

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee A held at Barum Room - Brynsworthy on Friday, 25th August, 2023 at 10.00 am

PRESENT: Members:

Councillors:

Councillors Cann, Haworth-Booth and Norman

Officers:

Chartered Legal Executive, Licensing Officer, Licensing Officer and Licensing Case Officer

28. APPOINTMENT OF CHAIR

The Corporate and Community Services Officer requested nominations for Chair.

RESOLVED that Councillor Cann be appointed Chair.

29. APOLOGIES FOR ABSENCE

There were no apologies for absence.

30. DECLARATIONS OF INTEREST

There were no declarations of interest announced.

31. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RECOMMENDED:

- (a) That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involves the likely disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information which is likely to reveal the identity of an individual.
- (b) That all documents and reports relating to the item be confirmed as 2 "Not for Publication".

32. DISCIPLINARY HEARING OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENSED DRIVER – (REF NB006/23)

The Chair introduced the Committee Members and those present.

The Licensing Officer addressed the Committee and advised of the following:

- The licence was originally issued 30th May 2017. It had been considered at Committee due to the applicant then having disclosed 14 previous offences. It was noted at the time that the licence had been granted in part due to the support of the applicant's employer but that if any problems arose it would be re-considered by Committee.
- There had been nine separate complaints.
- The appendices included a transcript of an interview under caution of 9th February 2023 when the licence holder was interviewed to discuss complaints made against him.

The Chartered Legal Executive (from now on referred to as the Legal Advisor) summarised the process to those present.

In response to the question 'Did he have any further questions?' the licence-holder shook his head.

In response to the question 'Was he recording the hearing?' the licence-holder shook his head.

The licence-holder addressed the Committee and advised of the following:

- When his licence was originally granted in May 2017 it had not been an employer who had supported him; it had been a friend.
- That his past issues had been caused by women and that in the past 15 years he had been celibate and turned his life around.
- He had bought the vehicle to use as a taxi in 2017/18. All the offences had been in relation to that vehicle. He concluded it was a marked car and that it was the car itself causing the problems.
- He stated that the car had been scrapped in August (2022).
- Since August 2022 he drove for a company which provided him with a vehicle.
- Since August 2022 there had been only one complaint (when he had refused to take a fare). He stated that the complainant had lied in their statement of the event and confirmed he had felt he had a right to refuse a fare.
- He stated he did not have a face book account – so that the evidence provided (in appendices h and i) were not made by him

In response to questions from the committee, once the face book posts were read to him, the licence-holder confirmed that he did have seven face book accounts although one was in his name (but not the account from which the post was made) and six additional ones with fake profiles. He stated these were 'catfish' accounts.

The Licence Holder indicated that it had not been him who had posted the post which was appended within the evidence supplied to the committee and further in response to closer questioning on this Facebook post contended it had been created

by a friend not him even though the post appears to be directly as a result of the incident in question.

During further questions from the committee, the licence holder disputed the circumstances of the complaints made against him within the appendices.

The Licensing Officer presented the Committee with dash-cam footage relating to a complaint contained within the report.

In response to questions relating to one of the complaints where it was alleged the licence holder had made inappropriate hand gestures to the complainant, the licence holder stated that he had been turning on his dash-cam at the time (which was positioned next to his rear view mirror) and not making hand gestures. The Licence Holder demonstrated to the committee how he used his middle finger to operate the dash-cam and denied gesticulating as set out in the evidence to the committee.

The Licence holder confirmed he had no witnesses present to address the Committee.

In response to a question from the Chair, the licence holder stated he was a safe driver and not one complaint was from a customer being driven by him at the time, and that in his defence, eight of the complaints were in the one vehicle (he no longer had) and only one was since his licence was renewed last year.

The Licensing Officer addressed the Committee and summed-up the report.

The Licence Holder angrily stormed out of the hearing.

RESOLVED that it being 11:05 a.m. the meeting be adjourned in order to see if the Licence Holder would like to return to the hearing, following a request by the Licensing Officer.

