked as a public service vehicle (PSV) driver.

AR stated that prior to his January 2014 convictions he had been dealing with the death of a relative who had passed away in a car crash. The convictions related to one incident involving family members, which was a joint enterprise, for which he had been driving. He had not been involved in any further trouble following the incidents for which he was convicted. He was currently working as a PSV driver undertaking school runs, a job which he had gained following support from his Probation Officer. He was now married with two children and was in the process of moving to a new area. He had changed his ways since his convictions and was no longer involved with the wrong crowd.

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

In response to questions from the Sub-Committee, AR stated the following:

- Regarding his 2014 convictions, the people around him had egged him on. He no longer socialised with that sort of person;
- The 'wrong crowd' that he had referred to were the people that he had hung around with in 2009, when he had been convicted for possession of cannabis. He was willing to undertake drug tests to prove that he was not a user;
- He did not lose his temper easily. As a PSV driver he had experienced drunken passengers and knew not to argue with them as it was essential to retain control of the situation;
- He had work lined up should he be granted a licence. A representative of that firm had supported him at his mini-panel hearing;
- He had undertaken school runs for both a Dudley taxi firm and as a PSV driver. They were challenging jobs as most of the passengers had special needs but they were jobs that he enjoyed;
- Should he be granted a licence and following his move to Bilston, he intended to work for a Wolverhampton based taxi firm and no longer work in Dudley;
- His children were both under 5 years of age. He married 2 years ago;
- Other family members were also convicted of the same offences as he was. He had remained in the car during the incident but was punished as a joint enterprise. The family had since reconciled.

No questions were asked by officers.

The Chair invited AR to make a final statement. AR said that he would like one chance, even on trial, to prove himself and to earn money for his family.

AR and the Section Leader (Licensing) left the room to allow the Sub-Committee to determine the matter.

The Chair invited AR and the Section Leader (Licensing) back into the Hearing.

The Chair detailed the decision of the Sub-Committee.

Resolved: That, having considered all of the evidence presented at the Hearing, both written and oral, the Sub-Committee agree to grant a Private Hire Vehicle Driver's Licence for a period of 12 months. The Licence is subject to AR passing the knowledge test and a satisfactory medical, if not already completed. The Licence is also subject to review by Licensing Services in six months time.

The Council's Solicitor detailed the applicant's right of appeal to the Magistrates' Court against the decision of the Sub-Committee, within 21 days of receipt of the decision, and the potential costs of doing so.

AR and the Section Leader (Licensing) left the room.

The Chair invited Elaine Moreton, Section Leader (Licensing) and the Applicant (IY) into the Hearing, made introductions and outlined the procedure to be followed. IY confirmed understanding of the procedure.

The Section Leader (Licensing), outlined the report regarding an application for a Private Hire Driver 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 5.1.10(b).

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

IY confirmed that the information contained within the report was accurate.

The Chair invited IY to make representations.

With the agreement of the Chair, IY circulated character references from DHL and TJX Europe, for whom he had worked.

IY stated that his convictions related to an incident that occurred when he was a self-employed courier, a job for which work was ad hoc and not guaranteed. He had picked up engines to take to Dover where they would be collected by a person from Germany, a job that he had gained from an advert on Gumtree. The Police had inspected his vehicle in Dover and found that the engines were stolen. When he then called the customer he hung up the phone. IY was then prosecuted for handling stolen goods. As he had not undertaken the necessary checks to ensure that the goods were legitimate he had no defence. Since then he had not been arrested and had been in work. However, he had lost 2 jobs or in the last 2 years due to the convictions and was struggling to gain permanent employment once firms undertook CRB checks. He had been invited back to 2 seasonal jobs but he needed permanent work as his wife had recently given birth to their first child.

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

In response to questions from the Sub-Committee, IY stated the following:

- As a courier he was self-employed rather than an employee on a zero hours contract;
- He had been told that the person he was due to meet at Dover would bring a van with an overhead crane to enable collection of the engines;
- He had pleaded guilty to negligence at a Newton Hearing as he had no receipts, evidence or official documents for the job;
- He had not received payment for the job;
- The Police could not identify the customer as IY could not identify which container the engines had been stored in prior to collection;
- As a self-employed courier he would invoice customers following completion of the job;

- The yard from which the engines were collected was gated, had CCTV and a buzzer gate. There had been nothing to arouse suspicions that the job was not legitimate;
- He would not usually deliver oily goods as he liked to keep his van clean but the customer was promising regular work;
- He had previously worked in security and did not earn much doing courier work;
- He got married in early 2016;
- He would not be tempted to do illegal work and would fully assess all future work;
- The Police had not targeted his vehicle, they had simply undertaken a routine check;
- The customer had said that he would pay cash on return following the job;
- He knew where he planned to apply for private hire work should he be granted a licence.

