

LICENSING COMMITTEE

Minutes of a Special meeting of the Licensing Committee held in Council Chamber, County Hall, Ruthin on Thursday, 24 January 2013 at 2.00 pm.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies (Chair), Barry Mellor, Win Mullen-James and Cefyn Williams

ALSO PRESENT

Principal Solicitor (AL), Licensing Officer (NJ), Senior Community Safety Enforcement Officer (TWE) and Committee Administrators (KEJ & SLW).

1 APOLOGIES

Councillors Brian Blakeley, Hugh Irving, Peter Owen and Arwel Roberts

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.

4 REVIEW OF SUSPENSION OF LICENCE - DRIVER NO. 043844

A confidential report by the Head of Planning and Public Protection Services (previously circulated) was submitted seeking members' review of the period of suspension previously imposed by the committee on Licensed Driver No. 043844. The facts of the case had been presented as follows –

- (i) the Licensing Committee held on 5 December 2012 had considered the suitability of Driver No. 043844 to hold a licence to drive hackney carriage and private hire vehicles following accrual of 12 penalty points on his DVLA licence within a three year period [the Driver had been permitted to retain his DVLA licence by Prestatyn Magistrates who had accepted that a disqualification would cause exceptional hardship in his case];
- (ii) details of the endorsements on the Driver's DVLA licence had been considered, three of which related to the use of a mobile phone whilst driving

a vehicle, with members having raised grave concerns regarding the serious implications of the Driver's actions with potentially fatal consequences and the repeated offence of using a mobile phone whilst driving which they considered demonstrated the Driver's disregard for the law and public safety;

- (iii) during deliberations the Licensing Committee considered the Driver would benefit from attending a Driving Awareness Course in order to modify his behaviour and that his suitability to continue as a licensed driver be further assessed at their next meeting following his completion of the Driving Awareness Course; consequently it was –

*“**RESOLVED** that Driver No. 043844 be suspended from driving hackney carriage and private hire vehicles on public safety grounds and that he be required to undertake a Driving Awareness Course prior to the matter being brought back before the committee's next meeting (on 5 March 2013) in order to further assess his suitability to continue as a licensed driver and reconsider the suspension imposed.”;*

- (iv) the Driver subsequently appealed against the Licensing Committee's decision to the Magistrates Court and on 19 December 2012 Magistrates dismissed the Appeal but raised concerns regarding the length of the suspension imposed and directed the matter be referred back to the Licensing Committee at the earliest opportunity to allow the period of suspension to be reviewed;
- (v) the Driver had attended a Driving Awareness Course on 19 January 2013 as directed by the Licensing Committee (a copy of the Driver Assessment Report had been circulated prior to the meeting), and
- (vi) Driver No. 043844 had been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Officer (NJ) provided a summary of the report and advised that the Driver was in attendance at the meeting.

Driver No. 043884 addressed the committee in support of his case advising that he was an experienced driver of twenty five years and had never been in an accident during that time. He elaborated upon his driving history both in the UK and other countries and his experience of driving a wide range of different vehicles. The Driver assured the committee that whilst he had acted foolishly by using a mobile phone whilst driving he did not routinely do so and explained the circumstances surrounding each of the three offences. Members were also advised that the Driver had suffered exceptional hardship as a result of the suspension with the loss of earnings leaving him with financial difficulties. Details of his personal circumstances were also disclosed in terms of his responsibilities and family commitments. The Driver then reported upon his attendance at the Driving Awareness Course as stipulated by the committee highlighting the improvements to his driving as a result. In closing the Driver acknowledged his misconduct; reiterated the hardship he had suffered as a result of the suspension, and asked members to look favourably on the review of his licence.

Members took the opportunity to question the Driver regarding his previous conduct and sought assurances regarding his future behaviour. The Driver advised that he had previously used a mobile ear piece which had been stolen from his vehicle and a fixed device had now been installed in the car. He added that he did not routinely use a mobile phone in the vehicle in any event as he used a handheld PDA device for work. In response to a question on the appropriate use of speed referenced within the Driver Assessment report, the Driver assured members that he did not speed but routinely drove at approximately 25 mph. His only conviction for speeding had been for driving at 33 mph in a 30 mph area.

The Driver declined the opportunity to ask questions of members or officers and indicated that he did not wish to add to his submission or make a final statement.

The committee adjourned to consider the case and after deliberation it was –

RESOLVED that the suspension imposed on Driver No. 043844 be lifted and a warning be issued as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

In reaching a decision members had taken into account the concerns of the Magistrates regarding the length of the suspension originally imposed; the mitigating circumstances surrounding each of the three offences explained by the Driver; his attendance at a Driving Awareness Course and the driver assessment report produced together with his assurances regarding future conduct. The committee had been reassured by the Driver's attendance at the Driving Awareness Course; his acknowledgment of wrongdoing and regret over the offences, and his undertakings to modify his behavior in future to ensure no repeat of the offence. Nevertheless, members reiterated the serious nature of the offences and the potentially fatal consequences of the Driver's actions in his persistent use of a mobile phone whilst driving and therefore a stern warning was issued as to his future conduct.

The Chair conveyed the Licensing Committee's decision and reasons for the decision to Driver No. 043844 and impressed upon him the seriousness of the offences which the committee had not considered lightly and warned him about his future conduct. It was made clear that if the Driver was brought before the committee again regarding this matter his licence would likely be revoked.

OPEN SESSION

Upon completion of the above the meeting resumed in open session.

5 DRIVER AWARENESS COURSE

Prior to the close of the meeting members commented on the benefits of attendance at Driving Awareness Courses for licensed drivers and discussed potential training options with the officers. The Licensing Officer reported upon the availability of appropriate courses and provided a brief overview of course content

covering both practical and workshop based assessment together with indicative costs. Members suggested that consideration be given to introducing driver awareness training for hackney carriage and private hire vehicle drivers as part of the review of policy and conditions currently being undertaken. After further discussion it was –

RESOLVED that –

- (a) *consideration be given to introducing a Driver Awareness Course as part of the application process for new hackney carriage and private hire vehicle drivers with the cost of the course being met by the Applicant, and*
- (b) *consideration be given to providing Driver Awareness Workshops for existing hackney carriage and private hire vehicle drivers with the cost of the course being met by the licensed driver.*

The meeting concluded at 2.40 p.m.