

Licensing (General) Sub-Committee

Thursday, 16th May, 2024
at 10.00 am

PLEASE NOTE TIME OF MEETING Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor Mrs Blatchford
Councillor M Bunday
Councillor Kenny
Councillor Powell-Vaughan
Councillor Whitbread

Contacts

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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences, 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
- Street trading
- Sex establishments

Members: Five members drawn from the Licensing Committee

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: Corporate Plan 2022-2030 sets out the four key goals:

- **Strong Foundations for Life.**- For people to access and maximise opportunities to truly thrive, Southampton will focus on ensuring residents of all ages and backgrounds have strong foundations for life.
- **A proud and resilient city** - Southampton's greatest assets are our people. Enriched lives lead to thriving communities, which in turn create places where people want to live, work and study.
- **A prosperous city** - Southampton will focus on growing our local economy and bringing investment into our city.
- **A successful, sustainable organisation** - The successful delivery of the outcomes in this plan will be rooted in the culture of our organisation and becoming an effective and efficient council.

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. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Fire Procedure – Should the fire alarm sound during the meeting leave the building by the nearest available exit and assemble in the Civic Centre forecourt car park.

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

Dates of Meetings:

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

TERMS OF REFERENCE

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

BUSINESS TO BE DISCUSSED

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

Rules of Procedure

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

Quorum

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

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

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.

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 27 March 2024 and to deal with any matters arising, attached.

5 EXCLUSION OF THE PRESS AND PUBLIC

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 data protection legislation. 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.

6 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 by Categories 1 and 2 of paragraph 10.4 of the Council's Access to Information 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.

7 HACKNEY CARRIAGE DRIVER LICENCE REVIEW (Pages 1 - 44)

Report of the Licensing Officer to consider whether the licence holder remains a fit and proper person to hold a Hackney Carriage Drivers Licence.

Wednesday, 8 May 2024

Executive Director Communities, Culture & Homes

SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 14 FEBRUARY 2024

Present: Councillors Mrs Blatchford, M Bunday, Kenny, Moulton and Noon

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

RESOLVED: that the minutes for the Sub-Committee meetings held on 11 October 2023 and 22 November 2023 be approved and signed as a correct record.

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

RESOLVED that at a predetermined point during the consideration of all items, the Sub-Committee move into private session in order to receive legal advice when determining issues. Following that private session, at which time the matter will be determined, the decision of the Sub-Committee will be published.

21. **COMMITTEE HEARING TO CONSIDER TO SUSPEND OR REVOKE PRIVATE HIRE OPERATOR LICENCE(S)**

The Sub-Committee 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 by the Licensing Team and on behalf of the Operator on the day.

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.

RESOLVED that the Sub-Committee considered all the facts but were not persuaded that the operator was currently fit and proper, and the operator licence should therefore be revoked.

Reasons for Decision

The Sub-Committee received substantial written evidence including a supplementary bundle and heard from a number of witnesses and spent a considerable time in reaching its decision.

The Sub-Committee was concerned about the number of complaints against the operator over a period of time culminating in a second instance of allowing a private hire vehicle to be used when unlicensed. On the previous occasion the operator had received a warning and demonstrated a system to the Licensing Officers which ensured there could be no repeat.

Unfortunately, the system failed and there was a repeat. Whilst the Sub-Committee listened to the reasoning for the failure it had to consider its duty to public safety.

The Sub-Committee heard evidence of new systems and policies put in place by the operator but examples of these systems and policies were not before the Sub-Committee. There was a concern that these systems were new and untested over a period. This seemed to demonstrate a mindset of bringing in personnel to resolve problems rather than have suitable policies in place before expansion.

The answers provided by the operator's witnesses about the work culture and safeguarding were unsatisfactory in that they did not properly address the issues that had arisen.

The Sub-Committee was also concerned at the lack of liaison between the operator and the Licensing team in that Licensing were hearing of issues through complaints rather than from the operator. This included the two incidents of the use of unlicensed vehicles.

The director of the operator when interviewed in December by the Licensing team was unable to provide answers to many of the questions raised but did offer to then correct a system failure, which had been known about since at least August 2023. This seemed to demonstrate that the operator would only react when absolutely necessary rather than take proactive actions. This was a concern.

The history of complaints was played out at the hearing and although there were concerns around safeguarding allegations and Equality Act issues, fundamentally the operator had allowed a private hire vehicle to be used when unlicensed for a second time.

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

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