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SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 24 MARCH 2023

Present: Councillors M Bunday, Cooper, Furnell, G Galton and Vaughan

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

RESOLVED: that the minutes for the Sub-Committee meeting on 17th November 2022 be approved and signed as a correct record.

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

The Chair moved 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.

RESOLVED: that having applied the public interest test it was not appropriate to disclose this information as the individuals' legal expectation of privacy outweighed the public interest in the exempt information.

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

RESOLVED: that at a predetermined point during the consideration of all items the Sub-Committee would 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 by the Council's Access to information Procedure Rules would 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.

26. **REPORT TO CONSIDER THE SUSPENSION OR REVOCATION OF A HACKNEY CARRIAGE DRIVERS LICENCE AND PRIVATE HIRE LICENCE**

The Sub-Committee considered the report of the Licensing Manager to consider whether a specific individual is a fit and proper person to hold a Hackney Carriage Drivers Licence and a Private Hire Driver's Licence.

The Licensing Manager, the Private Hire Driver and his representative were present and with the consent of the Chair, addressed the meeting.

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

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, in particular character references supplied by the Taxi Driver. The Human Rights Act has been borne in mind whilst making the decision.

RESOLVED: that the driver is not a fit and proper person, and given the seriousness of his actions, his licence should be suspended for a period of three months.

Reasons for Decision

The Licensing Officer addressed the Sub-Committee highlighting the complaint, the subsequent police investigation and recent guilty plea. The Sub-Committee was referred to the Taxi Policy and guidance around the fit and proper test as it relates to convictions, complaints, and patterns of behaviour. As stated above, the Sub-Committee also took into account character references that had been provided by the Taxi Driver, and the evidence provided by the complainant.

When questioned about the complaint the Taxi Driver indicated that his actions were motivated by revenge, but showed remorse for doing so. The Sub-Committee also heard testimony that, over 20 years, the driver had very few complaints.

Taking into account all of the factors discussed at the hearing, the panel considered that the Taxi Driver does not meet the 'fit and proper' test in order to retain a taxi driver licence. Although the driver's previous disciplinary record was minimal, the gravity of his actions, coupled with the fact that he waited a period of time to act, aggravated the seriousness his actions. The Sub-Committee were also mindful of the fact that the driver has pleaded guilty to an offence under the Communications Act 2003, and is due to be sentenced.

The Sub-Committee were sympathetic that the driver admitted to making a grave mistake, and was ultimately a crime of passion.

The Sub-Committee considered that the Taxi Driver does not meet the fit and proper person test in terms of being able to hold a hackney carriage driver licence or private hire taxi driver licence and the licence should therefore be suspended. The Sub-Committee considered that three months is appropriate given the nature of the driver's actions, and will act as a sufficient deterrent against future actions.

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