

Licensing Sub-Committee

Minutes - 22 May 2017

Attendance

Chair Cllr Alan Bolshaw (Lab)

Labour

Cllr Greg Brackenridge
Cllr John Rowley

Employees

Elaine Moreton	Section Leader (Licensing)
Jacky Bramley	Senior Legal Executive
Mike Hooper	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 (10.00)

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

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 the accumulation of 6 penalty points on his driving licence.

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

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

The Chair invited JC to make representations.

JC stated that his friend had phoned him to ask if he would cover work for him. He had no idea that he needed different insurance cover and his friend didn't tell him. Whilst undertaking the work he was stopped by the Police, who informed him that he was not covered to do such work. JC apologised for his ignorance

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

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

- The work was fast-food delivery. He had been asked to cover at short notice and it was the first time he had done so.
- He used his own vehicle, which was covered by personal rather than business insurance.
- Following the incident his friend said that he had forgot to tell him that he needed to be insured to do the work. He had not been a good friend.

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

- The food had been in the front passenger seat. Police from an unmarked car had stopped him as he returned to his car after making the delivery.

No questions were asked by the Senior Legal Executive.

The Chair invited JC to make a final statement. JC said that he had made a mistake, for which he was sorry, and that he had learned that he had to check the requirements before taking a job. He needed to be able to work flexi-time to enable him to take his kids to school, the eldest of which was autistic. He also had to take his wife to work. Currently he was not earning enough to provide for his family.

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

The Chair invited JC 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 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 JC passing the knowledge test and a satisfactory medical, if he hasn't already done so. The Licence is also subject to review by Licensing Services in six months time.

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.

The Senior Solicitor detailed the appeals process as well as the costs and potential costs to the Applicant.

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

5 **Application for a Private Hire Vehicle Driver's Licence (10.30)**

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

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 5.1.4 (a) and 5.1.3(b).

All parties were invited to question the Section Leader (Licensing) on the report. In response to a question from the Sub-Committee, the Section Leader (Licensing)

confirmed that MR's conviction for driving a motor vehicle with excess alcohol was not relevant as he was clear of the Council's guidelines by 2011.

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

The Chair invited MR to make representations.

MR said that he had committed the drink driving offence in 2005 when he had been young, silly and stupid and he had paid the consequences. He had matured since then.

The first points on his licence were for exceeding a 30 mph speed limit. The second points were a result of the DVLA sending the paperwork to his ex-wife's address, meaning that he didn't receive it.

He had driven an ambulance for the British Red Cross as a patient courier. With the agreement of the Sub-Committee, references from the British Red Cross, Walsall Adult and Community College, a previous line manager at Russells Hall Hospital and an associate from Walsall Academy, known through volunteer work.

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

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

- He was 24 or 25 years of age when he was convicted for drink-driving. He had gained responsibility since then.
- He had held a driving licence since 2011.
- He had not held a driving licence when he was convicted of drink-driving in 2005. He had run a newsagents for many years, working in the shop for 16-18 hours per day and did not have to drive to the cash and carry as he had stock delivered.
- Should he be granted a licence he had work lined up with the family firm, though he was also considering applying to work through Uber. He already had a number of vehicles as he bought and sold them, he was quite experienced in the motor trade.
- He did not have a family when he was convicted for drink-driving. He now had a lot of responsibility and the British Red Cross had provided him a chance at a responsible job. He felt he deserved a chance to be a PHVD.
- In his work for the British Red Cross he was authorised to drive with a blue light if the patient's life was in danger. To enable him to do that he had passed a course, at the first attempt, in Coventry. It was not the advanced course that paramedics and the Police were required to pass.
- He had not attended a rehabilitation course following his drink-driving conviction as he wasn't offered the course. Plus, he didn't have a licence so it would not have mattered.
- Regarding his speeding convictions, for the second he had been driving at around 34/35/36 mph in Burton-on-Trent in his wife's car. For the first he had been doing about the same speed.

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

- He was a driver for the British Red Cross for approximately 6 months then they lost the contract.
- Some of his penalty points would be removed from his licence within a few months time.

The Section Leader (Licensing) commented that it was possible that some of the information provided by the DVLA could be incorrect. She was unaware as to why the second conviction would be effective for only 2 years instead of the usual 3 years.

No questions were asked by the Lead Lawyer.

The Chair invited MR to make a final statement. MR thanked the Sub-Committee for considering his application and said that he had made a mistake and had paid for it. He had a lot of responsibility and deserved a badge. The points would be coming off his licence soon anyway.

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

The Chair invited MR 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 presented at the Hearing, both written and oral, the Sub-Committee is not satisfied that MR a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, have decided not to grant MR a Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraphs 5.1.4 (a) 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 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.

