

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Adrianna McNulty,
Councillor David Clarkson and Councillor Matthew Fido

Apologies for Absence: Councillor Alan Briggs

40. Confirmation of Minutes - 24 February 2022

RESOLVED that the minutes of the meeting held on 24 February 2022 be confirmed.

41. Declarations of Interest

No declarations of interest were received.

42. 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.

43. To Interview An Existing Driver Who Has Failed To Disclose A New Conviction

The Licensing Officer:

- a) stated that the licensee had held a Private Hire Drivers Licence since 2 February 2019
- b) highlighted that the licensee was required to appear before the Sub-committee when he made his first application as he failed to disclose a previous offence of using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence. A copy of the report was shown at Appendix A
- c) explained that on 16 December 2021 the licence holder contacted the Licensing Team to apply for a re-licence. The application form, documents and fee were supplied/paid on 21 December 2021
- d) highlighted that the licence holder declared at part 2 of the application form that he had not received any convictions or criminal findings of guilt since his last application. A criminal record check (DBS) was requested on 28 January 2022, when the licensee returned this to the Council, and upon its return it showed an additional offence
- e) highlighted that within the Best Practice Standards, which were agreed on 16 March 2022, it stated the following in terms of offences involving violence;

‘ Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed’

- f) highlighted that within the current Hackney Carriage and Private Hire Licensing Convictions Policy it stated the following in relation to giving or making a false declaration, of which the licensee failed to declare the new conviction;

‘ 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 Sub-Committee questioned the applicant and received responses from the applicant.

The Decision was made as follows:

That the private hire vehicle driver's licence be renewed and that the driver be issued with a warning letter regarding his future conduct.

Reason for the Decision:

Upon applying for a licence renewal, the driver had failed to disclose a conviction for common assault which had occurred in October 2020 after an incident in July 2020. The Sub-Committee noted that the driver had also previously failed to disclose a caution for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence when initially applying for a licence in 2018.

The Sub-Committee had particular regard to the Council's policies relating to violent offences and giving or making false declarations, both of which would normally result in a licence not being granted. As a result the Sub-Committee noted that its decision was finely balanced in finding that the driver remained a fit and proper person to hold a licence.

In reaching its decision, the Sub-Committee had been persuaded by the applicant that his failure to disclose his conviction for common assault was owing to his misunderstanding of the meaning of the term 'conditional discharge' upon conviction by the court. This misunderstanding had been exacerbated by the exceptional circumstances around the coronavirus pandemic and remote hearings. The Sub-Committee considered that these factors explained adequately the driver's contention that he did not understand that he had been convicted of a criminal offence which would need to be disclosed.

The Sub-Committee further considered that the exceptional circumstances around the coronavirus pandemic had been a significant contributory factor in his conviction for common assault upon his partner. The Sub-Committee took convictions for violent offences extremely seriously but was satisfied by the driver's account and that the offence was an isolated incident at the lower end of the scale of violent offences, as indicated by the conditional discharge.

Noting these exceptional circumstances, the contrition and the reassurances offered by the driver regarding his future conduct, the Sub-Committee determined to renew the driver's licence. The Sub-Committee further requested that officers write a warning letter to the driver stressing that the Sub-Committee took his offence and failure to disclose the offence very seriously. The driver should also seek to ensure he was conversant and compliant with all rules relating to his conduct, including those recently agreed by the Licensing Committee at its meeting of 16 March 2022.