

**NORTH DEVON COUNCIL**

Minutes of a meeting of Licensing and Community Safety Sub-Committee A held in the Barum Room - Brynsworthy on Friday, 15th July, 2022 at 1.00 pm

PRESENT: Members:

Councillor York (Chair)

Councillors Gubb (substitute for L. Spear) and Henderson

Officers:

Legal Officer advising the Sub-Committee (LOSC), Legal Officer acting for the Licensing Authority (LOLA), Licensing Officer (NB), and Corporate and Community Services Officer

**18. APPOINTMENT OF CHAIR**

The Corporate and Community Services Officer requested nominations for Chair.

RESOLVED that Councillor York be appointed Chair.

**19. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**20. DECLARATIONS OF INTEREST**

There were no declarations of interest announced.

**21. EXCLUSION OF PUBLIC AND PRESS RESTRICTION OF DOCUMENTS**

RESOLVED:

- (a) That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items as they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to any individual (including that authority holding that information); and
- (b) That all documents and reports relating to the item be confirmed as "Not for Publication".

**22. DISCIPLINARY HEARING OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENSED DRIVER (REF NBDD0001)**

Also present, the Licence-holder.

The Chair introduced herself, as did the other Members and Officers present.

The Licensing Officer confirmed all formal requirements had been met in respect of the disciplinary hearing of a Hackney Carriage and Private Hire Licensed driver, reference NBDD0001.

The Legal Officer advising the Sub-Committee (hereafter referred to as LO SC) outlined the hearing procedure which would take the form of a discussion led by the Chair. In reference to the hearing Statement that the Licence-holder had handed out to the Sub-Committee in which he had stated that Sub-Committees were not backed up by law the LO SC indicated that this was not correct. The proceedings and any decisions made were authorised by statute, as indeed were those of any magistrates' court.

The aim of the Sub-Committee was to hold a fair hearing, and the procedure set out in the North Devon Council Procedures for Licensing and Community Safety Sub-Committee Hearing and the form of discussion at hearings document would be followed, although the Sub-Committee could depart from it if appropriate.

The Licensing Officer presented his report. A number of complaints had been received over a period during 2021. These complaints could be found in the agenda pack. In looking at how best to resolve the matter, due to 14 historical complaints having been received, it was felt the best way forward was for a Sub-Committee to consider the information and make a decision.

The Legal Officer acting for the Licensing Authority (hereafter referred to as LOLA) outlined that the proceedings overriding objectives were to protect the public and the Local Authority had a duty to provide safe Hackney Carriage and Private Hire transport. Today's hearing had been delayed to accommodate the Licence-holder's diary, along with the emergence out of COVID but that all due diligence had been given to the dealing with the matter.

The LOLA requested the first witness be called.

The first witness was invited to recount the incident that had given him cause to make the complaint to the Council.

The first witness explained that he was a retired Police Officer from the Devon and Cornwall Police and whilst in the force had been in the traffic division. He recounted that in June of 2021 he and his wife was towing a caravan travelling along the dual carriageway towards Barnstaple and moved into the right hand lane to head to the M5 as per the markings on the road. As he approached the traffic lights to turn, right onto the Taw Bridge he was forced to brake suddenly due to a car ahead swerving to pull into a gap in front of them. Once the lights had turned red and the traffic had stopped Mr Morley's wife took a photo of the vehicle. The lights turned green and the traffic resumed moving he witnessed the vehicle going through a red light causing oncoming traffic to stop to allow him to turn.

The Licence-holder was invited to ask questions of the first witness. The Licence-holder queried with the witness how he had seen him go through the lights and that the markings on the road indicated you could use the lanes to overtake, he also queried who had taken the photograph as he felt the angle suggested it was not the passenger.

The LOLA reminded everyone that the meeting was not in a court arena and thanked the first witness for attending.

Members of the Sub-Committee had no questions for the first witness.

The second witness was called.

The second witness recounted the events that took place on a date in June 2021. She had been working as a caravan cleaner and pulled out of a junction heading towards Heddon Cross. She was alarmed by being overtaken by a grey car very suddenly with an oncoming vehicle ahead. She had to brake harshly to reduce speed and allow the overtaking vehicle space to pull into lane and avoid a head on collision. When approaching Knowle she became aware the same grey vehicle in front of an old style land rover, which he must have also overtaken. The heavy traffic approaching Braunton meant the traffic was slow moving which allowed her to take down the registration number of the grey vehicle that had been driving dangerously. At the main junction in the centre of Braunton a vehicle was waiting in the middle of the junction to turn right (heading towards Saunton). The grey vehicle, on the red light, heading towards Barnstaple, overtook this vehicle.

