
Licensing and Regulatory Sub-Committee



St Edmundsbury
BOROUGH COUNCIL

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on
Monday 9 May 2016 at **10.00 am** in **Room GFR 12, West Suffolk House,**
Western Way, Bury St Edmunds

Present: **Councillors**

Chairman Frank Warby

Bob Cockle
Richard Rout

18. **Election of Chairman**

It was proposed, seconded and

RESOLVED – That Councillor Frank Warby be elected Chairman for
this Licensing & Regulatory Sub-Committee meeting.

19. **Sub-Committee Membership**

It was announced that the Sub-Committee as originally constituted had Councillor Terry Buckle as a member and Ian Houlder as the nominated substitute. Both these Members were unavailable for this meeting and therefore they had been replaced by Councillors John Burns and Bob Cockle.

20. **Apologies for Absence**

No apologies for absence were received.

21. **Substitute**

Whilst Councillor John Burns had been included as a member of the Sub-Committee on the agenda for the meeting he had become aware, before the commencement of the meeting, that he knew one of the witnesses who would be appearing at the hearing. He therefore stood down from membership in favour of Councillor Bob Cockle who was the nominated substitute.

22. Hearing Procedure

The Hearing Procedure (previously circulated) was adopted for the consideration of item 24 below.

23. Exclusion of Press and Public

RESOLVED:

That under Section 100 (A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12 (A) of the Act

24. Review of Hackney Carriage/ Private Hire Vehicle Driver's Licence

(a) Pre- Hearing

The Legal Advisor explained that the purpose of the hearing was to review whether the respondent was a fit and proper person to continue to hold a Hackney Carriage and Private Hire Vehicle Driver's licence in the light of allegations relating to various incidents of misconduct by him. In this case it was the Borough Council itself, as the licensing authority, who was the applicant in calling for the review.

(1) it was announced that the respondent to the application was not present at the hearing. The Licensing Enforcement Officer advised that the respondent had been contacted by phone to establish whether he would be attending the hearing or be represented. There had been no indication during this contact that he would not be attending. The Sub-Committee agreed that it had no option but to proceed with the hearing with the respondent being absent;

(2) the Licensing Enforcement Officer confirmed that a copy of the Officers' written report (Reference LSC/SE/16/002) along with other related papers had been served on the respondent;

(3) the Licensing Enforcement Officer reported that the respondent had not submitted any written information in support of his defence. She advised that a further written statement had been received from a witness which was relative to one of the incidents of alleged misconduct referred to in the Officers' written report. This had not been circulated at the request of the witness but could be reported orally at the meeting if the Sub-Committee so requested;

(4) the Borough Council was requesting that two witnesses appear at the hearing to make further statements and answer questions about another of the incidents of alleged misconduct referred to in the Officers' written report. The Sub-Committee allowed this request;

(5) no limit was placed upon the time for witnesses to give their evidence to the hearing; and

(6) it had been determined earlier in the meeting that Councillor John Burns would not be required for the hearing but at the invitation of the Sub-Committee he remained present in the meeting as an observer.

(b) Hearing

The Licensing Enforcement Officer presented Exempt Report LSC/SE/16/002 (previously circulated) in connection with the application by the Borough Council for a review of the combined Hackney Carriage/ Private Hire Vehicle Driver's licence held by the respondent. The respondent's licence had been granted in December 2014 and a copy of the application, details of his convictions prior to the grant of the licence and the decision notice were attached as Exempt Appendix 1. Within a seven month period following the issue of his licence the respondent had reported three separate road collisions involving his vehicle and details of these were attached as Exempt Appendix 2. The respondent's behaviour after one of these collisions had been the subject of complaint to the taxi operating firm. Confirmation of this was received by e-mail from the operator and was attached as Exempt Appendix 3. This e-mail also referred to an incident involving property left in the respondent's vehicle, the non-return of which had also been the subject of complaint. A further complaint about aggressive behaviour by the respondent had been received by e-mail and was attached as Exempt Appendix 4. It was also being alleged that the respondent had an unauthorised red laser beam fixed to the front of his vehicle and a photograph of this was attached as Exempt Appendix 5. Attached as Exempt Appendix 6 was a transcript of a telephone conversation between the respondent and a taxi firm during which he was informed that the firm no longer wanted him to work for them because of the complaints they had received. Attached as Exempt Appendix 7 was a transcript of an interview under caution conducted by the Licensing Enforcement Officer and the Licensing Officer with the respondent. A copy of the Hackney Carriage/Private Hire Drivers' Disciplinary Code was attached as Appendix 8.

The Sub-Committee had also been circulated with the following Exempt Appendices after the agenda and papers for the meeting had been distributed:

- (i) a witness statement by a taxi firm operator;
- (ii) a witness statement by a complainant; and
- (iii) a witness statement by a complainant.

Each of these statements related to specific complaints/allegations referred to in the Officers' written report.

A witness statement relating to a further alleged incident involving the respondent was read out.

The Licensing Enforcement Officer gave an update on the written report.

The two witnesses at the hearing were then called to make any further statements they wished to make and to answer Members' questions.

Members discussed with Officers the various options available to the Sub-Committee. The Sub-Committee was mindful that the respondent:

- (a) had been involved in three vehicle collisions in a period of 7 months;
- (b) had been alleged to have acted in an abusive and threatening manner on more than one occasion;
- (c) carried out a modification to his vehicle in the form of a laser light without authorisation;
- (d) failed to report and return lost property straightaway; and
- (e) failed to notify two changes of operator as required by the condition attached to his licence.

Members asked that if the respondent's licence was to be revoked whether other licensing authorities would be informed of this decision and what steps would be taken to retrieve the licence plates issued to the respondent. Officers informed Members that Councils in the region would be circulated with advice that, pending any appeal being lodged, the respondent's licence had been revoked and that the plates would be recovered with Police assistance if necessary. A question arose as to whether the respondent would be able to continue as a taxi driver even though his licence had been revoked. Officers advised that the respondent would be advised that he had the right of appeal to the Magistrates' Court if the Sub-Committee decided upon revocation. He would have 21 days from the date of the decision within which to lodge an appeal. Subject to an appeal being made he could continue to operate as a taxi driver until the expiry of this period. In this event the possibility was that the respondent could only operate as a Private Hire Vehicle driver with any bookings being made via his private telephone number.

The Licencing Enforcement Officer, for the Council as the applicant, summed up the case that the respondent was not a fit and proper person to hold a Hackney Carriage/Private Hire Vehicle Driver's licence.

(At this point the Sub-Committee retired accompanied by the Legal Advisor and Committee Administrator to give consideration to the case being reviewed and other Officers present withdrew from the meeting room. The Sub-Committee had regard to the Officers' written report, the late witness statements which had been circulated and the statements made by witnesses at the hearing and debated whether the respondent was a fit and proper person to hold a licence. The Sub-Committee meeting was reconvened and Officers were re-admitted and the following decision announced)

Decision

The Sub-Committee has taken into account all the evidence before it and considers that the respondent is not a fit and proper person to hold a Combined Hackney Carriage/ Private Hire Vehicle Driver's Licence and his licence is therefore revoked with immediate effect.

The meeting concluded at 10.35am

Signed by:

Chairman