No questions were asked by the solicitor.

The Section Leader (Licensing) stated that the IY's DVLA points were not relevant to the Sub-Committee's consideration of whether or not to grant a PHVD licence.

The Chair invited IY to make a final statement.

IY said he had never previously intended to become a taxi driver but he wanted a more secure and permanent income. He was currently renting a property and had had to cancel work following the birth of his child. He did not want the worry of losing work or work being cut without notice, he just wanted a full-time job and the ability to see his child, take it to appointments etc. He was relying on gaining a licence. He had been driving for an agency for 2 years and no issues had occurred and he would be happy for the Sub-Committee to seek references.

IY and the Section Leader (Licensing) left the room to allow the Sub-Committee to determine the matter.

The Chair invited IY and the Section Leader (Licensing) back into the Hearing.

The Chair detailed the decision of the Sub-Committee.

Resolved: That, having considered all of the evidence presented at the Hearing, both written and oral, the Sub-Committee agree to grant a Private Hire Vehicle Driver's Licence for a period of 12 months. The Licence is subject to IY passing the knowledge test and a satisfactory medical, if not already completed. The Licence is also subject to review by Licensing Services in six months time.

The Council's Solicitor detailed the applicant's right of appeal to the Magistrates' Court against the decision of the Sub-Committee, within 21 days of receipt of the decision, and the potential costs of doing so.

IY and the Section Leader (Licensing) left the room.

The Chair invited Elaine Moreton, Section Leader (Licensing) and the Applicant (MA) into the Hearing, made introductions and outlined the procedure to be followed. MA confirmed understanding of the procedure.

The Section Leader (Licensing), outlined the report regarding an application for a Private Hire Driver 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 paragraphs 5.1.13(b) and 5.1.3(a).

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

MA confirmed that the information contained within the report was accurate.

The Chair invited MA to make representations.

With the agreement of the Chair, MA circulated a character reference from Bilash Indian Cuisine Restaurant, for whom he had worked.

MA said that his conviction for wounding dated back to 1984, when he was very young. The trouble had been nothing to do with him, his uncle had started the fight but the people he had confronted had attacked MA, who had then be forced to defend himself. Once arrested, he was terrified of the Police officers but had not wanted to show weakness. He was embarrassed about the incident as he was not a bad person and did not seek trouble. An incident from 30 years ago was continuing to haunt him and he only hoped that the Sub-Committee would consider the length of time since the conviction, that he had never been in trouble since then, that he had ran his own business in which he dealt with the public and that he had been a trustee of a charitable organisation for 15 years.

MA continued, stating that his motoring conviction was the biggest mistake that he had ever made. The letter had been misplaced and he was preoccupied as his son was getting married and his wife was unwell. He was ashamed that he had driven at 40 mph in a 30 mph zone, a very expensive mistake financially that resulted in 6 points on his licence.

As he got closer to retirement age he wanted a job that would allow him to do shorter hours. He had given up his restaurant job when he completed his theory test 1 year ago.

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

In response to questions from the Sub-Committee, MA stated the following:

- His conviction did not result from a family feud. His uncle had been nice but quite rough and the trouble had occurred outside of his house. MA was there as he travelled to work with his uncle. MA had been wounded in the incident;
- He had pleaded guilty following advice that he would only receive a fine;
- Everyone involved was charged;
- He recognised the seriousness of his conviction;

- He had had no choice but to defend himself;
- As a restaurant employee he handled people very well. Customers had not been stroppy as it had a very good clientele. He joked with customers and got to know them;
- He was a trustee of an education and religious learning centre;
- The fight had consisted of punching and kicking rather than weapons;
- He had not been forced to sign a Police statement claiming that he was guilty but he had been scared;
- Having received a first letter regarding his speeding offence he had called the DVLA but then, having children at home, it was misplaced. He then received a Court Notice which led to a fine;
- Resigning from the restaurant had not been a risk as he had become bored of the work. In the period since then he had sought work at 2 supermarkets.

