

LICENSING SUB-COMMITTEE

Thursday 7 December 2023

Present:

Councillors Holland, Sheridan and Wood

Also Present:

Legal Advisor, Principal Licensing Officer, Apprentice Solicitor and Democratic Services Manager

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APPOINTMENT OF CHAIR

Councillor Holland was appointed as Chair for this meeting.

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph's 1 and 2 of Part I, Schedule 12A of the Act.

TOWN POLICE CLAUSES ACT 1847

88

HEARING TO DETERMINE WHETHER A HOLDER OF A HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE IS A FIT AND PROPER PERSON TO HOLD THE LICENCE

The Chair introduced the Licensing Sub Committee Members and Officers.

The Licensed Driver had been referred to the Licensing Sub Committee to determine if he was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Legal Advisor set out the procedure for the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. The Licensed Driver confirmed that the procedure was understood.

The Legal Advisor referred to the Statutory Taxi and Private Hire Vehicle Standards published by the Secretary of State for Transport which the Licensing Sub-Committee must have regard when making its decision and read out paragraph 5.4 which states:

“Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a

person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.

Licensing authorities have to make difficult decisions but subject to the general principles the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only 50/50 as to whether the applicant or licensee is fit and proper, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.”

The Principal Licensing Officer presented the report and gave evidence that, a complaint had been made against the driver who was involved in an incident that breached the code of good conduct for licensed drivers. The Licensing Authority investigated Mobile phone and CCTV footage of the incident and this was shown to the Licensed Driver and was played at the hearing. It was the opinion of the Principal Licensing Officer that the licensed drivers behaviour fell well below that expected of a taxi driver licensed by Exeter City Council.

The Licensed Driver was in attendance to give evidence in respect of the matter and responded to questions from Members and the Legal Advisor.

The Licensing Sub Committee, having considered the report and submissions from the driver, were not satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence.

RESOLVED that the Licensing Sub-committee were not satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence and that the licence be revoked with immediate effect.

89 **HEARING TO DETERMINE WHETHER A HOLDER OF A HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE IS A FIT AND PROPER PERSON TO HOLD THE LICENCE**

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The Principal Licensing Officer presented the report and gave evidence in respect of the driver, following a complaint made against another driver, in which the Licenced Driver was involved. It was the opinion of the Principal Licensing Officer that the Licensed Drivers behaviour fell well below the standards expected of a taxi driver licensed by Exeter City Council. Mobile phone and CCTV footage of the incident was shown to the Licensed driver and was played at the hearing.

The licensed driver was in attendance to give evidence in respect of the matter and responded to questions from Members and the Legal Advisor.

The Licensing Sub Committee were satisfied on the balance of probabilities that the Licensed Driver was a fit and proper person, however, in regard to future conduct that warning letter with six penalty points to be issued from the Chair of the Licensing-Sub-Committee.

RESOLVED that the Licensing Sub-committee were satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence and that the licence should remain in place, with a written warning issued in regard to future conduct, together with six penalty points, issued from the Chair of the Licensing-Sub-Committee in accordance with the Council's the Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators and the Code of Conduct for Licensed Drivers.

(The meeting commenced at 10.00 am and closed at 1.05 pm)

Chair