

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 29 July 2019.

PRESENT: Councillor Arundale (Chair), Councillor Waters (Vice Chair); Councillors: Bell, Goodchild, Higgins, Jones, Lewis, McCabe, Rooney, Sands, and J Walker.

OFFICERS: J Dixon, A Perriman and S Wearing.

PRESENT AS OBSERVERS: S Bonner – Democratic Services; S Morris – Licensing; Legal Services Graduate Work Experience Student.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Dean and Mawston.

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point in the meeting.

MINUTES OF THE PREVIOUS MEETING OF THE LICENSING COMMITTEE HELD ON 8 JULY 2019

The minutes of the previous meeting of the Licensing Committee held on 8 July 2019 were submitted and approved as a correct record.

EXCLUSION OF PRESS AND PUBLIC

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**** SUSPENSION OF COUNCIL PROCEDURE RULE NO. 5 - ORDER OF BUSINESS**

ORDERED: that in accordance with Council Procedure Rule No. 5, the Committee agreed to vary the order of business to consider agenda item 6 as the next item of business.

REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 18/19

The Director of Culture and Communities submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 18/19, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting accompanied by his legal representative and an interpreter, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

It was confirmed that all communication with the driver would take place via his interpreter.

The Principal Licensing Officer presented a summary of the report. The report outlined that the driver was first licensed with Middlesbrough Council in June 2017 and now appeared before Members following a complaint made against him on 5 July 2019.

The complaint was made by an 18-year-old female passenger regarding the driver's conduct towards her during a journey in his private hire vehicle on 29 June 2019.

Officers obtained a statement from the complainant on 15 July 2019, a copy of which was attached at Appendix 1. The complainant alleged that the driver made a number of inappropriate remarks

towards her during the journey and asked her questions of a sexual nature, making her feel uncomfortable and resulting in her suffering a panic attack when she reached her home address.

Once at home, the complainant was assisted by a friend of her mother's and a copy of an email recalling the events of that evening were attached at Appendix 2.

The driver was subsequently interviewed by a Licensing Officer on 8 July 2019 and notes of the interview were attached at Appendix 3. The driver denied the allegations but accepted that he had asked the complainant her age in order to ascertain whether she was old enough to sit in the front of the vehicle.

The driver confirmed that the report was an accurate representation of the facts.

The witness joined the meeting at this point, accompanied by her mother and a Licensing Officer. The Chair made introductions and explained the procedure to be followed.

The witness provided her version of events in relation to the incident and responded to questions from the driver's legal representative and Members of the Committee.

It was confirmed that there were no further questions of the witness and the witness, her mother and the Licensing Officer, withdrew from the meeting.

The driver provided his version of events in relation to the incident and responded to questions from Members, the Council's legal representative and the Principal Licensing Officer.

The driver's legal representative summed up the case on behalf of the driver and it was confirmed that there were no further questions. The driver, his legal representative, interpreter and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew whilst the Committee determined the review.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

ORDERED that Private Hire Vehicle Driver Licence, Ref 18/19, be revoked with immediate effect.

1. The Committee carefully considered: the review on its own merits; the report and appendices; the evidence and representations made by the driver and his legal representative; the live evidence made by the witness; and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018, on the relevance of Convictions, Cautions, Complaints and Driver Conduct ("the Policy"). The driver was assisted by an interpreter.
2. The Committee decided to revoke Private Hire Vehicle Driver Licence, Ref 18/19, on the grounds of any other reasonable cause under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, as the Committee was not satisfied that the driver was a fit and proper person to hold such a licence.
3. Furthermore, the Committee took the view that the revocation should be with immediate effect in accordance with Section 61(2)(b) of the Local Government (Miscellaneous Provisions) Act 1976.
4. The applicant was advised that he would receive the full decision, considerations and reasons within five working days.

The reasons for the decision were as follows:-

5. The driver appeared before the Licensing Committee as a result of a complaint made against him on 5 July 2019 regarding his conduct towards an 18-year-old female passenger during a booked journey in his private hire vehicle on 29 June 2019.
6. The complaints were set out in detail in the statement of the witness and also given in live evidence during the hearing. The evidence of the witness was that the comments were of a

sexual nature, made towards her and made her feel very uncomfortable and that she felt intimidated.

