
SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 22 NOVEMBER 2023

Present: Councillors M Bunday, T Bunday, Noon and Windle

Apologies: Councillor Powell-Vaughan

15. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

It was noted that apologies had been received from Councillor Powell-Vaughan.

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

The Chair moved 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 6 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 data protection legislation.

RESOLVED that having applied the public interest test it was not appropriate to disclose this information as the individuals' legal expectation of privacy outweighed the public interest in the exempt information.

17. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED that the Sub-Committee 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 by the Licensing Act 2003 (Hearings Regulations 2005), would be invited to return immediately following that private session at which time the matter would be determined and decision of the Sub-Committee announced.

18. **PRIVATE HIRE DRIVERS LICENCE REVIEW**

The Sub-Committee considered the report of the Executive Director for Place to consider whether a specific individual was a fit and proper person to hold a Private Hire Driver's Licence.

The Licensing Enforcement Officer, the Private Hire Driver and his legal representative were present and, with the consent of the Chair, addressed the meeting.

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

RESOLVED that the Private Hire Driver is not a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 "the Act" and to revoke the Private Hire Driver's Licence. Further, 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 Act.

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

The Sub-Committee has considered very carefully the report of the Executive Director – Place, all of the supporting evidence received prior to the hearing and all of the evidence presented today by Mr Russell Boniface and Russell Hawkins.

The Private Hire Driver under review attended with his solicitor Mr Regen Peggs and both answered questions and made representations. The Sub-Committee also heard from the Licensing Officers involved in this matter. The Licensing Officer, Mr Hawkins stated that he had met the Private Hire Driver during the licensing process.

The Sub-Committee gave due regard to the Local Government (Miscellaneous Provisions) Act 1976 “the Act” and Department for Transport Standards relating to the application of the “fit and proper person” test and other considerations of character.

The Human Rights Act, the Crime and Disorder Act, 1998 and the Equality Act 2010, were borne in mind whilst making the decision.

The Sub-Committee also considered the Taxi Licensing Policy and in particular the Guidance on Determining the Suitability of Applicants in the Hackney Carriage and Private Hire Trades.

The Sub-Committee considered all the facts in detail and decided that the Private Hire Driver was not a fit and proper person to hold the hackney carriage driver’s licence in accordance with the Act and that his licence should be revoked with immediate effect.

Reasons for Decision

Having heard all the information, the Sub-Committee did not consider that the driver remained a fit and proper person in order to retain a hackney carriage driver’s licence. The Sub-Committee did not find it plausible that the driver would have no recollection of the scenario that is the subject of this licensing hearing and that he would also have no recollection of having met Mr Hawkins, Senior Licensing Officer at SCC.

Mr Hawkins stated that he knew of and had met the driver during the licensing process. The Sub-Committee did not consider Mr Hawkins was incorrect in what he stated as Mr Hawkins and Mr Boniface were thoroughly questioned about the incident and the circumstances, and the Sub-Committee was happy to accept the account of Mr Hawkins.

The Sub-Committee noted that the Senior Licensing Officer, Mr Hawkins also identified the driver by face in the video and by identifying him via his vehicle and licence plate. The Sub-Committee considered that if the driver was not dealing drugs in the vehicle and that if the incident had been set up it raised concerns in respect of the public safety element, which needs to be the paramount concern.

In terms of natural justice, the Sub-Committee considered this in detail and noted that the safety of the public needs to be, and is, its paramount consideration. Taking into account the above they considered that the driver was not a fit and proper person in order to retain his taxi licence and that it should be revoked with immediate effect.

There is a statutory right of appeal against this decision to the Magistrates' Court within 21 days. Formal notification of the decision will set out that right in full.

The Private Hire Licence holder must surrender his licence/plate and badge to Southampton City Council Licensing Officers within 7 days.