

# Licensing (General) Sub-Committee

Thursday, 29th January, 2015  
at 9.30 am

## **PLEASE NOTE TIME OF MEETING**

Conference Room 3 - Civic Centre

This meeting is open to the public

### **Members**

Councillor Tucker (Chair)  
Councillor Parnell  
Councillor Galton  
Councillor Lloyd (Vice-Chair)  
Councillor Whitbread

### **Contacts**

Democratic Support Officer  
Karen Wardle  
Tel: 023 8083 2302  
Email: [karen.wardle@southampton.gov.uk](mailto:karen.wardle@southampton.gov.uk)

Head of Legal and Democratic Services  
Richard Ivory  
Tel. 023 8083 2794  
Email: [Richard.ivory@southampton.gov.uk](mailto:Richard.ivory@southampton.gov.uk)

# **PUBLIC INFORMATION**

## **Terms of Reference**

The Sub-Committee deals with licenses, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Public music and dancing
- Amusements with prizes
- Street trading
- Sex establishments

## **Relevant Representations**

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

## **Southampton City Council's Priorities:**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

- **One Council:** Developing an engaged, skilled and motivated workforce; implementing better ways of working to manage reduced budgets and increased demand.

## **Smoking policy –**

The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting.

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

**Fire Procedure –** in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access –** access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

## **Dates of Meetings: Municipal Year 2014/15**

Meetings of the Committee are held as and when required.

## **CONDUCT OF MEETING**

### **Terms of Reference**

The terms of reference of the Audit Committee are contained in Article 8 and Part 3 (Schedule 2) of the Council's Constitution.

### **Rules of Procedure**

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Quorum**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## **CONDUCT OF MEETING**

### **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available on the Council's website

### **1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

### **3 STATEMENT FROM THE CHAIR**

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 3 July 2014 and to deal with any matters arising, attached.

### **5 EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded in accordance with the Access to Information and Procedure Rules, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### **6 EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS**

Chair to move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 7 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules.

The information contained therein is potentially exempt as it relates to individual personal details and information held under the Data Protection Act 1998. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

7 **HACKNEY CARRIAGE DRIVER'S LICENCE** (Pages 5 - 22)

Report of the Head of Legal and Democratic Services seeking determination of suitability of a specific individual to hold a hackney carriage driver's licence, attached.

Wednesday, 21 January 2015

HEAD OF LEGAL AND DEMOCRATIC SERVICES

---

SOUTHAMPTON CITY COUNCIL  
LICENSING (GENERAL) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 3 JULY 2014

---

Present: Councillors Tucker (Chair), Parnell, Galton, Lloyd and Whitbread

1. **ELECTION OF VICE CHAIR**

**RESOLVED** that Councillor Lloyd be elected as Vice Chair of the Sub-Committee for the 2014/15 municipal year.

2. **STATEMENT FROM THE CHAIR**

The Chair expressed his thanks to the former Chair of the Licensing Committee, Carol Cunio.

3. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED** that the minutes of the meeting held on 8 May 2014 be approved and signed as a correct record.

4. **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

- (i) that in accordance with the Council's Constitution the Constitution, the press and public be excluded from the meeting in respect of item 7 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially expect as it relates to an individual's personal details and information held under the Data Protection Act 1998; and
- (ii) that the Sub-Committee may move into private in order to receive legal advice when determining issues. The parties to the hearing, press and public, unless otherwise excluded by paragraph 10.4 of the Council's Access to Information Procedure Rules be invited to return immediately following the private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

5. **PRIVATE HIRE DRIVER'S AND HACKNEY CARRIAGE DRIVER'S LICENCE**

The Sub-Committee considered the suitability of a specific individual to hold a private hire and hackney carriage driver's licence.

The driver and his solicitor were present and with the Consent of the Chair, addressed the meeting.

The Sub-Committee viewed CCTV evidence disclosed by the Police.

The Sub-Committee considered the decision in private session in order to receive legal advice when determining issues.

**RESOLVED** that a one month suspension be imposed on the licence with immediate effect.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:-

All parties will receive written confirmation of the decision and reasons.

The Sub-Committee has considered very carefully the report of the Head of Legal and Democratic Services and all the evidence presented today by the Licensing Manager, the driver and his solicitor. Human Rights legislation has also been borne in mind.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 and the guidelines relating to the relevance of convictions (policy).

The Sub-Committee considered all the facts and have decided to impose a one month suspension and that it is in the interests of public safety that this should be with immediate effect in accordance with sub section (2B) of section 61 of the Local Government (Miscellaneous) Provisions Act 1976.

#### Reasons for Decision

The Sub-Committee accepted legal advice that a suspension is not to be considered as a punishment but may be considered in terms of its deterrent effect on the driver.

The Sub-Committee does take convictions for violence offences particularly seriously and accepts that the policy indicates that a single conviction for such an offence would ordinarily prevent an applicant or existing driver from holding a licence for a period of at least three years. However, the Sub-Committee has heard sufficient evidence to warrant a departure from the terms of the policy and exercise its discretion as set out in paragraph 2:

“some discretion may be appropriate if the offence is isolated and there are mitigating circumstances”.

The Sub-Committee heard that the incident related to a long-standing family dispute and that effort has been made to resolve that dispute. It was also noted that a guilty plea was entered at the first opportunity and that the unpaid work requirement had been completed with positive comment in relation to his attendance and attitude.

The incident in question, it is understood from the evidence, resulted from initial antagonism towards the driver's father who had been diagnosed with cancer the day before. Whilst the Sub-Committee does not condone violence in any way it is accepted that the circumstances surrounding this incident are extremely unusual and unlikely to occur again.

It is also of some significance that this incident did not occur whilst the driver was acting as a licensed driver and to this extent the extended period of driving without similar violent incident has acted in his favour.



The Sub-Committee considered whether it was able to take into account a spent conviction as well as other matters and decided that they were relevant matters to be considered in determining whether the driver was fit and proper in accordance with the legislation. Nonetheless the Sub-Committee primarily focussed its mind upon this particular incident and whether the driver posed a risk to public safety, including, but not limited to, passengers within his licensed vehicle.

The Sub-Committee accepted legal advice that it ought not consider personal circumstances save for any explanation they may give for the offending (i.e. the impact of loss of livelihood was not taken into consideration).

The driver is strictly warned that an offence of this nature would ordinarily lead to revocation – it is only due to very unusual personal circumstances that the licence has not been revoked today. In this regard, any further offending or issues causing concern as to his character or fitness generally will be considered extremely seriously and such departure from the guidelines is only exercised in exceptional circumstances and is extremely unlikely to be permissible in future.

The Sub Committee considered the length of suspension and whether or not it was in the interest of public safety that it be with immediate effect very carefully. It feels that a one month suspension, with immediate effect, shows the seriousness of this type of behaviour and will act as a suitable deterrent to the driver not to act in such a way again.

There is a right of appeal for an aggrieved driver to the Magistrates' Court. Formal notification of the decision will set out that right in full.

This page is intentionally left blank

Document is Confidential

This page is intentionally left blank

Document is Confidential

This page is intentionally left blank

Document is Confidential

This page is intentionally left blank



Document is Confidential

This page is intentionally left blank

Document is Confidential

This page is intentionally left blank