

## **LICENSING COMMITTEE**

Minutes of a meeting of the Licensing Committee held in Council Chamber, Russell House, Rhyl on Wednesday, 4 December 2013 at 9.30 am.

### **PRESENT**

Councillors Bill Cowie, Richard Davies, Stuart Davies, Hugh Irving, Win Mullen-James, Arwel Roberts and Cefyn Williams (Chair)

### **ALSO PRESENT**

Head of Legal and Democratic Services (GW); Licensing Officers (NJ & JT); Licensing Enforcement Officer (HB); Public Protection Manager (EJ); Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

#### **1 APOLOGIES**

Councillors Joan Butterfield, Pat Jones, Barry Mellor and Peter Owen

#### **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.

#### **4 MINUTES OF THE LAST MEETING**

The minutes of the Licensing Committee held on 18 September 2013 were submitted.

***RESOLVED** that the minutes of the meeting held on 18 September 2013 be received and confirmed as a correct record.*

#### **5 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2013/14**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the Licensing Committee's future work programme. Due to various reasons as detailed within the report officers had been unable to meet the requirements of the existing work programme and proposed to present a revised forward work programme to the committee's next meeting in March.

Councillor Bill Cowie advised that licensing matters had been discussed at the last Performance Scrutiny Committee and he had queried the possibility of additional staff in light of the work pressures identified. Members noted the reasons for slippage in the work programme and the need to review licensing priorities in view of other demands on officers' time. Consequently it was –

***RESOLVED** that the report be noted and officers present a revised forward work programme to the next Licensing Committee in March.*

## **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 14 of Part 4 of Schedule 12A of the Act.*

### **6 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 041213**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) an application received from Applicant No. 041213 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having not been in a position to grant the application in light of the information revealed following an enhanced disclosure from the Disclosure and Barring Service;
- (iii) a summary of the convictions disclosed which related to a number of offences spanning a period from 1961 to 2001 including incidents relating to dishonesty, violence and traffic offences;
- (iv) the Council's current policy with regard to the relevance of convictions, and
- (v) the Applicant having been requested to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was in attendance at the meeting and following introductions confirmed he had received the report and committee procedures. The Licensing Officer (JT) provided a summary of the report and explained that the matter had been brought before the committee to assess the Applicant's suitability to hold a licence given the amount and nature of the convictions disclosed.

The Applicant addressed the committee and explained the circumstances surrounding a number of the convictions with some having been received in his youth and others which related to a difficult period during his personal life. He portrayed himself as an honest, hardworking churchgoer and assured the committee that he had become a responsible individual. The Applicant clarified a number of issues relating to the nature and circumstances of his previous convictions in response to members' questions thereon. In his final statement the Applicant asked the committee to look favourably on his application and provided assurances as to his future conduct if a licence was granted.

The committee adjourned to consider the application and it was –

**RESOLVED** that the application for a hackney carriage and private hire vehicle drivers licence from Applicant No. 041213 be granted.

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

The committee had carefully considered the report and Applicant's submission and had expressed concern regarding the number of type of convictions revealed by the criminal record check. However, regard had been given to the fact that the offences had taken place a significantly long time ago and members accepted the explanation surrounding those convictions put forward by the Applicant. The committee had found the Applicant to be genuine in his assurances regarding his current and future behaviour and consequently considered him to be a fit and proper person to hold a licence. The Applicant was warned that any future transgression would be severely dealt with.

The committee's decision and reasons therefore were conveyed to the Applicant.

## **7 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 045613**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 045613 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) information received on 24 September 2013, and a subsequent complaint having been made against the Driver, regarding the posting of offensive, insulting and inappropriate comments on a social networking website about a fare paying passenger which also involved the disclosure of personal details (a summary of facts together with witness statements and associated documentation had been attached to the report), and
- (iii) the Driver having been requested to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and following introductions confirmed that he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case.

The Driver apologised for his behaviour explaining that he thought the postings private banter between friends which had not been intended to offend or be made public. Members questioned the driver regarding his behaviour and attitude towards the passenger concerned and queried how the postings had been made public. In mitigation the Driver referred to problems in his personal life affecting his state of mind at that time and his intention to have some fun (copy of a solicitor's letter dated 18 November 2013 substantiating references in his personal life had been circulated at the meeting). He assumed the postings had been passed on by friends and had removed those references and had not used the website since. He

advised that he had not been aware of the seriousness of his actions at the time and had not been thinking clearly. In response to further questions the Driver confirmed that he had not apologised to the passenger as yet because he did not want to approach her directly or make the situation worse. Finally he advised that it had been an isolated incident and he did not commonly make reference to customers on the website.

In his final statement the Driver apologised for the incident and expressed remorse over his actions. He added that he would apologise to the passenger concerned.

At this juncture the committee adjourned to consider the case and it was –

***RESOLVED*** that the Hackney Carriage and Private Hire Driver's Licence issued to Driver No. 045613 be revoked on public safety grounds.

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

Members carefully considered all the evidence presented and the Driver's submissions in support of his case and response to questions. Serious concerns were expressed regarding the behaviour exhibited by the Driver which amounted to a gross breach of trust and the committee did not consider him a fit and proper person to hold a licence. The committee's overriding consideration was for public safety and given the aggravating factors that (1) the passenger had been a vulnerable individual, (2) personal details had been disclosed which potentially revealed the passenger's identity on the internet which had put her at risk, and (3) the disrespectful comments made and the Driver's attitude in that regard, it was agreed to revoke the licence with immediate effect in the interests of public safety.

