

Licensing (General) Sub-Committee

Thursday, 17th November,
2022

at 1.30 pm

PLEASE NOTE TIME OF MEETING
Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor Blatchford
Councillor Cooper
Councillor Furnell
Councillor G Galton
Councillor Vaughan

Contacts

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Executive Director Communities, Culture &
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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

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 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

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: Municipal Year 2021/22

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 ELECTION OF CHAIR

To appoint a Chair for the purposes of this meeting.

2 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.

3 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.

4 STATEMENT FROM THE CHAIR

5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

(Pages 1 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 26th November 2009 and to deal with any matters arising, attached.

6 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 8 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.

7 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 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.

8 PRIVATE HIRE DRIVER'S LICENCE REVIEW (Pages 5 - 82)

Report of the Executive Director for Communities, Culture and Homes to consider whether the applicant is a fit and proper person to hold a Private Hire Driver's Licence.

Wednesday, 9 November 2022

Executive Director Communities, Culture & Homes

SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 26 OCTOBER 2022

Present: Councillors Bunday (Chair), Cooper, G Galton, Vaughan and Blatchford

Apologies: Councillors

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

RESOLVED: that the minutes for the Committee meetings on 31 August 2022 and 5 October 2022 and be approved and signed as a correct record.

16. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED 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.

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

RESOLVED that 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, 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

18. **HACKNEY CARRIAGE DRIVER'S LICENCE APPLICATION**

The sub-committee considered the report of the Executive Director for Communities, Culture and Homes to consider whether the applicant is a fit and proper person to hold a Hackney Carriage Driver's Licence.

The Sub-Committee considered very carefully the report of the Service Director – Communities, Culture and Homes and all the evidence presented today by the Licensing Officers, the applicant and his representative, including references submitted at the meeting.

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.

It became clear that the applicant had not received the papers until just before the hearing. These had been posted but due to the postal strike an alternative offer for the

papers to be collected several days before the hearing was made to the Appellant which he declined. He and his representative were nonetheless happy to proceed.

The Chair made it clear that the whole history of events was relevant and in scope for the Sub-Cttee to consider although the whole case would be looked at with “fresh eyes”.

The Sub-Committee considered all the facts and has decided that the applicant is not a fit and proper person in accordance with the Act and his application for a hackney carriage driver’s licence is refused.

Reasons for Decision

The Licensing Officers addressed the Sub-Cttee highlighting the nature and number of convictions and complaints. The Sub-Cttee was referred to the Taxi Policy and guidance around the fit and proper test as it relates to convictions, complaints, and patterns of behaviour.

The Sub Committee heard evidence from the applicant and his representative that the applicant is hard working, is older and wiser and has therefore changed. Reference was made to a number of the complaints coming from one driver and that they should therefore be discounted.

The Applicant also referred to the fact that his current employment is public facing with a degree of facing disgruntled and frustrated people. He has been in his job for in excess of 7 years with no complaints and a reference was supplied by his employer. It was also stated that the Applicant goes out of his way to assist members of the public, examples being changing wheels of motorists.

Whilst the Sub-Committee very carefully considered all of these points it also took due note of the Crown Court judgement in the papers which made findings of fact in relation to complaints and the applicant’s credibility.

The Sub-Committee was therefore disappointed that the applicant appeared to show a lack of contrition and understanding with regard to his actions. Indeed, he continued to deny many of the issues decided at the Crown Court. The Sub-Cttee was concerned that the Applicant failed to recall some of the incidents and brushed off the seriousness of others.

In light of the clear findings in the Crown Court judgement the Sub-Cttee would have expected the Applicant and his representative to concede the truth of the complaints, provide an explanation for the behaviours and demonstrate why they would not be repeated. As it was no evidence of this was provided.

In the absence of that evidence and in light of the history of convictions, the long list of complaints (including threats of violence and of a racist nature) and clear findings of the Crown Court, the Sub-Committee could come to no other conclusion than to find that the applicant was not fit and proper in accordance with the Act. The Sub-Committee carefully considered the policy and the references from the applicant in doing so.

The Sub-Cttee heard and accepted that references in the policy to time elapsed after a conviction was a minimum period and for a single conviction. Therefore, longer periods are anticipated where there is a history of complaints and/or offending. Nevertheless, each case must still be considered on its own merits

There is a statutory right of appeal against this decision to the Magistrates' Court within 21 days of formal notification.

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