7. The driver stated that he had asked the complainant's age, but did so merely for the purposes of the law in that she sat in the front passenger seat and as such a person under the age of 12 is unable to do so and must be conveyed in the rear. The complainant identified her age as being 18½ years of age to him. The driver also stated and accepted that he had asked why the complainant was not going to her boyfriend's house, however, he denied asking the complainant anything else of a sexual nature or making sexual comments.
8. The Committee took the view that the complainant came across as a competent and believable witness and that she had no reason to make up the complaint, she was clear and succinct in her evidence.
9. Having heard the evidence, and the representations from the driver and his solicitor, the Committee added more weight to the evidence of the complainant and, therefore, on the balance of probabilities determined that the driver had made the comments alleged.
10. Having heard the representations, and having due regard to Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018 and the overriding aim of the licensing regime being the protection of the public, the Committee could see no reason to depart from the Policy and the revocation with immediate effect aligned with the aims and objectives of Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018.
11. The driver was advised that if he was aggrieved by the Committee's decision he had 21 days in which to appeal the decision to Teesside Magistrates' Court. Should the driver decide to appeal the decision and the appeal was dismissed, the Council would look to the court for an Order to recover its costs incurred in defending its decision from the driver.

REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 17/19

The Director of Culture and Communities submitted an exempt report in connection the review of Private Hire Vehicle Driver Licence, Ref: 17/19, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting accompanied by his employer's Recruitment Manager, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Principal Licensing Officer presented a summary of the report. The report outlined that the driver was first licensed with Middlesbrough Council in January 2019 and now appeared before Members following a complaint made against him in relation to a journey undertaken on 24 June 2019.

The Council's Principal Passenger Transport Officer informed Licensing Officers that she had received an email from a representative of a school regarding a private hire vehicle driver undertaking a home to school contract arrangement. The message provided details of allegations that the driver had made inappropriate comments to children being transported home from school in the driver's vehicle.

The Principal Passenger Transport Officer also advised Licensing Officers that she had been made aware that the school was also dealing with a complaint from the guardian of another child passenger who had travelled in the driver's vehicle with the other children, who reported a similar incident a couple of weeks earlier. A statement provided by the Principal Passenger Transport Officer was attached at Appendix 1.

In view of children's safeguarding concerns, the matter was immediately referred to the Council's Local Authority Designated Officer (LADO). A meeting was subsequently held on 27 June 2019 and a copy of the information arising from the meeting was attached at Appendix 2.

In the meantime, the Licensing Manager suspended the driver's private hire licence with immediate effect pending referral to the Licensing Committee.

On 2 July 2019, two Licensing Officers interviewed three of the four children that had travelled in the driver's vehicle under the contract arrangement applicable to the complaint. The interviews took place in the presence of adult representatives of the school. Statements made by 'Child A', 'Child B' and 'Child C' were attached respectively at Appendices 3, 4 and 5. It was highlighted that a statement was not obtained from 'Child D' as he refused to engage in the process.

The driver was interviewed by a Licensing Officer on 3 July 2019 in relation to the complaint. The driver provided his version of events and stated that he had transported the children on approximately five occasions and that each time the children's behaviour had been unruly and offensive.

The Safeguarding Lead from the school in question provided his observations in relation to the complaint and a copy of his statement was attached at Appendix 6.

The driver confirmed that the report was an accurate representation of the facts.

At this point in the meeting, one of the witnesses known as 'Child B', accompanied by an appropriate adult and a Licensing Officer, joined the meeting via a video link. The Chair made introductions and explained the procedure to be followed.

The Council's legal representative asked the witness to provide his version of events in relation to the incident in his own words. The witness provided his version of events and responded to questions from Members, the Council's legal representative and the driver.

It was confirmed that there were no further questions of the witness and the witness, appropriate adult and the Licensing Officer, withdrew from the meeting.

The driver provided his version of events in relation to the incident and responded to questions from Members, the Council's legal representative and the Principal Licensing Officer. The driver's Recruitment Manager also spoke in support of the driver.

It was confirmed that there were no further questions and the driver, his representative and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew whilst the Committee determined the review.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

ORDERED that the suspension of Private Hire Vehicle Driver Licence, Ref 17/19, be lifted and that the licence be retained, with no further action to be taken.

1. The Committee carefully considered: the review on its own merits; the report and appendices; the evidence and representations made by the driver and his representative; the live evidence made by the witness; and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018, on the relevance of Convictions, Cautions, Complaints and Driver Conduct ("the Policy").
2. Having considered the statements provided by the witnesses in relation to the complaint, the Committee found that there were discrepancies between the statements.
3. Having heard directly from one of the witnesses at the meeting, the Committee considered there to be discrepancies in the witness's version of events and found him not to be a credible witness.
4. The Committee considered the driver's version of events to be credible and also took into account the driver's previous good character and that there were no previous convictions, cautions or complaints against him.