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SOUTHAMPTON CITY COUNCIL  
LICENSING (GENERAL) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 16 MAY 2024

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Present: Councillors Mrs Blatchford, M Bunday, Kenny, Powell-Vaughan and Whitbread

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

**RESOLVED:** that the minutes for the Sub-Committee meeting on 27 March 2024 be approved and signed as a correct record.

2. **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.

3. **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 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 would be determined and the decision of the Sub-Committee would be announced.

4. **HACKNEY CARRIAGE DRIVER LICENCE REVIEW**

The Sub-Committee has considered very carefully the report of the Executive Director – Growth & Prosperity, all of the supporting evidence received prior to the hearing and all of the evidence presented today by the Licensing Officer, the Hackney Carriage Driver and his representative.

The Sub-Committee 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, the Crime and Disorder Act, 1998 and the Equality Act 2010, have been borne in mind whilst making the decision.

The Sub Committee considered the Human Rights Act 1998 during its deliberation and on legal advice, accepted that personal circumstances, including financial implications, could not be taken into account.

The Sub-Committee considered the Driver's history as a licensed driver, the detailed report of the Senior Licensing Officer, and the Licensing policy, in particular the Guidance on Determining the Suitability of Applicants in the Hackney Carriage and Private Hire Trades.

The Sub-Committee has heard from the Licensing Officer, an Advocate for the Hackney Carriage Driver, and the Hackney Carriage Driver.

The Sub-Committee considers it proportionate and necessary to suspend the Hackney Carriage Drivers Licence: for a period of one month, and until the completion of the Taxi Driver Remedial Course provided by Blue Lamp Trust at his own expense, whichever is the latter.

#### Reasons for Decision

The Sub Committee heard evidence relating to 4 separate complaints from individuals that are not known to each other.

The Sub Committee carefully considered each incident, in light of representations made by the Hackney Carriage Driver and his representative.

#### **10<sup>th</sup> April 2023**

The Hackney Carriage Driver stated that he does not recall this incident. The Sub Committee found in the absence of any point of view from the Driver on this and therefore the absence of any arguments to the contrary, and in light of the fact that the complaint was raised in the first place, it was likely the events did happen as described.

#### **10<sup>th</sup> August 2023**

The Hackney Carriage Driver did not dispute that this incident occurred and advised that his reaction was because he was scared and startled by the cyclist. When gesticulating at the cyclist, he admits that he put his hand up and exclaimed "get off your bike" but that this was not in an aggressive tone. It was noted that the complainant was not the cyclist, but a third party who witnessed the incident. The sub-committee had taken his recollection into account but finds that if the manner was not aggressive in nature, then the complaint from the third party would not have been made. The sub-committee were concerned that the behaviour was concerning enough to a third party that they felt the need to make a complaint.

#### **29<sup>th</sup> August 2023**

The Hackney Carriage Driver admitted that the circumstances in the complaint are correct, and that it was 100% his fault. He admits that he acted unprofessionally and could have acted better. He expressed remorse for his actions and advised that he had offered an apology and a refund for the journey. Representations were made by the Advocate for the Hackney Carriage Driver that the Driver ought to be commended for his self-criticism and desire to better himself.

The Sub-Committee acknowledged that The Hackney Carriage Driver had offered an apology and a refund to the customer, however the committee notes that neither was

offered until a complaint was raised. The Hackney Carriage Driver made no effort to rectify the situation at the time, or in the time before he was contacted regarding the complaint. The Committee also found that the complaint was not financially motivated as no refund was requested and was therefore driven by the fear experienced by the passenger. The Hackney Carriage Driver admits fault with the incident, and states that he should have been better. The Committee expressed that a lot of weight would be appropriate to attach to the detailed statement of a Deputy Monitoring Officer with licensing experience. This incident is greatly concerning, and the Sub-Committee feels that this incident alone would call into question whether The Hackney Carriage Driver is a fit and proper person to hold a license.

The Sub-Committee were also concerned about the fact that, as a driver who had taken fares from the docks for a significant period of time, was upset about taking what he called a 'short fare' to the extent that this greatly affected his professionalism towards the passengers.

### **27<sup>th</sup> February 2024**

This complaint was disputed by the Hackney Carriage Driver. The Sub-Committee heard from the Hackney Carriage Driver and his Advocate that the other motorist was driving dangerously, and if it were not for the Driver's level of professionalism there is a possibility that the other motorist could have caused an accident. The Hackney Carriage Driver stated that he was in danger due to the other driver, and still did the safest thing he could have done in the situation. He also denied the aggressive behaviour complained of. The Drivers Advocate disputed the use of 'furious' gesticulation and argued that without sight of the CCTV footage to corroborate this, we cannot determine that the gesticulation was furious as described. The Hackney Carriage Driver also expressed that the location of the gesticulation in the complaint was incorrect by approximately 4 miles, therefore calling into question the reliability of the witness. There is no dispute that the Driver made a gesticulation. The Sub-Committee expressed concern that although the driver disputed where the gesticulation occurred on the road, there was no dispute that a gesticulation was made to another road user.

The Sub-Committee did not feel that sight of the CCTV footage would have had any impact on the matter as the basis of the complaint, as explained by the Licensing Officer, was that the primary concern of the complaint was the alleged intimidation and dangerous driving. The camera was internally facing, and therefore would not have clarified the position of either of those points. The Hackney Carriage Driver had admitted that he made a gesticulation, so this was not in dispute. Although both the Driver and his Advocate expressed disappointment at the Licensing Officer's decision not to download CCTV footage sooner, the Sub-Committee considered that this was not relevant to the issues at hand.

The Sub-Committee agreed that it was important to consider the totality of the evidence in this case. The Hackney Carriage Driver had admitted the incident on 29<sup>th</sup> August 2023. The Hackney Carriage Driver had also largely admitted the incident on 27<sup>th</sup> February 2024, save for the location on the road. The Committee further finds that the other two incidents probably did happen on the balance of probabilities. There was a clear pattern of behaviour over a relatively short period of time. The Sub-Committee agreed that although there are bad drivers on the road, they would need to be of a serious nature to raise a complaint. In this case, four separate occasions of similar nature have been raised by individuals not known to each other.

The paramount concern for the Sub Committee was public safety. Hackney Carriage drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not result in action against an existing licence.

The Sub Committee considered whether a revocation might be suitable in this case but took the view it was not. The policy makes allowance for a one off, unintentional incident but beyond that revocation should be the start point for consideration. Having heard representations from and on behalf of the Hackney Carriage Driver, the sub-Committee did not hear anything which justified departing from the policy.

The Sub-Committee did consider all of the options available including suspension and revocation but in light of the evidence given by the driver and his representative, felt that revocation was not appropriate in this case.

The Sub-Committee have concerns about The Hackney Carriage Driver's attitude towards road users and consider that a suspension and requirement for him to complete the above-mentioned course would satisfy the issues raised in this meeting.

There is a statutory right of appeal against this decision to the Magistrates' Court. Formal notification of the decision will set out that right in full.