

**LICENSING COMMITTEE**

A meeting of the Licensing Committee was held on 3 February 2020.

**PRESENT:** Councillors A Waters (Vice Chair in the Chair); A Bell, S Dean, J Goodchild, T Higgins, S Hill, D Jones, E Polano, D Rooney, R M Sands, M L Smiles and and J Thompson (Substitute for L Lewis)

**OFFICERS:** C Cunningham, J Dixon and T Hodgkinson.

**APOLOGIES FOR ABSENCE** Councillor R Arundale, Councillor L Lewis, Councillor J A Walker.

**DECLARATIONS OF INTERESTS**

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

**19/45 MINUTES - LICENSING COMMITTEE - 13 JANUARY 2020**

The minutes of the previous meeting of the Licensing Committee held on 13 January 2020 were submitted and approved as a correct record.

**19/46 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.

**19/47 REVIEW OF A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 02/20**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 02/20, 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, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report which outlined that the driver was first licensed with Middlesbrough Council in July 2000. The driver first appeared before Committee in November 2007 when Members considered a caution issued to the driver in May 2006. On that occasion he was permitted to retain his licence.

The driver now appeared before Members as a result of a complaint received from a member of the public. The female complainant alleged that on 13 October 2019, the driver made inappropriate comments towards her and that there was an unknown male travelling in the vehicle. The Licensing Manager highlighted that there was an error in the report as it referred to inappropriate comments towards the passenger during her journey, however, no journey was made.

A statement from the complainant was attached at Appendix 1 and a file note from a Licensing Officer was attached at Appendix 2.

The driver was interviewed by a Licensing Enforcement Officer on 5 November 2019 when he offered an explanation regarding the complaint. This was attached at Appendix 3.

The report outlined the details of the complaint and other matters held on record by the

Council in respect of the driver. The report also referenced relevant information contained within the Council's Private Hire and Taxi Licensing Policy in relation to conduct and character.

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

At this point in the meeting, the complainant, accompanied by her mother, joined the meeting. The Chair introduced those present and explained the procedure to be followed.

The complainant confirmed the content of her Statement, attached at Appendix 1, and was asked to provide her version of events in relation to the incident.

The complainant provided her version of events in relation to the incident and responded to questions from Members and the driver's legal representative. It was confirmed that there were no further questions of the complainant and she and her mother left the meeting at this point.

The Council's Legal Representative advised that the Licensing Manager had some additional information that the driver had not yet had sight of and asked whether the driver, and his legal representative, would like some time to consider the information. This was confirmed and the driver and his legal representative were provided with the additional information and left the room to consider it.

In the meantime, Members were advised that a copy of the information would be circulated to them once the driver had examined it. The information consisted of an email sent to the Council by the complainant's mother shortly after the incident raising concerns regarding what had happened.

The driver and his legal representative returned to the meeting and the information was circulated to Members.

A Licensing Officer joined the meeting at this point. The Chair made introductions and explained the procedure to be followed.

The Licensing Officer had compiled a file note, attached at Appendix 2, relating to events when the driver had attended the Licensing Office on 25 October 2019. The Licensing Officer confirmed the content of the file note and provided her version of events in relation to the driver's visit to the Licensing Office on 25 October.

The Licensing Officer responded to questions from Members, the driver's legal representative and the Council's legal representative.

It was confirmed that there were no further questions and the Licensing Officer withdrew from the meeting at this point.

A Licensing Enforcement Officer joined the meeting. The Chair made introductions and explained the procedure to be followed.

The Licensing Enforcement Officer had conducted an interview with the driver, in relation to the complaint, on 5 November 2019 - a copy of which was attached at Appendix 3. The Licensing Enforcement Officer explained that he had initially invited the driver to attend an appointment for interview on 23 October 2019 but the driver had failed to attend. The driver had then presented at the Licensing Office on 25 October 2019 (without an appointment) and the Licensing Enforcement Officer was unable to see him at that time as he was busy conducting another interview.

In response to a question, the Licensing Enforcement Officer informed that he had not been made aware of the complaint by the driver's Operator and that the complaint had been brought to his attention via the Council's Corporate Complaints system, where the complainant's mother had submitted the complaint.

The Licensing Enforcement Officer responded to questions from Members, the driver's legal

representative and the Council's legal representative.

It was confirmed that there were no further questions and the Licensing Enforcement Officer withdrew from the meeting.

The driver was invited to address the Committee in support of his case. The driver's legal representative presented the case on behalf of the driver. The driver and his legal representative responded to questions from Members, the Licensing Manager and the Council's legal representative.

It was confirmed that there were no further questions and the driver, his legal 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 Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref 02/20, be retained, but that the driver be issued with a strong warning regarding his future conduct.

1. In considering the review of the driver's Combined Hackney Carriage and Private Hire Vehicle licence, the Committee considered: the review on its own merits; the report and appendices; information and representations made to the Committee; the legislation and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2019 ("the Policy").
2. The driver was advised that he would receive the full decision, considerations and reasons within five working days.
3. The Licensing Committee decided to issue a warning in relation to the driver's conduct for the following reasons:-
4. A complaint had been received from a customer about the driver's conduct. The driver contested the complainant's version of events and the alleged words he used during a telephone conversation.
5. The Committee decided that the complainant was credible and clearly recalled the conversation she had with the driver. The complainant's representations were consistent with her statement and the original complaint made. The driver, however, contradicted himself in his statement and again changed his story at the Licensing Committee. The Committee believed the complainant and upheld the complaint.
6. The Committee, therefore, decided the driver had behaved inappropriately with the choice of language used which led to a customer feeling so uncomfortable and concerned that she felt it necessary to make a formal complaint.
7. In addition, the Committee noted that the driver had made inappropriate comments in front of a Licensing Officer about passengers.
8. Although there had been a few previous issues, the Committee did take into consideration that the driver had been licensed for a long period - since 2000.
9. The Committee, therefore, considered a warning would prevent the driver from acting inappropriately in the future.
10. There was no right of appeal against the Committee's decision, however, if the driver considered the decision to be unlawful he may apply to Judicially Review the decision in the high court. However, the Council will defend its decision and if successful will claim its costs against the driver which could be in excess of the sum of £1,000.