

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 14 June 2021.

PRESENT: Councillor Arundale (Chair); Polano (Vice Chair); Councillors: Cooper (Substitute for Councillor Bell), Dean, Dodds (Substitute for Councillor Jones), Higgins, Hill, C Hobson, Lewis, McTigue, J Walker and S Walker.

OFFICERS: S Bonner, C Cunningham, J Dixon and T Hodgkinson.

PRESENT AS AN OBSERVER: M Embleton - Legal Services.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Bell, Cooke, Jones and Smiles.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

MINUTES – LICENSING COMMITTEE – 12 APRIL 2021

The Minutes of the Licensing Committee held on 12 April 2021 were submitted and approved as a correct record.

APPOINTMENT OF CHAIRS TO THE FOLLOWING SUB COMMITTEES

Licensing Sub Committees B and C

It was explained that historically the Chair and Vice Chair of the Licensing Committee were appointed as Chairs of two of the Sub Committees. At the Council's Annual General Meeting on 26 May 2021, Councillor Arundale was appointed as Chair of Licensing Committee and Chair of Licensing Sub Committee A and Councillor Polano was appointed Vice Chair of Licensing Committee. As there was no dissent to the proposal, Councillor Polano was duly appointed as Chair of Licensing Sub Committee B.

Accordingly, nominations were sought for the appointment of Chair of Licensing Sub Committee C.

Two nominations were received and seconded and a vote was taken. Subsequently Councillor Bell was appointed Chair of Licensing Sub Committee C.

AGREED that the following Chairs be appointed:-

- Licensing Sub Committee A – Chair: Councillor Arundale (appointed by Council 26/05/21)
- Licensing Sub Committee B – Chair: Councillor Polano
- Licensing Sub Committee C – Chair: Councillor Bell

Casino Licensing Sub Committee

The schedule of appointments agreed by Full Council its Annual General Meeting on 26 May 2021, directed that the Licensing Committee appoint three Members, and three named substitutes (who must be full Members of the Licensing Committee) to the Casino Licensing Sub Committee. It was proposed that these appointments be deferred until such time that the Casino Licensing Sub Committee was required to meet, at which time necessary training would also be provided.

AGREED that the appointment of three Members and three named substitutes to the Casino Licensing Sub Committee be **DEFERRED** until such time that the Committee was required to meet.

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.

REVIEW – COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 05/21

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: 05/21, 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, accompanied by a representative, was in attendance at the meeting and verified his name and address and confirmed that he had received a copy of the report and understood its contents.

With the permission of the Chair, the driver's representative submitted a written testament statement in support of the driver, copies of which were distributed to Committee Members.

The Licensing Manager presented a summary of the report in relation to the driver's conviction, detailed at 1) in the submitted report and made reference to the relevant sections of the Council's Policy Guidance on Cautions, Convictions and Complaints.

The report highlighted that the driver was first licensed with Middlesbrough Council in August 2000. The driver first appeared before Members in May 2003 when Members considered a conviction which is now too old to be of relevance. On that occasion, however, the driver was permitted to retain his licence.

The driver now appeared before the Committee as a result of the conviction detailed at 1) and was interviewed by a Licensing Officer on 5 May 2021 when he provided an explanation for the offence – the full details of which were contained within the report – and confirmed that there were no other outstanding matter of which the Council was unaware.

The driver confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The driver addressed the Committee in support of his case and responded to questions from Members, the Council's legal representative and the Licensing Manager.

The driver's representative also spoke in support of the driver and responded to questions from Members.

It was confirmed that there were no further questions and the Chair advised the parties that they would be informed of the Committee's decision within five working days. Subsequently, the driver, his representative and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review.

It was necessary for the Committee to reconvene to determine the decision. Therefore, the Committee subsequently reconvened on **17 June 2021**. The following were present:-

PRESENT: Councillor Arundale (Chair); Councillors: Cooper (Substitute for Councillor Bell), Dean, Dodds (Substitute for Councillor Jones), Higgins, Hill, C Hobson and J Walker.