The Licence holder re-entered the hearing

RESOLVED, that it being 11:08 a.m. the meeting be reconvened.

The Legal Advisor advised the licence holder of the importance of him being present for the remainder of the hearing.

The licence holder got angry and accused the licensing officer of intimidation. He then shouted and pointed at the Committee. The Licence Holder was requested to stop raising his voice, pointing his finger and behaving in a threatening manner in front of the committee and was reminded of expected appropriate behaviours. The Licence Holder had indicated to the Licensing Officer that he should stop looking at him when the Legal Advisor intervened the Licence Holder had to be requested to refrain from such behaviour again and allow the Licensing Officer to continue.

In response to accusation from the licence holder, the Chair confirmed both sides would be heard and considered before a decision was reached.

The Licensing Officer advised that the level of complaints received about the licence holder was unprecedented and that in his time in the field he had never received that number about one driver. He also confirmed that in response to an earlier comment from the licence holder; the fact that complaints were made at times when customers may not have been present in the vehicle was not relevant under the Licensing Act. To argue it was on a domestic basis was irrelevant and no less serious.

The Licensing Officer presented the Committee with further dash-cam footage relating to a complaints contained within the report.

The Licence holder addressed the Committee to summarise his defence.

RESOLVED that everyone be excluded from the meeting with the exception of the Members, 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 on, and agreed.

RESOLVED that the recommendation of the Committee is that of 'Revocation of both the hackney driver's licence and private hire driver's licence'.
This is with consideration of the following:

1. Pursuant to Section 61 (2B) it appears that the interests of public safety require the suspension to have immediate effect.
2. The demonstration of lack of control and managing anger as follows:
 - a. Storming out of the hearing
 - b. Raising of voice to Committee
 - c. Accusing officers of intimidation
 - d. Gesticulation to committee members
 - e. Anger towards officers in review hearing by being verbally aggressive
 - f. Interrupting officers when speakingAll of these points bring the committee to the conclusion that the licence holder would fail the fit and proper person requirements under 5.12 of the Statutory Taxi and Private Hire Vehicle Standards, published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017, and the inability to manage his anger is of serious concern.
3. Having regard to paragraph 4.29 (of the report) the high volume of complaints regarding the driving standards identify problems during the periods of the licences, for example;
 - a. Patterns of behaviour as complained of as 'brake checking' or 'bumper testing'

- b. The demonstration of erratic and unpredictable driving is indicative of characteristics that raise doubts over the suitability to hold a licence.
 - c. The gesturing and complaints indicating an aggressive driving style again represent a pattern of unacceptable driving behaviours.
4. The failure to accept the fare in November 2022 raised concerns as to the primary and over-riding objective to protect the public. The description of a 'nonce and paedophile' as referred to in the evidence is unacceptable. The importance of ensuring that the licensing regime protects the vulnerable should not be under-estimated (3.2 of the Statutory Taxi and Private Hire Vehicle Standards published July 2020).

The licence holder left the meeting (at 12:51) prior to the recommendation being voted upon).

33. ADJOURNMENT OF MEETING

RESOLVED that it being 12:54 p.m. the meeting be adjourned for a comfort break and reconvene at 13:00 p.m.

RESOLVED, that it being 13:00 p.m. the meeting be reconvened.

34. RELEVANT OFFENCE COMMITTED BY PERSONAL LICENCE HOLDER- (REF NB0005/23)

The Licensing Officer addressed the Committee and advised of the following:

- The Authority had been advised by HM Courts and Tribunal Service, Manchester Crown Court, that the licence holder had been convicted of a crime and was sentenced, on the 28th April 2023, to a total of five years' imprisonment.
- The offences were relevant under to Licensing Act.
- The licence holder had been written to at HMP Doncaster where he was currently being held. No response had been received.

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

RESOLVED that the recommendation of the Committee is that of 'Revocation of the personal licence with immediate effect. This is with consideration of the following:

1. Pursuant to Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 it appears that the interests of public safety require the suspension to have immediate effect, and

2. The licence holder had committed a relevant offence under the Licensing Act 2003

Chair

The meeting ended at 1.09 pm

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