

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 13 January 2020.

PRESENT: Councillors R Arundale (Chair), A Waters (Vice Chair), Councillors; Bell, Dean, Higgins, Hill, Jones, Lewis, Nugent (As Substitute) Polano, Rooney and Sands and Smiles.

OFFICERS: S. Bonner, C, Cunningham and S. Morris.

APOLOGIES FOR ABSENCE Councillors; Goodchild and J A Walker.

DECLARATIONS OF INTERESTS

None were declared at this point in the meeting.

1 **MINUTES OF THE PREVIOUS MEETING OF THE LICENSING COMMITTEE HELD ON 9 DECEMBER 2019**

The Minutes for the meeting of 9 December 2019 were submitted and accepted as a true record.

2 **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.

3 **REVIEW OF A PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 01/20**

The Director of Adult Social Care and Public Health Integration submitted an exempt report in connection with a Review of a Private Hire Vehicle Driver Licence, Ref: 01/20, 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 and 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 Senior Licensing Officer presented a summary of the report. The report outlined that the driver had been licensed since 1998, and while the Committee had initially refused the Driver's application at that time, the decision had been overturned by Teesside Crown Court.

The report also outlined the Driver had appeared before Members in 2001 following a complaint from a member of the public regarding the Driver's refusal to carry a visually impaired person's guide dog. While the driver did carry the guide dog the events leading up to the incident caused the Members concern. The Committee's decision was to issue the Driver with a warning.

The Driver again appeared before the Committee in 2011 and considered three driving offences for speeding and the use of a mobile phone. The Committee decided the driver should attend a Driver Improvement Scheme. The Driver then appeared before Members in 2011 as a result of a further driving offence that led to his disqualification under the totting up procedure. As a result the Driver surrendered his Private Hire Vehicle Driver Licence.

The Driver appeared before the Committee with a new licence application in 2013 which was refused. The Driver then presented another application to the Committee in June 2014 which was granted and the Driver had been continually licensed since that date with an expiration date of 2022.

The Committee heard the Driver now appeared before Members as a result of a complaint received from a Parking Patrol Officer employed by Stockton Council. The Officer alleged that the Driver had used foul and abusive language toward them in a public place on 5 November 2019. A copy of the statement by the Parking Patrol Officer was attached at Appendix 1 of the report.

The Driver was interviewed by a Licensing Enforcement Officer on 17 December 2019 during which the Driver stated that he regretted the incident and was extremely remorseful. The Driver stated that he was prepared to apologise to the Parking Patrol Officer and nothing like this would happen again.

The Committee viewed video footage, captured on the Parking Patrol Officer's Body Camera, which showed the incident detailed in the report and Appendix 1.

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

The Driver and his legal representative were invited to address the Committee in support of their case and responded to questions from Members, the Council's legal representative and Senior Licensing Officer. The Driver submitted a character reference on behalf of his wife for consideration by the Committee.

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 the Driver's Private Hire Vehicle Driver's Licence be suspended for a period of four weeks. The Committee considered the review on its merits, it considered the report, information and representations made by all parties. It considered the legislation and Middlesbrough Council Private Hire and Hackney Carriage Licensing Policy 2019 ('the Policy'). The reasons for the decision were as follows:

1. Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 'the Act' the Committee could suspend or revoke the licence of a driver of a private hire and hackney carriage vehicle for any reasonable cause.
2. It was a condition on a driver's licence that a driver must always be clean, respectable and polite. Also a driver must behave in a civil and orderly manner at all times. This also formed part of the Driver's Code of Conduct.
3. The Policy stated that licenced drivers should be courteous, avoid confrontation, not exhibit prejudice, not to take the law into their own hands and demonstrate conduct befitting to the trust that is placed in them.
4. The Committee considered it was wholly unacceptable for a licensed driver to insult and swear at an official carrying out their duties which was also a clear breach of the Driver's conditions and his code of conduct. The Committee did not believe the Driver that the enforcement officer mouthed 'motherfucker' as claimed by the Driver. This was denied by the officer and there was no evidence on the bodycam footage or otherwise.
5. It was claimed at the Committee hearing, although not previously mentioned in his statement, that the Driver had acted out of character because he had received upsetting news about a friend and had received a bill from HMRC. However, the Committee did not accept this excuse in anyway for the Driver's wholly inappropriate behaviour. The character reference by the Driver's wife did not alter the seriousness of the incident. The Committee considered there was nothing untoward on the part of the Parking Patrol Officer that warranted such insults and obscenities, no action would warrant such behaviour. The Committee also noted the Driver's reference made no mention of the mitigation the Driver provided at the hearing.
6. A warning was not appropriate to deal with such conduct, and the Committee

considered that the Driver's unacceptable behaviour and the breaches of his licensing conditions was serious. It, therefore, decided to suspend the Driver's licence for a period of four weeks in order to ensure the Driver acted appropriately in the future and complied with the conditions on his licence and his code of conduct.

7. If the Driver was aggrieved by the Committee's decision he could appeal the decision to the Teesside Justices Centre (Teesside Magistrates Court), Victoria Square, Middlesbrough within 21 days from the date of this decision.

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

ORDERED:- That the Review of a Combined Hackney Carriage and Private Vehicle Driver Licence Ref:- 02/20 be deferred to a future meeting of the Licensing Committee.

5 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR MAY BE CONSIDERED.**