The Licence-holder was invited to ask questions of the second witness. The Licence-holder queried with the second witness who she saw driving the grey vehicle to which she replied she did not know as she could not see. He queried with the second witness the white line markings on the road and that there were no chevrons. The second witness replied no the markings were not chevrons but that there was a vehicle approaching in the opposite direction. The Licence-holder suggested the Sub-Committee carried out a site inspection of the junction at Braunton as there was enough space for up to three cars to sit on the junction awaiting a chance to turn.

In response to a question from the Chair. The second witness thought the speed limit on the road at Heddon Cross was 60 miles per hour but that she was not travelling at that speed having not long pulled out of a junction.

The Licence-holder asked the second witness what type of car she was driving and on her reply suggested that she would not have been travelling at a great speed having just turned out of the junction heading towards Heddon Cross.

The second witness was thanked for attending and left the meeting.

The LOLA confirmed that the third complainant could not attend the hearing today and asked the Licence-holder if he wanted to respond to the third complaint received.

The Licence-holder stated he was not happy that they were not present today, as they could not answer questions.

Councillor Henderson advised the Licence-holder that today's meeting was an opportunity for him to present his views regardless of whether witnesses were present.

In response to the third complaint, the Licence-holder stated that he kept a logbook of all his jobs and that this showed he was not in the location at the time the third complainant said the incident took place.

The LOLA questioned the Licence-holder. In response to why he had not mentioned previous convictions, he claimed that as they were spent it was not necessary to mention them. The LOLA explained that the Sub-Committee had a duty to consider previous convictions when dealing with public safety and that convictions from 2006 were allowed to be considered.

When asked to explain what he meant by an 'assured style', the Licence-holder said it meant he had a lot of experience driving with a lot of miles on the clock.

The Licence-holder stated that he felt the witnesses were lying in their statements. The LOLA asked the Licence-holder whether he had some notoriety in the trade and was known as 'speedy'. The Licence-holder said that was prior to 2014 and was not true of now.

The LOLA advised the Sub-Committee she did not feel it was necessary to go through each complaint but would like to draw Members attention to paragraph 5, of the agenda report, which set out the statutory frameworks the Sub-Committee was obliged to consider when making its decision.

Members questioned the Licence-holder.

The Licence-holder gave the following responses to questions:

- In his hearing statement provided to the Sub-Committee today he explained that 'assured style' referred to the 38 years driving experience he had with no accidents.
- Driving under pressure could be seen as reckless but his driving style was an assured one.
- It was not always possible to leave early for a job if the one before was late.

The LOLA summed up. In her summing up statement, the LOLA reminded the Sub-Committee that it was their duty to have regard of all the information supplied including witness accounts. Regard should be given to the statutory standards as well as the Council's own licensing policy. She concluded by saying she felt the Licence-holder had demonstrated a lack of understanding of the conditions the Council expected from a Licensed driver. His views on the complaints put forward, with no explanation provided, also demonstrated he believed it was never his fault.

The Chair asked the Licence-holder about the driving course he had been ordered to complete as a result of a Sub-Committee hearing held in 2014 and why he thought he was present again today. The Licence-holder said he had no comment to make on that.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Solicitor and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted upon and agreed.

RESOLVED that the Hackney Carriage and Private Hire Licences, (reference NBDD0001), be revoked.

In reaching the above decision the Sub-Committee had considered carefully the three recent complaints concerning the driving of the Licence-holder and taken account of the written hearing-statement he had provided. Account had also been taken of a previous Sub-Committee hearing held in 2014.

On the basis of the material before it, the Sub-Committee had reached the following conclusions:

- On the balance of probability, the Sub-Committee found that on 26.06.21, 28.06.21 and 13.08.21 the Licence-holder's driving fell well below the standards expected of a professional driver hold a Hackney Carriage and Private Hire Licence.
- The Licence-holder, was in complete denial, indicated no remorse, and acknowledged no element of acceptance or understanding of the concerns of the three separate members of the public.
- The Members of the Sub-Committee had asked themselves, based on the information presented today, whether they would allow a person for whom they care to travel alone in a vehicle driven by the Licence-holder, at any time of day or night – the Sub-Committee was unanimous in answering in the negative.
- With the above in mind and with the Licensing Authority's duty to protect the integrity of the Licensed Hackney Carriage and Private hire trade and even more importantly the safety of the general public. The Sub-Committee felt that there was only one order which could be made in the circumstances, and that was the revocation of the Hackney Carriage and private Hire licences, "for any other reasonable cause" pursuant to Section 61 of the Local Government (miscellaneous provisions) Act 1976.
- In normal circumstances the revocation of the licences would take effect at the end of a period of 21 days from the day on which notice was given to the driver, but as it appeared that the interest of public safety required the

revocation of the Licences to have immediate effect, then the revocation took effect when the notice of revocation was given to the Licence-holder.

Chair

The meeting ended at 2.40 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.