No questions were asked by the Solicitor.

In response to questions from the Section Leader (Licensing), MA stated the following:

- After resigning from the restaurant he had looked for other jobs before applying for a PHVD licence in September 2016;
- He had failed to send the necessary paperwork to the DVLA, which had led to his conviction;
- The wounding for which he was convicted were caused by punching to the head and nose, resulting in blood.

The Chair invited MA to make a final statement. MA said that should he be granted a licence he would be carrying out a public service would need to look after his clients and himself. He would try to be a better person until he was very old.

MA and the Section Leader (Licensing) left the room to allow the Sub-Committee to determine the matter.

The Chair invited MA and the Section Leader (Licensing) back into the Hearing.

The Chair detailed the decision of the Sub-Committee.

Resolved: That having considered all the evidence both written and oral, provided at the hearing, the Sub-Committee is not satisfied that MA is a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, a Private Hire Vehicle Driver's Licence is not granted. This decision is made in accordance with paragraphs 5.1.13(b) and 5.1.3(a) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

The Council's Solicitor detailed the applicant's right of appeal to the Magistrates' Court against the decision of the Sub-Committee, within 21 days of receipt of the decision, and the potential costs of doing so.

The Section Leader (Licensing) and MA left the meeting.

7 **Application for a Private Hire Vehicle Driver's Licence (15:30)**

The Chair invited Elaine Moreton, Section Leader (Licensing) and the Applicant (SH) into the Hearing, made introductions and outlined the procedure to be followed. SH confirmed understanding of the procedure.

The Section Leader (Licensing), outlined the report regarding an application for a Private Hire Driver 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 paragraphs 5.1.10(b) and 5.1.3(b).

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

SH confirmed that the information contained within the report was accurate.

The Chair invited SH to make representations.

With the agreement of the Chair, SH circulated a character reference from his current employer, KK Products & Foams Ltd, for whom he worked as a delivery driver.

SH said that he understood that he had quite a few convictions and he made no excuses for them. Having detailed 3 offences committed as a minor, he stated the following regarding his adult convictions:

2008 – Gave a false identity;

2010 – Whilst driving a rented vehicle an unmarked Police car, with officers wearing hooded sweatshirts, blocked him. Thinking he was being car-jacked he drove away and jumped 2 red lights trying to escape. When a marked Police car arrived he pulled over straight away. The Judge understood the position that he had been put in;

2011 – Drink driving whilst banned. Again gave a false name. That was his last driving conviction and he had had a clean licence since then;

2012 – Burglary – He, along with many others, had entered a cannabis factory that had already been broken into, solely out of curiosity.

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

In response to questions from the Sub-Committee, SH stated the following:

- He had been driving his brother's car for some of his driving offences. One of which was committed when he incorrectly believed that he had lost his licence;
- He had kept insurance costs as low as possible by being a secondary driver on his brother's policy;
- He had committed an offence whilst subject to a Community Order;
- Regarding his drink driving conviction, at the time he had felt that he was doing the right thing as his friends had also been drinking. He had again given the wrong name to the Police;

- At least 8 people were arrested for entering the cannabis factory. They had all been together and had been bored as it was Ramadan and they had nothing to do;
- He was not the brightest of people but he had been easily influenced when he was younger. He had grown up since then, he was nearing 30 years of age, had a wife and children and did not drink or smoke. He had stopped smoking cannabis in 2008 as it made him paranoid;
- He did not view his driving offences lightly and he recognised that people could have been hurt. All of those offences were in the same part of his life;
- He was currently working as a courier;
- His final driving conviction, for driving without insurance, happened when he incorrectly believed that he was banned. Had he known that he wasn't, he would have ensured that he was insured.

No questions were asked by the Solicitor.

In response to questions from the Section Leader (Licensing), SH stated the following:

- He thought that his 2010 convictions were only 1 conviction. He could not remember the exact details;
- He had been on a drug rehabilitation course for around 2 days as it could not be determined who stole the cannabis;
- He was unsure of the specifics regarding how he had obtained insurance following 4 years of motoring convictions.

The Chair invited SH to make a final statement. SH said that he knew that he had a bad past, that he had no excuses, only he was to blame and he admitted to it all. However, he had grown up since then and had held a clean driving licence for 4 years. He understood the role of the Sub-Committee and its need to ensure the safety of passengers but he had worked as a courier for 18 months, entrusted with good and money, had not had any crashes nor been caught on his phone whilst driving. It was his fault that he had to face the Sub-Committee but he hoped that Members could see beyond his past.

