
SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 3 JULY 2014

Present: Councillors Tucker (Chair), Parnell, Galton, Lloyd and Whitbread

1. **ELECTION OF VICE CHAIR**

RESOLVED that Councillor Lloyd be elected as Vice Chair of the Sub-Committee for the 2014/15 municipal year.

2. **STATEMENT FROM THE CHAIR**

The Chair expressed his thanks to the former Chair of the Licensing Committee, Carol Cunio.

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

RESOLVED that the minutes of the meeting held on 8 May 2014 be approved and signed as a correct record.

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

RESOLVED

- (i) that in accordance with the Council's Constitution 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 expect as it relates to an individual's personal details and information held under the Data Protection Act 1998; and
- (ii) that the Sub-Committee may move into private in order to receive legal advice when determining issues. The parties to the hearing, press and public, unless otherwise excluded by paragraph 10.4 of the Council's Access to Information Procedure Rules be invited to return immediately following the private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

5. **PRIVATE HIRE DRIVER'S AND HACKNEY CARRIAGE DRIVER'S LICENCE**

The Sub-Committee considered the suitability of a specific individual to hold a private hire and hackney carriage driver's licence.

The driver and his solicitor were present and with the Consent of the Chair, addressed the meeting.

The Sub-Committee viewed CCTV evidence disclosed by the Police.

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

RESOLVED that a one month suspension be imposed on the licence with immediate effect.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:-

All parties will receive written confirmation of the decision and reasons.

The Sub-Committee has considered very carefully the report of the Head of Legal and Democratic Services and all the evidence presented today by the Licensing Manager, the driver and his solicitor. Human Rights legislation has also been borne in mind.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 and the guidelines relating to the relevance of convictions (policy).

The Sub-Committee considered all the facts and have decided to impose a one month suspension and 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 Local Government (Miscellaneous) Provisions Act 1976.

Reasons for Decision

The Sub-Committee accepted legal advice that a suspension is not to be considered as a punishment but may be considered in terms of its deterrent effect on the driver.

The Sub-Committee does take convictions for violence offences particularly seriously and accepts that the policy indicates that a single conviction for such an offence would ordinarily prevent an applicant or existing driver from holding a licence for a period of at least three years. However, the Sub-Committee has heard sufficient evidence to warrant a departure from the terms of the policy and exercise its discretion as set out in paragraph 2:

“some discretion may be appropriate if the offence is isolated and there are mitigating circumstances”.

The Sub-Committee heard that the incident related to a long-standing family dispute and that effort has been made to resolve that dispute. It was also noted that a guilty plea was entered at the first opportunity and that the unpaid work requirement had been completed with positive comment in relation to his attendance and attitude.

The incident in question, it is understood from the evidence, resulted from initial antagonism towards the driver's father who had been diagnosed with cancer the day before. Whilst the Sub-Committee does not condone violence in any way it is accepted that the circumstances surrounding this incident are extremely unusual and unlikely to occur again.

It is also of some significance that this incident did not occur whilst the driver was acting as a licensed driver and to this extent the extended period of driving without similar violent incident has acted in his favour.

The Sub-Committee considered whether it was able to take into account a spent conviction as well as other matters and decided that they were relevant matters to be considered in determining whether the driver was fit and proper in accordance with the legislation. Nonetheless the Sub-Committee primarily focussed its mind upon this particular incident and whether the driver posed a risk to public safety, including, but not limited to, passengers within his licensed vehicle.

The Sub-Committee accepted legal advice that it ought not consider personal circumstances save for any explanation they may give for the offending (i.e. the impact of loss of livelihood was not taken into consideration).

The driver is strictly warned that an offence of this nature would ordinarily lead to revocation – it is only due to very unusual personal circumstances that the licence has not been revoked today. In this regard, any further offending or issues causing concern as to his character or fitness generally will be considered extremely seriously and such departure from the guidelines is only exercised in exceptional circumstances and is extremely unlikely to be permissible in future.

The Sub Committee considered the length of suspension and whether or not it was in the interest of public safety that it be with immediate effect very carefully. It feels that a one month suspension, with immediate effect, shows the seriousness of this type of behaviour and will act as a suitable deterrent to the driver not to act in such a way again.

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.