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

6 **Application for a Private Hire Vehicle Driver's Licence (11.00)**

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

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 5.1.9.

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

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

The Chair invited ME to make representations.

ME said that the relevant conviction happened around Christmas 2012 and he was cautioned in 2013. He had worked for the same company in Bristol for around 12 years, holding a relevant degree for the profession. He worked on a high security site which required clearances so he had a DBS check every year. His wife was diagnosed with grade 3 cancer and was told that action needed to be taken very quickly. It was a very stressful time, with ME working 7pm-7am shifts 4 or 5 nights a week, sometimes even 7 nights if cover was required. He had to drive his wife to her hospital appointments and had a 10 month old baby to look after. All of this resulted in ME not being of clear mind through a lack of sleep.

On the night of the incident, ME had been allowed to leave work early, at 3 am, so that he could catch up on sleep. As he drove home along a main road, not a red light district, a young lady came out of a telephone box and flagged him down. Thinking that she had a problem, he stopped the car (ME added that she was not under age nor was he on the sex offenders register). The lady got in the car and asked what she could do for ME. It was at that point that he realised that she was a working girl so he explained that he was not looking for any "services". She asked if he had a cigarette, he gave one to her and they began to talk. At that point a Police car pulled up behind him. He tried to explain to the Police that he hadn't engaged in any sexual activity and they were just having a cigarette. They could see his uniform and so knew that he had just finished work. They gave him two options – he could be arrested and the case would go to the Crown Court or he could accept a caution. He couldn't take the option of being arrested as he had a sick wife and a child to care for so he accepted the caution without realising that it would be on record for so long. He signed it in the January and attended a rehabilitation course.

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

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

- He no longer worked for the same company but that was unrelated to the caution.
- He lived 2.7 miles from his workplace. He wasn't rushing home as there was no traffic on the roads.
- The lady was not dressed as you may expect a prostitute to be. She was wearing a pink tracksuit, gymwear.
- The phone box that she came out of was on ME's right hand side and he stopped around 2 to 3 metres away. She walked over and got into the car. He didn't challenge her as he genuinely believed that she was in trouble and he had seen her approaching the car in his rear view mirror.
- He could see how the situation could be perceived but at the time he was emotionally distressed. In Bristol he had no family other than his wife, they lived there due to his work, who were refusing to give him unpaid leave. It was a very stressful time and he needed to speak to someone but his mates/colleagues at work were busy on the weekends and didn't want to hear negative stories or be around negative energy. He knew it was not right but he needed someone to talk to.

- It was a stupid decision to accept a caution but he needed to look after the baby while his wife received treatment. It was the easy option for practical reasons.
- His employer wouldn't give him unpaid leave and his wife's treatment took two years. Following that, she insisted that they divorce. He had to pay child maintenance so took a job doing night deliveries in a van. It was then that he was convicted for speeding. He had been returning from Wales on a clear road but one on which the speed limit had been reduced from 60 mph down to 50 mph due to roadworks. He appealed but lost and received a ticket and a fine.
- He had never picked up a prostitute before and hadn't done so knowingly on the occasion for which he was convicted. He had been genuinely unlucky.

In response to questions from the Lead Lawyer, ME stated the following:

- He accepted the caution in the January rather than pleading not guilty as he was thinking only about his wife and baby. If the matter had gone to Court it could have made the local press. He had incorrectly thought that the caution would be spent after 3 years.

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

- He had taken his usual route home from work.
- The prostitute had been in his car for a very short time, around 5 minutes, when the Police arrived. Afterwards he had the feeling that it could have been a set-up, that she was working with the Police.
- He hadn't asked her to leave the car as his state of mind was such that he wanted someone to talk to.
- Should he be granted a Licence he hoped to work through Uber.

The Chair invited MR to make a final statement. ME said that he was 100% genuine. He had been out of work for 6 or 7 months and was paying child maintenance. His previously employer was not currently taking on but he was tied to the area as he wanted to see his kids at the weekends. He asked that the Sub-Committee please give him a chance.

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

The Chair invited ME 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 presented at the Hearing, both written and oral, the Sub-Committee is not satisfied that ME a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, have decided not to grant ME a Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraph 5.1.9 of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

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.

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

7 **Application for a Private Hire Vehicle Driver's Licence (11.30)**

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

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 5.1.10 (b).

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

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

The Chair invited TR to make representations.

TR said that his speeding conviction was in a hired vehicle. He had overlooked the speed and held his hands up the offence.

With regard to his criminal convictions, his brother was a PHVD and TR had used his car without consent, not knowing that he could not drive a plated vehicle and thinking that because he had fully comprehensive insurance he was covered. He acknowledged it was his mistake.