SH and the Section Leader (Licensing) left the room to allow the Sub-Committee to determine the matter.

The Chair invited SH and the Section Leader (Licensing) back into the Hearing.

The Chair detailed the decision of the Sub-Committee.

Resolved: That having considered all the evidence both written and oral, provided at the hearing, the Sub-Committee is not satisfied that SH is a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, a Private Hire Vehicle Driver's Licence is not granted. This decision is made in accordance with paragraphs 5.1.10(b) and 5.1.3(b) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

The Council's Solicitor detailed the applicant's right of appeal to the Magistrates' Court against the decision of the Sub-Committee, within 21 days of receipt of the decision, and the potential costs of doing so.

The Section Leader (Licensing) and SH left the meeting.

8 **Application for a Private Hire Vehicle Driver's Licence (16:00)**

The Chair invited Colin Parr, Head of Governance, and the Applicant (SA) into the Hearing. Chris Howell, Licensing Manager, joined the meeting as an observer. The Chair made introductions and outlined the procedure to be followed. SA confirmed understanding of the procedure.

The Section Leader (Licensing), outlined the report regarding an application for a Private Hire Driver 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 paragraphs 5.1.3(b) and 5.1.4(a).

All parties were invited to question the Head of Governance on the report. No questions were asked.

SA confirmed that the information contained within the report was accurate.

In response to a question from the Head of Governance, SA said that his licence issued by Birmingham City Council had not been revoked, it wasn't renewed as he was convicted in June 2013 and it expired the following month.

The Chair invited SA to make representations.

SA stated that his DR20 and AC10 convictions were the result of a big mistake that he made following a night out for a friend's birthday. He had got home at around 3am, found that he couldn't get to sleep and decided to drive to a shop to buy cigarettes. It was Easter Sunday but the roads were very icy, he crashed into a lamppost and was concussed. Half of the car was on the road so he walked approximately 200 yards home to fetch his brother. However, the Police knocked on his door and could see his cuts and bruises. He was also experiencing bad back pain. It was the biggest mistake he had ever made and resulting in him losing his job and everything. He had only left the vehicle because he did not have a phone on him.

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

In response to questions from the Sub-Committee, SA stated the following:

- At the time of the incident he was employed as a taxi driver licensed by Birmingham City Council but he was not working that night;
- As a professional driver he knew that he should not have left the scene of the accident but he was not thinking that way at the time;
- He had been driving at a speed of between 30 and 40 mph around a bend in a 30 mph zone;

- The Police arrived at his home approximately 10 minutes after the crash and they contacted the taxi base to check that he had not been working;
- It was the biggest mistake that he had ever made and he understood that the outcome could have been much worse;
- A number of firms had said that they would employ him should he be granted a licence;
- He applied to Wolverhampton following recommendations from friends as having applied to Birmingham in June 2016 he had been told that the wait for his application to go to committee could be up to 12 months.

No questions were asked by the Solicitor.

In response to a question from the Head of Governance, SA said that he had pleaded guilty to DR20 and had been to rehabilitation. He had not drunk alcohol since the offence and had also quit smoking.

The Chair invited SA to make a final statement. SA said that when he had obtained a badge in 2009 his life had been completely on track. He had now been happily married since 2014. He had been in the same job since 2013 but got laid off every July without pay. His wife was pregnant and due to give birth at the end of July/start of August so without work he would have to claim benefits. He wanted to buy a house and get his life back on track and gaining a licence would enable that. He truly regretted the incident for which he was convicted.

SA and the Section Leader (Licensing) left the room to allow the Sub-Committee to determine the matter.

The Chair invited SA and the Section Leader (Licensing) back into the Hearing.

The Chair detailed the decision of the Sub-Committee.

Resolved: That, having considered all of the evidence presented at the Hearing, both written and oral, the Sub-Committee agree to grant a Private Hire Vehicle Driver's Licence for a period of 12 months. The Licence is subject to SA passing the knowledge test and a satisfactory medical, if not already completed. The Licence is also subject to review by Licensing Services in six months time.

The Council's Solicitor detailed the applicant's right of appeal to the Magistrates' Court against the decision of the Sub-Committee, within 21 days of receipt of the decision, and the potential costs of doing so.