
SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 20 SEPTEMBER 2019

Present: Councillors McEwing, Renyard and Streets

Apologies: Councillors Mrs Blatchford and B Harris

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

The apologies of Councillors Mrs Blatchford and B Harris were noted. In the absence of the Chair, the meeting was chaired by the Vice Chair, Councillor McEwing.

It was noted that the Head of Legal and Democratic Services, acting under delegated powers, had appointed Councillor Streets to the Conservative vacancy on the Licensing (General) Sub-Committee for the purposes of this meeting.

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

RESOLVED that the minutes of the meeting held on 28 August be approved and signed as a correct record.

22. **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 7 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein was potentially exempt as it related 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.

23. **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 Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced.

24. **PRIVATE HIRE DRIVERS LICENCE REVIEW**

The Sub-Committee considered the report of the Service Director - Transactions and Universal Services to consider whether a specific individual is a fit and proper person to hold a Private Hire Driver's Licence.

The Licensing Manager, the Private Hire Driver and their legal representative were present and with the consent of the Chair, addressed the meeting.

At the commencement of the hearing the representative of the driver applied for the hearing to be adjourned.

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

RESOLVED that the application to adjourn should be refused and the matter should proceed

The Sub-Committee considered all the evidence presented by the Licensing Manager, the Private Hire Driver and the legal representative.

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

RESOLVED that the 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 was 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:-

At the commencement of the hearing the representative of the driver applied for the hearing to be adjourned. The Sub-Committee heard representations from the drivers’ representative.

The Sub-Committee considered the application and received legal advice that there were no specific rules regarding adjournments, and subject to acting fairly and reasonably the decision was a matter for them.

The Sub-Committee noted that the driver appeared to have been let down at the last minute by his previous representative but also considered the concerns about his driving including two failures of a Blue Trust driving assessment.

The Sub-Committee received further legal advice that their primary concern in dealing with driver’s licence is the protection of the public and that if the matter proceeded and a decision was made to revoke, the driver could appeal to the magistrates’ court by way of a full re-hearing.

In balancing all of the above matters the Sub-Committee concluded that the application to adjourn should be refused and the matter should proceed.

The Sub-Committee has considered very carefully the report of the Service Director – Transactions and Universal Services and all the evidence presented today by the Licensing Manager, the driver and his representative.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 “the Act” and the guidelines relating to the application of the “fit and proper person” test and other considerations of character. The Human Rights Act has been borne in mind whilst making the decision.

The Sub-Committee considered all the facts and has decided that the driver is not a fit and proper person in accordance with 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.

Reasons for Decision

The Sub-Committee heard significant evidence relating to a number of complaints concerning the driver’s honesty, behaviour and driving. It was agreed that it was important to consider the totality of the evidence in this case including the complaint history.

In addition to issues relating to dishonesty and poor behaviour, the Sub-Committee has heard very concerning evidence relating to the safety of the drivers driving and failure to pass a Blue Lamp Trust Taxi driving assessment by the deadline issued in a written warning in July 2019. The driver is still yet to pass the assessment.

The policy document (guidelines) clearly indicates that each case will be decided on its own merits and that public safety must be at the forefront of our minds when considering applications. Personal circumstances cannot be taken into account. The Sub-Committee took into account the representations made by the driver but did not feel able to accept all of the explanations given for some of the complaints made.

The Sub-Committee noted the medical evidence provided by the driver and concluded that this only went to a minority of issues raised and in any event is currently inconclusive.

In light of all of the above the Sub-Committee has no confidence in the driver in dealing with passengers and with Licensing Officers, or driving in a safe and suitable manner.

Accordingly the determination is to revoke the driver’s licence and the revocation must have immediate effect in order to promote and protect public safety.

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.