

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Nant Hall Road, Prestatyn on Thursday, 27 June 2013 at 2.00 pm.

PRESENT

Councillors Bill Cowie, Richard Davies, Stuart Davies, Pat Jones and Cefyn Williams (Chair)

ALSO PRESENT

Head of Legal and Democratic Services (RGW), Licensing Officer (JT), Senior Community Safety Enforcement Officer (TWE), Licensing Enforcement Officer (HB) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Joan Butterfield, Barry Mellor, Win Mullen-James, 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

In accordance with Section 100B(4) of the Local Government Act 1972 the Chair declared that he intended to include for discussion the following matter which required urgent attention –

Review of a Licence to Drive Hackney Carriage and Private Hire Vehicles – Driver No. 043844

It was agreed to consider the matter following the main business item.

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.

4 REVOCATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS LICENCE - DRIVER NO. 047224

A confidential report by the Head of Planning and Public Protection Services was circulated at the meeting recommending the licence to drive hackney carriage and private hire vehicles issued to Driver No. 047224 be immediately revoked in the interests of public safety. The facts of the case were presented as follows –

- (i) information having been received regarding the arrest of Driver No. 047224 arising from allegations involving controlled substances and serious sexual misconduct relating to a young person;
- (ii) details relating to the allegations having subsequently been received from North Wales Police who were carrying out an investigation into the claims, and
- (iii) Driver No. 047224 had been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Licensing Enforcement Officer (HB) presented the report and confirmed that the Driver was not present despite being invited to attend. In response to questions members were advised that no further details could be disclosed in light of the ongoing Police investigation into the allegations. The Head of Legal and Democratic Services provided a legal viewpoint on the situation including grounds for suspension and revocation. After deliberation it was –

RESOLVED that the Hackney Carriage and Private Hire Driver's Licence issued to Driver No. 047224 be revoked on public safety grounds.

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

Members considered the facts of the case and expressed concern regarding the serious nature of the allegations and the fact that the Police were actively pursuing an investigation. In order to preserve public safety members decided to revoke the licence with immediate effect.

5 REVIEW OF LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 043844

[This item was considered as a matter of urgency, notice having been given by the Chair at the commencement of the meeting]

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

- (i) the suitability of Driver No. 043844 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) the Licensing Committee held on 5 December 2012 having suspended Driver No. 043844 on public safety grounds following his accrual of penalty points, three of which related to the use of a mobile phone whilst driving [the Driver had been permitted to retain his DVLA licence by Prestatyn Magistrates who had accepted a disqualification would cause exceptional hardship];

- (iii) the Driver appealed against the Licensing Committee's decision and on 19 December 2012 Magistrates dismissed the Appeal but directed the matter back to the Licensing Committee at the earliest opportunity to allow the period of suspension to be reviewed;
- (iv) the special Licensing Committee held on 24 January 2012 having lifted the suspension imposed on the Driver and issued a warning as to future conduct;
- (v) a letter having been received on 25 June 2013 from Driver No. 043844 stating that on 13 June 2013 he had been convicted of speeding by Llandudno Magistrates and under the totting up procedure had been disqualified from driving for a period of six months, 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 Driver was in attendance at the meeting and all parties present were introduced. Due to the urgent nature of the review the committee report had not been available in advance and had been tabled at the meeting.

Driver No. 043884 addressed the committee in support of his case explaining the circumstances of the speeding offence which had led to his disqualification. It was established that the offence had been committed in October 2012 but had taken until June 2013 for the Magistrates to hear the case. The Driver submitted that he had only been convicted for speeding on one other occasion in 2010 and routinely drove within the speed limit. Once his DVLA Licence had been reinstated in December 2013 it would be free from convictions. He also advised that correspondence received regarding the conviction had referred to the offence as a minor infringement of the Road Traffic Act. The Driver was keen to impress upon the committee that being a taxi driver was his livelihood which he enjoyed and took very seriously. Whilst accepting that he could not fulfill his duties as a licensed driver at present he hoped to continue the profession upon reinstatement of his DVLA Licence.

Members took the opportunity to question the Driver further regarding his speeding conviction and he was asked why he did not disclose his pending court appearance when his licence had been brought before the committee previously for review. The Driver responded that he had not been convicted of any offence at that time and he had not been present at the Licensing Committee meeting in December 2012. He also explained the circumstances surrounding the reference to appropriate use of speed within the Driver Assessment Report produced following completion of the Driving Awareness Course. In terms of historical motoring convictions the Driver confirmed two previous offences and the circumstances surrounding each.

In his final statement the Driver asked for leniency stating that he had learnt from his transgressions. He assured the committee that he would not be brought before them again if he was permitted to keep his licence.

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

RESOLVED that the Hackney Carriage and Private Hire Driver's Licence issued to Driver No. 043884 be revoked on public safety grounds.

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

In reaching a decision members considered all the evidence presented and the Driver's submissions in support of his case. During deliberations concerns were expressed that (1) the Driver had already been brought before the committee and issued with a warning regarding his conduct; (2) whilst technically there was no legal requirement, the Driver failed to disclose his pending court appearance for speeding on the previous occasion he had been brought before the committee which could have been taken into account at that time, and (3) the series of road traffic offences and the nature of those offences which had resulted in the Driver being disqualified from driving for six months. In light of those concerns and the fact that the Driver could not carry out his duties as a licensed driver during the disqualification period the committee did not consider him a fit and proper person to hold a licence. Given the committee's overriding consideration was for public safety and in light of the concerns expressed it was decided that the licence be revoked with immediate effect on those grounds.

The committee's decision and reasons therefore were conveyed to the Driver and he was advised of his right of appeal. It was clarified that the revocation did not prohibit him from applying for a licence following his period of disqualification.

The meeting concluded at 2.45 p.m.