With regard to his conviction for failing to give information as to his identity, he challenged it in Court as he had been estranged from his wife at the time and she had not passed the letters on to him. However, he couldn't prove that he had been living with his Mother at the time, who he had been looking after.

His Licence would be clean by November and he was currently in employment, supporting his family, and had a mortgage. He just wanted flexibility in his working hours.

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

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

- The family shared a few vehicles, without always asking one another, but he hadn't been aware that he shouldn't use a plated one.
- He was now aware that plates were issued specifically to the vehicle driver and understood the reasons why ie. that person would have been subject to CRB checks.
- He was not aware what the term 'make false representation to make gain for self' meant but he had represented himself in Court and pleaded guilty.

- It was the first time that he had driven the taxi and it was pulled over for a standard check. He had never been a criminal or stole and he now understood the law. The way he saw it was that he didn't set out to commit a crime but it was his fault. He was of good character.

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

- He had permission to drive the vehicle in the sense that the family did not ask each other for permission.
- He had lived at his mother's house for 5 or 6 months but hadn't notified the DVLA as he had intended to move back to his wife.
- His brother's Licence was granted by Birmingham City Council. No action was taken against him and he still held it.

No questions were asked by the Lead Lawyer.

The Chair invited MR to make a final statement. TR said that he knew that the convictions referred to 'dishonesty', 'fraud' etc but they were all for the same offence. He always held his hands up to fines and bills. He just wanted flexibility. He had committed one offence but it was a big one and what he had done was wrong. He now understood the law and wouldn't do it again.

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

The Chair invited TR 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 presented at the Hearing, both written and oral, the Sub-Committee is not satisfied that TR a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, have decided not to grant TR a Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraphs 5.1.3 (b) and 5.1.10 (b) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

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.

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

8 **Application for a Private Hire Vehicle Driver's Licence (12.00)**

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

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), 5.1.12 (b), 5.1.13 (a) and 5.1.1 (a).

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

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

The Chair invited SM to make representations.

SM said that he was grateful for the opportunity to help the Sub-Committee to see for who he was today rather than who he was in the past.

At the time that he was convicted for carrying a lock knife he was 18 years old, immature and growing up in a rough area but that was no excuse. He was now married with 3 kids and was the sole provider for the family, working 2 jobs – 3 days in a garage and 3 days delivering fast food. He had matured with age and saw things differently now he had children. That he currently worked 2 jobs to make ends meet showed that he would put the hours in should he be granted a Licence.

With regard to his conviction for Assault Occasioning Actual Bodily Harm, there was noise outside his house at 4 am so he went outside to see if everyone was ok and to diffuse the situation. There were two drunk men and SM threw a punch at one of them. His neighbour had been hit first but he hadn't been hit. It was out of character for him to throw a punch, he had tried to diffuse the situation but the outcome was different.

He had paid for his mistakes and he would respect the decision of the Sub-Committee.

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

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

- The 4 inch lock knife was on a keyring and had been purchased from Birmingham market. He hadn't realised it was illegal. It was discovered by the Police during a routine stop and search, they saw it dangling from the ignition.
- It would not have been better if it had been a smaller knife but he wouldn't have been convicted.
- He had also bought a BB gun from Birmingham market. It was in his car in a bag with the receipt when the Police found it.
- The stop and search happened at round midday. He had matured around 5 years ago. He got married 4 years ago.
- He acknowledged that 200 hours of community work and a £300 fine were towards the top level of punishment that could be received and indicated that his ABH conviction was for a serious matter. He said that he had punched the victim, making his nose bleed.
- His 2005 driving convictions occurred when he only held a provisional driving licence.

- He was unemployed when he received the knife and BB gun convictions. They had been intended for garden use.
- He acknowledged that rather than call the Police, he had chosen to put himself in conflict by intervening in the altercation outside of his house.

No questions were asked by the Section Leader (Licensing).

In response to questions from the Lead Lawyer, SM stated the following:

- The ABH conviction was downgraded as he pleaded guilty. He was the only person involved that was prosecuted.

The Chair invited SM to make a final statement. SM said that he had made mistakes. He had said that he had matured but the Sub-Committee had said that he hadn't. He understood their concerns as public safety was their priority. The things that he had done were wrong and 100% out of character and he didn't see those things happening again regardless of his job. He was sure that the Sub-Committee would make the right decision.

With the agreement of the Chair, a letter of support from his local Ward Councillor was circulated.

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

The Chair invited SM 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 presented at the Hearing, both written and oral, the Sub-Committee is not satisfied that SM a fit and proper person and therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976, have decided not to grant SM a Private Hire Vehicle Driver's Licence. This decision is made in accordance with paragraphs 5.1.3 (b), 5.1.12 (b), 5.1.13 (a) and 5.1.1 (a) of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

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.

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

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