

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in Conference Room 1a, County Hall, Ruthin on Monday, 12 January 2015 at 10.00 am.

PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Stuart Davies, Hugh Irving, Barry Mellor, Peter Owen, Arwel Roberts and Cefyn Williams (Chair)

ALSO PRESENT

Principal Solicitor (AL); Public Protection Business Manager (IM); Licensing Enforcement Officer (HB); Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Win Mullen-James and Pat Jones

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

4 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 047857

[This item was brought forward on the agenda with the consent of the Chair]

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

- (i) the suitability of Driver No. 047857 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) an allegation of assault having been made against Driver No. 047857 on 11 August 2014 which was subsequently investigated by Licensing Enforcement

Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);

- (iii) the Licensing Committee on 3 December 2014 having deferred consideration of the Driver's suitability pending the outcome of criminal proceedings in this case (details of which had been attached as a supplementary 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 accompanied by his legal representative and his employer. Following introductions the Driver confirmed he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case. CCTV footage of the incident subject of the report was shown to the Licensing Committee and replayed a number of times throughout the hearing at members' request.

The Driver's legal representative submitted a number of written references attesting to her client's good character and advised that he had been working as a taxi driver without previous incident. She explained the circumstances surrounding her client's plea basis at the Magistrates Court and his willingness to accept his part in the incident and take responsibility for his actions. In further mitigation she detailed her client's version of events leading up to and during the incident captured on CCTV together with his genuine remorse. In considering the evidence presented she highlighted a number of anomalies in the witness statements provided and argued against the credibility of those witnesses which could not be relied upon. Consequently she argued that, taking into account the circumstances of the case, her client's reaction was understandable, albeit completely out of character, and that he was a fit and proper person to hold a taxi licence.

Members put questions to the Driver regarding his version of events including his view of the incident and outcome of the criminal proceedings in this case. The Driver acknowledged that his conduct had been unacceptable, expressing his deep regret over the incident and was extremely apologetic. The Driver had the full support of his employer who spoke on his behalf and responded to questions regarding his employment confirming he was a valued employee. He also referred to his frustrations regarding elements of the Rhyl taxi trade in general causing dissent and friction between licensed drivers.

The legal representative made a final statement summing up her earlier submissions attesting to her client's good character, highlighting the extreme situation he had faced, and his sincere regret and willingness to take responsibility for his actions. She appealed to the committee not to remove the licence arguing there was no legal basis to suspend or revoke in this case.

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

RESOLVED that a formal warning be issued to Driver No. 047857 regarding the seriousness of the incident and to his future conduct.

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

During deliberations members considered the seriousness of the incident and whilst grave concerns were expressed over the Driver's behaviour in this case, his version of events and mitigation was accepted by the Licensing Committee, and he was considered fit and proper to hold a licence. Members had considered the Driver humble and genuinely sorry for his actions which he had taken responsibility for. The references attesting to the Driver's good character and valuable service had also been taken into account. However, whilst understandable, the behaviour exhibited by the Driver whilst on duty was clearly unacceptable and had brought the Council into disrepute. Consequently it was agreed to issue the Driver with a formal warning regarding the seriousness of the incident and to his future conduct.

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

5 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) an allegation of assault having been made against Driver No. 047689 on 11 August 2014 which was subsequently investigated by Licensing Enforcement Officers (a summary of facts together with witness statements and associated documentation had been attached to the report);
- (iii) the Licensing Committee on 3 December 2014 having deferred consideration of the Driver's suitability pending the outcome of criminal proceedings in this case (details of which had been attached as a supplementary report), and
- (iv) 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 he had received the report and committee procedures. The Licensing Enforcement Officer (HB) introduced the report and detailed the facts of the case. CCTV footage of the incident subject of the report was shown to the Licensing Committee and replayed a number of times throughout the hearing at members' request.

In mitigation the Driver submitted a written statement from his Solicitors which included reference to the outcome of the criminal proceedings in this case and the circumstances surrounding the offence. Given those details together with the time lapse since the incident during which the Driver had continued to drive taxis it was submitted that revocation of the Driver's licence would be unjust in this case. The Driver also explained his version of the events leading up to the incident and talked

members through the CCTV footage, denying the assault allegation and stressing his innocence of any wrongdoing.

Members questioned the Driver regarding the evidence which had been presented and his conduct before, during and after the incident. The Driver responded to members' questions and denied the assault allegation but expressed regret over confronting his assailant and further elaborated upon his intentions and actions during the incident. In expressing his remorse the Driver recognised how the incident would be perceived by the public and he also accepted he should have handled the situation differently. He referred to his desire to continue his profession as a taxi driver and provided firm assurances regarding his future conduct.

In his final statement the Driver said that he enjoyed his job and was good at it and he appealed to the committee not to revoke his licence.

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

RESOLVED that Driver No. 047689 be warned as to the seriousness of the incident and a final written warning be issued as to his future conduct.

[Councillor Stuart Davies asked for it to be recorded that he voted against the above resolution.]

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. It was considered that the Driver had instigated the incident and members were very critical of his behaviour which had brought the Council into disrepute. Concerns were also raised that the Driver had been brought before the committee previously relating to conduct issues. In assessing the Driver's suitability as a licensed driver members had taken into account that elements of the CCTV footage were inconclusive but the Driver had taken some responsibility for the events which had occurred. It was also acknowledged that he had continued to drive since then without incident and had expressed remorse for his actions. Consequently members decided to issue a final warning that the Driver was at risk of losing his licence in the event of any future transgressions.

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

[During the meeting a statement had been submitted regarding the state of the taxi industry in Denbighshire and the Chair asked licensing officers to look into the matters raised and provide the committee with a response thereto.]

The meeting concluded at 12.55 p.m.