

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Alan Briggs,
Councillor Kathleen Brothwell and Councillor
Adrianna McNulty

Apologies for Absence: None.

39. Confirmation of Minutes - 20 February 2020

RESOLVED that the minutes of the meeting held on 20 February 2020 be confirmed.

40. Declarations of Interest

No declarations of interest were received.

41. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

42. To Interview an Existing Driver who has Failed to Disclose a Conviction for No Insurance (06/2020)

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire drivers licence having 6 valid penalty points on his driving licence for using a vehicle uninsured.
- b) stated that the licensee had held a licence since February 2018.
- c) explained that the applicant came into City Hall on 14 January 2020 to re-apply for a licence
- d) highlighted that during the appointment the licence holder declared that they had received 6 penalty points for an IN10 offence which happened in 2019
- e) reported that following a driving licence check an endorsement showing 6 points for using a vehicle uninsured which took place on 11 June 2019
- f) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to penalty points and no insurance; *'A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has*

been free of conviction for 3 years, however a strict warning should be given as to future behaviour.'

- g) highlighted that the licence holder passed the Driver Improvement Programme on his second attempt achieving a low risk
- h) explained to the Sub Committee that the licence holder had the opportunity to inform officers in the Licensing Team on numerous occasions of this offence before he came into City Hall on 14 January 2020 to apply for a re-licence.
- i) highlighted that the licence holder was suspended under Section 52 of the Road Safety Act 2006 in April 2019, following the Polices investigation no further action was taken and the suspension was lifted on 23 July 2019. The licence holder re-licensed his private hire vehicle on 17 September 2019, declaring that he had not been convicted of any offence since his last application.
- j) alerted the Sub Committee that under the statement of policy it stated the following in relation to giving or making a false declaration, of which the applicant failed to declare the offence of no insurance; *'It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.'*

The decision was made as follows:

That the private hire driver's licence be refused for 3 years until the penalty points were removed from his record. The applicant would be able to re-apply after 3 years.

Reasons for the Decision:

1. The Sub-Committee felt that the licence holders conviction was very serious and did not feel that he gave a reasonable explanation for why this happened.
2. The Sub-Committee felt that the licence holder doubted that he had just forgotten to disclose the insurance on three occasions to officers of the Licensing Team, particularly stating that he knew the severity of the conviction.
3. The Sub-Committee felt that there was no good reason to deviate from the policy.
4. The Sub-Committee were not persuaded that the licensee had given a sufficient reason for not disclosing the fact he had 6 points on his Licence sooner than he did as there were three occasions when officers could have been notified.

43. To Interview an Existing Driver who has Failed to Disclose Two Convictions (07/2020)

The Licensing Officer:

- a) provided a report to determine whether an applicant for a private hire driver's licence was a fit and proper person to continue to hold a licence and not disclosing two previous convictions
- b) stated that the licensee had held a licence since March 2012
- c) explained that the applicant came into City Hall on 29 January 2020 to apply for a re-licence
- d) highlighted that during the appointment the licensee declared at part 2 of the form verbally to the Licensing Officer that he was not aware of any convictions, however did mention that there had been family issues
- e) explained that a DBS check revealed two new convictions from 2018 for breach of non-molestation order
- f) alerted the Sub Committee that within the current Hackney Carriage and Private Hire Licensing Policy it didn't specifically mention Non-Molestation Orders, which were normally the result of an injunction being applied for by someone who had suffered domestic abuse, which was defined as; '*Any incident of controlling, coercive or threatening behaviour, violence or abuse between those 16 or over who are or have been intimate partners or family members, regardless of their gender or sexuality*'

The decision was made as follows:

That the Private Hire Drivers Licence be granted.

Reasons for the Decision:

1. The Sub-Committee noted that the conviction did not relate to physical abuse, and believed that it was about the communication issues between the Licence Holder and his ex-partner. The Sub-Committee therefore did not feel that this was directly relevant to the Licence Holder.
2. The Sub-Committee believed that the Licence Holder understood that his conviction should have been declared to the Licence Team, however at the time he did not think it would have been on his DBS check.
3. The Licence Holder had been through a difficult time, had a good record and was the sole carer to his children and wanted to continue to work.
4. Whilst the Sub-Committee felt that it was a serious matter, they believed the account given and it was likely that the relationship breakdown led to the breach occurring. They also noted that the breach was not clearly stated in the policy and they could understand how the applicant would have thought that he did not need to declare it to the Council. They did not think that the Licence Holder had been dishonest and therefore felt that they should not enforce the Statement of Policy about omitting to mention the breach on this occasion.

5. The Licence Holder had completed his B-tech which showed willingness to the Sub-Committee.