

LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Wednesday, 20 October 2021 at the Council Chamber - Council Offices at 10.00 am.

Committee Mrs P Grove-Jones (Chairman) Mr P Fisher
Members Present: Mr E Vardy

Officers in Attendance: Licensing Enforcement Officer, Trainee Solicitor and Democratic Services & Governance Officer (Regulatory)

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act.

5 (WK/210013047) - REVIEW OF A PRIVATE HIRE OPERATORS LICENCE AND A PRIVATE HIRE VEHICLE LICENCES IN NORTH NORFOLK

Present: Licence Holder

The Members of the Panel and Officers introduced themselves.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting.

The Licensing Enforcement Officer presented the report, which related to a review of a Private Hire Operator's Licence and Private Hire Vehicle Licence.

In response to questions by the Licence Holder, the Licensing Enforcement Officer explained that she had found out about the action taken against him by the Office of the Traffic Commissioner (OTC) through the press, and he had not declared this on his applications for the licences now under review. The Council's remit was to protect the public, and this hearing had been called to hear why the Licence Holder considered himself to be a fit and proper person. There had been no correspondence since the issue of his licences by the Council to indicate that there had been any complaints. However, the Council was permitted to take any

information into account in determining this case. The only vehicle that was relevant to this hearing was the one that had been licensed by this authority, and relevant issues regarding the repair that had been carried out to that vehicle.

The Chairman explained that the Sub-Committee understood that articles in the press were written to sell newspapers but it had to be considered as it was in the public domain. She invited the Licence Holder to make his statement.

The Licence Holder explained that the taxi operation was not his main business but he wanted to avoid having it taken away. He had had two years of uncertainty regarding the action by the OTC, following which action had been taken that was detrimental to his business. He outlined the history of his business and stated that other companies had made complaints to the OTC, as a result of which an unannounced inspection had been carried out. Until that investigation, all roadside checks had been passed with no problem. He had a maintenance agreement with a third party, who would not have signed any vehicle off if it was unsafe. The issues related to record keeping and the lack of a forward plan.

The Licence Holder stated that the company had a very good relationship with its customers, who had said they would continue to support him. He considered that the company was a victim of its own success and he was guilty of not saying no. He explained how his business was now operating and his intentions for the business going forward. He was not interested in operating a taxi service, but retained the vehicle licensed by NNDC to offer an additional service in conjunction with the main function of the business.

The Licence Holder apologised for omitting to make the Council aware of the action taken against him by the OTC. He had been naïve in his understanding that the two did not affect each other. He explained the difficulties he had had in getting his inquiry heard by the OTC and questioned why it had taken two years if he was deemed to be risking lives. He had not challenged the decision as he wanted his licence back as soon as he was able to reapply for it. He did not intend to take on the role of Transport Manager in the future as it was too much of a hassle.

The Sub-Committee questioned the Licence Holder regarding drivers' hours and the action he had taken to prevent a recurrence of the issues in future.

The Licence Holder explained that many of the offences related to him taking the vehicle home and he had understood that he did not need the tachograph for this purpose. He admitted that boundaries had been pushed, but people had not done vastly more hours and nobody had been forced to do it. He had had an audit undertaken and resolved the issues. His punishment was not indefinite and it had been acknowledged that the problems had been rectified. He would employ a Transport Manager once the business got going again, and was now using specialist software to manage his operations that would not allocate drivers to jobs if they were on their hours or allocate vehicles unless defects had been properly signed off. He considered that processes were in place and one of the main focuses was safety. He outlined the hours worked by his employee.

The Licensing Enforcement Officer asked the Licence Holder how the removal of his professional licence would affect him, and whether he had any private contracts with schools.

The Licence Holder replied that he would be devastated, but the winter months were quieter anyway and there was a need to build the programme for next year. He

stated that action had been taken on only six offences and not 41. He did not have any school contracts at the moment. The company had been removed from the list for school runs due to parent perception, but was still permitted to do educational visits.

There being no further questions, the Legal Advisor reminded the Sub-Committee that the reason for the hearing was to review the two NNDC licences, and each review should be considered on its own merits. The Legal Advisor referred the Sub-Committee to the Council's Hackney Carriage and Private Hire Policy and Handbook, namely, Annex B – 'Guidelines Relating to the Relevance of Convictions.' The Legal Advisor explained that there was no power of immediate revocation and the Licence Holder could continue to hold his licences during the 21 day appeal period. She advised that Members cast from their minds the recommendation made by the Licensing Enforcement Officer in her report and determine these matters on facts and evidence.

The Licence Holder apologised again, and pointed out that the action taken against him had been regulatory and no criminal action had been taken.

The Sub-Committee retired at 10.58 am and returned at 1.10 pm.

The Legal Advisor stated that she had advised the Sub-Committee during its deliberations that in terms of the Private Hire Vehicle Licence it should consider matters relating to the vehicle (size, specification, mechanical condition etc.) and that it could also take into account the suitability of the vehicle proprietor. In respect of the Operator's Licence, the Sub-Committee should consider whether the licence holder is fit and proper and the Legal Advisor referred to the test used for drivers. In relation to Operators the test is, "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes."

RESOLVED

- 1. That no further action be taken in respect of the Private Hire Operator's Licence, but that the following additional condition be attached:**
 - The Licence Holder must make his operating systems and supporting documentation available for inspection by the Council as and when required during the next 12 months. The operating systems must demonstrate that the Licence Holder is operating the business in a professional and safeguarding manner and that there are systems in place for reserve drivers and to cover any absences by their regular driver.**
- 2. That no action be taken in respect of the Private Hire Vehicle Licence.**

The meeting ended at 1.20 pm.

Chairman