OFFICERS: S Bonner, C Cunningham and J Dixon.

PRESENT AS AN OBSERVER: M Embleton - Legal Services.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Bell, Cooke, Jones, Lewis, Polano, Smiles and S Walker.

ORDERED that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref 05/21 be suspended for a period of six weeks, for the following reasons:-

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage vehicle driver's licence on the grounds that:
 - Since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence;
 - Since the grant of the licence the driver has committed an offence or breached the Act or the Town Police Clauses Act 1847;
 - For any other reasonable cause.
2. The Committee considered Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("the Policy"), the report and the representations made by the driver and his representative.
3. The review of the licence was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all of the information, the Licensing Committee decided to **SUSPEND** the driver's combined hackney carriage and private hire vehicle licence for a period of six weeks for the following reasons.

Reasons

5. The Committee considered the driver's history on the whole in order to assess his suitability to continue to be licensed.
6. The Committee noted that the driver had been subject to contempt of court proceedings in respect of a claim brought by himself and his family against a holiday company. It appeared from the information provided that an Estoppel Hearing was brought by solicitors on behalf of the driver, which would be to stop the contempt of court proceedings. The driver had confirmed he had agreed to this hearing being abandoned on the advice of his solicitor. At a subsequent hearing, the driver confirmed that he admitted he had made a false claim following advice from his solicitor. As a result of this he was sentenced to four months imprisonment on 26 February 2021.
7. The driver explained to the Committee that he was advised to admit he made a false claim because he could not disprove that a questionnaire was completed by his son and sent to the holiday company. The driver had said that he did not believe a questionnaire was sent in and that he and his family were ill on part of the holiday. He also informed the Committee he felt let down by the legal system and that he and his family were initially contacted by a law firm which was representing other claimants.
8. However, the Committee considered all of the evidence in relation to that matter would have been scrutinised by a judge in a court of law and that the driver made an admission to a judge in a court of law. The Committee would not, and could not, go behind that admission or the Judge's decision in passing the prison sentence of four months. The Committee, therefore, did consider that the driver had made a false claim and was imprisoned as a result.

9. The Committee noted that as a result of the case the driver was in debt by a large amount of money, however, did not consider this was relevant as its role was to consider the overall protection of the public.
10. The Policy stated that for an isolated conviction involving dishonesty a minimum period of five years free from conviction was required before granting a licence. The Committee considered that the false claim was similar to the offences listed in the Policy that required a period of five years free from conviction.
11. However, on this particular occasion after considering all of the particular facts and circumstances of the review of the driver, the Committee decided to depart from the Policy and not revoke the licence.
12. The Committee considered that the driver had been licensed for a period of approximately 20 years without any issues. The Committee noted that the driver had been entrusted to carry out school runs and private contracts with care homes carrying vulnerable passengers with special needs, learning difficulties and disabilities over a long period.
13. The Committee considered that character references had been provided, some from service providers to vulnerable children and adults, stating the driver was an honest and trustworthy person who took care of his passengers and provided receipts for work undertaken. The driver had gained this trust over a long period during the length of his licence. The driver had also been the Chair of the Middlesbrough Hackney Carriage Association which was again a position of trust. There were no other issues that showed the driver was a danger or risk to the public.
14. The Committee considered that although serious, the matter was out of character based on his previous conduct. On this particular occasion, the Committee did not consider revocation was appropriate but considered that a suspension of his licence for six weeks would be a sufficient and appropriate deterrent. It considered the incident was serious enough to warrant a suspension for six weeks as he was imprisoned for making a false claim. The Committee considered a six week suspension would deter the driver from acting in such a manner in the future and would ensure he acted in a trustworthy manner in accordance with his previous licensing history and the character references he had provided in support of his licence.
15. If the driver was aggrieved by the decision he may appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.
16. If the driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council would claim its costs in defending its decision from the driver which could be in the region in excess of £750.