The committee's decision and reasons therefore were conveyed to the Driver and he was advised of his right of appeal.

At this juncture (10.30 a.m.) the meeting adjourned for a refreshment break.

## **8 REVIEW OF A LICENCE TO DRIVER HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 046577**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted seeking a review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 046577.

Driver No. 046577 had requested an adjournment in this case and had submitted a letter (circulated at the meeting) explaining that he would be overseas at the time of the hearing and therefore unable to attend. In the interests of natural justice members decided to grant the adjournment request but in view of the seriousness of the case it was agreed that a special meeting be convened as soon as practicable to consider the matter.

***RESOLVED*** that consideration of the suitability of Driver No. 046577 to hold a hackney carriage and private hire vehicle drivers licence be deferred to a special meeting of the Licensing Committee to be convened as soon as practicable.

**9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 048997**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted seeking a review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 048997.

Driver No. 048997 was in attendance and referred to his letter (circulated at the meeting) requesting an adjournment in this case to allow him sufficient time to prepare and submit a fair and impartial defence. He also tabled a letter from an individual he intended to rely on as a key witness confirming he was unable to attend the meeting due to work commitments. The Head of Legal and Democratic Services advised that an adjournment request had also been received via email the previous day from the Driver's Solicitor.

Members considered the request for an adjournment and noted the seriousness of the matter. In the interests of a fair hearing it was –

***RESOLVED*** that consideration of the suitability of Driver No. 048997 to hold a hackney carriage and private hire vehicle drivers licence be deferred to a special meeting of the Licensing Committee to be convened as soon as practicable.

The Driver was advised of the committee's decision and when the special meeting would likely be held which would be confirmed as soon as possible. It was impressed upon him that the committee expected to deal with the case on that day and if any difficulties arose in terms of witnesses attending then members would expect a written statement be provided.

**10 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047689**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 047689 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) the report having been deferred from the last meeting of the Licensing Committee held on 18 September 2013 at the request of the Driver;
- (iii) a report having been received from North Wales Police regarding the behaviour of the licensed driver on 10 June 2013 for which a Public Order Act Fixed Penalty had been issued – the incident had also been captured on CCTV (a summary of facts together with witness statements and associated documentation had been attached to the report), and
- (iv) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and was being represented by his employer. Following introductions the Driver confirmed that he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case.

The Driver's Representative advised that the Driver had worked for him four years previously without incident and was a valuable member of the team with an exemplary record. He had admitted his wrongdoing, apologised for the incident and had accepted the fixed penalty notice. He provided a number of written references from customers attesting to the Driver's good character (circulated at the meeting) and commending him as a licensed driver. He appealed to members not to remove his licence and highlighted the detrimental effect on existing customers as a consequence. The Driver responded to questions and in mitigation referred to problems in his personal life at the time of the incident, acknowledged that it was unacceptable behaviour and advised that he was deeply embarrassed by the incident and apologetic. He explained the circumstances relating to the incident and his frustration at the time.

In making a final statement the Driver's Representative appealed to the committee not to remove the licence highlighting the valuable service he provided.

At this juncture the committee adjourned to consider the case and it was –

***RESOLVED*** that a warning be issued to Driver No. 047689 regarding the seriousness of the offence and to his future conduct.

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

During deliberations serious concerns were expressed over the Driver's behaviour, whilst on duty, which could have been witnessed and overheard by the public including children. However the committee accepted that the Driver was genuinely sorry for his actions and had also taken into account the references provided by customers attesting to his good character and valuable service. Whilst the behaviour exhibited by the Driver in this case was clearly unacceptable it was agreed that a serious warning be issued on this occasion. However any future transgression brought before the committee would be severely dealt with.

The committee's decision and reasons therefore were conveyed to the Driver and his Representative.

## **11 SUITABILITY OF A VEHICLE FOR A HACKNEY CARRIAGE LICENCE**

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of a Hackney Carriage vehicle (currently licensed to carry 7 passengers) to be licensed to carry 8 passengers;
- (ii) officers having not been in a position to grant a licence for 8 passengers as the vehicle did not comply with Hackney Carriage/Private Hire Compliance

Test Guidance or specification 3.1(f) as detailed in the Council's Hackney Carriage and Private Hire Licensing Conditions, namely (1) the seat configuration did not provide the minimum clearance through which passengers may pass, and (2) passengers would be required to tip one of the other seats to access/exit the rear row of seats, and

- (iii) the applicant having been invited to attend the meeting in support of his application and to answer members' questions thereon.

The Applicant was not in attendance and the Licensing Enforcement Officer (HB) presented the report. Members were asked to consider whether it would be appropriate to depart from the Council's policy concerning vehicle specifications in order to grant the application as applied for.

The committee adjourned to consider the application and it was –

***RESOLVED*** that the Hackney Carriage vehicle subject of the application be granted a license to carry 8 passengers.

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

During their deliberations members noted advice issued by the Department of Transport regarding the safety of the vehicle for commercial use and that the Council's current hackney carriage/private hire licensing conditions relating to seating configuration was currently under review. The committee was satisfied that the vehicle subject of the application was suitable for carrying 8 passengers. Consequently the committee resolved to grant the application as applied for.

As an aside the committee asked that any vehicle subject of a future application of this nature be made available for members' inspection.

The meeting concluded at 11.30 a.m.