

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in Council Chamber, County Hall, Wynnstay Road, Ruthin on Friday, 20 December 2013 at 9.30 am.

PRESENT

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

ALSO PRESENT

Head of Legal and Democratic Services (GW), Licensing Enforcement Officer (HB), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KJ)

1 APOLOGIES

Councillors Joan Butterfield and Hugh Irving

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

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

- (i) the suitability of Driver No. 046577 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 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 confirmed he had received the report and committee procedures. The Licensing Enforcement Officer introduced the report and summarised the facts of the case. Members were reminded that the

matter had been deferred from the last meeting at the Driver's request as he had been unable to attend.

The Driver submitted a written plea in mitigation together with character references from his employer and some of his regular customers (circulated at the meeting). He expressed deep remorse over the incident and assured the committee as to his previous good conduct and future behaviour. He referred to circumstances surrounding the incident and explained he thought the postings private banter between friends. The Driver acknowledged his behaviour was unacceptable and offered his apologies to the passenger concerned. Finally he referred to his family circumstances advising that losing his licence would cause extreme hardship.

Members questioned the Driver about his actions, particularly referring to the rationale behind his behaviour and his interpretation of events. The Driver was keen to stress that he had never intended his comments be made public or cause offence and naively thought they had been made between friends. He did not intentionally disclose address details and was adamant he would never have revealed the passenger's name or full address. In addition the Driver advised that he always treated his passengers courteously and with respect.

In his final statement the Driver expressed deep regret and apologised again for his actions. He urged members not to remove his licence and provided assurances as to his future conduct highlighting his previously unblemished record.

The committee adjourned to consider the case and it was –

RESOLVED that Driver No. 046577 be suspended from driving hackney carriage and private hire vehicles for a period of one week to take immediate effect 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 submission in support of his case including his plea in mitigation and character references provided. Serious concerns were expressed regarding the disrespectful comments posted by the Driver in respect of a vulnerable passenger and the fact that he had revealed part of her address which could have placed the individual at risk. Members had considered revocation of the licence but had taken into account the Driver's demeanor and genuine remorse over the incident together with the fact that the comments had not been abusive in nature and he had not disclosed the passenger's full address. Consequently it was agreed to suspend the licence with immediate effect for one week on the grounds of public safety. In addition the committee expected the Driver to make a fulsome apology to the passenger concerned and for a copy to be sent to the Licensing Section for file purposes.

The committee's decision and reasons therefore were conveyed to the Driver together with the implications of that decision and his right of appeal. He was also warned as to his future conduct.

At this juncture (10.20 a.m.) the meeting adjourned for a refreshment break.

5 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 upon –

- (i) the suitability of Driver No. 048997 to hold a licence to drive hackney carriage and private hire vehicles;
- (ii) a complaint having been made from a Civil Enforcement Officer regarding the behaviour of the licensed driver on 10 October 2013 following the issuing of a Penalty Charge Notice in respect of a hackney carriage vehicle;
- (iii) the Driver having subsequently been issued with a Public Order Offence Fixed Penalty Notice by North Wales Police relating to the incident (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 Licensing Enforcement Officer (LEO) provided a summary of the report and advised that the Driver was not present. The matter had been deferred from the last meeting following written representations from the Driver and his instructed solicitors requesting an adjournment. The solicitors had since advised that they no longer represented the Driver concerned. In the absence of any explanation from the Driver regarding his non attendance; the fact that the matter had already been adjourned at the Driver's request, and given the serious nature of the case members decided to proceed with the review in the Driver's absence.

The Head of Legal and Democratic Services reminded members of the representations that had been made at the last meeting. He read out a letter received from the Driver concerned in which he accepted the serious nature of the incident and wished to put the matter into the hands of solicitors. He conveyed his apologies and deep remorse for the incident advising that a series of unfortunate events had led to its culmination. The Driver had felt that the evidence presented had been biased against him and he wanted to prepare a defence and provide witness statements.

The LEO responded to questions from members advising that –

- details of the member of the public involved in the incident had not been taken at the time of the event and unfortunately he could not be traced
- confirmed there were some minor anomalies between the two statements provided by the Civil Enforcement Officers
- Civil Enforcement Officers permitted cars to park for up to ten minutes in the parking bay before issuing a Penalty Charge Notice
- it was not known whether the Driver had paid the Fixed Penalty Notice issued by the Police but had indicated in his statement that he intended to do so.

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. 048997 be revoked on public safety grounds.*

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

Members carefully considered all the evidence presented including written representations previously submitted by the Driver as part of his adjournment request at the last meeting. Serious concerns were expressed regarding the behaviour exhibited by the Driver during the incident; in particular his aggression towards the Civil Enforcement Officers and a member of the public present together with the foul and abusive language used which demonstrated an issue with his management of anger. This incident had occurred whilst the Driver was on duty and in a public place witnessed and overheard by the public and possibly children. Members noted that North Wales Police had seen fit to issue a Public Order Offence Fixed Penalty Notice which corroborated to a certain extent the incident as described in the report. It was noted that the Driver himself had acknowledged in his written representations that his behaviour had been unacceptable. Members also noted that a previous adjournment of the case had been permitted and no explanation had been provided by the Driver regarding his non attendance. The committee's overriding consideration was for public safety and in light of the Driver's behaviour as described it was agreed to revoke the licence with immediate effect in the interests of public safety.

The meeting concluded at 11.00 a.m.