

PUBLIC PROTECTION LICENSING COMMITTEE

Minutes of a meeting held on 17th December, 2019.

Present: Councillor J.W. Thomas (Chairman); Councillors Mrs. J.E. Charles, R. Crowley, Mrs. P. Drake, K.F. McCaffer, Mrs. A. Moore, M.J.G. Morgan, Mrs. J.M. Norman, Mrs. R. Nugent-Finn, L.O. Rowlands, Mrs. M.R. Wilkinson and Ms. M. Wright.

Also Present: Councillor A.D. Hampton.

539 APOLOGIES FOR ABSENCE –

These were received from Councillor O. Griffiths (Vice-Chairman) and Councillor Ms. J. Aviet.

540 MINUTES –

RESOLVED – T H A T the minutes of the meeting held on 14th November, 2019 be approved as a correct record.

541 DECLARATIONS OF INTEREST –

No declarations were received.

542 EXCLUSION OF PRESS AND PUBLIC –

RESOLVED – T H A T under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 4 of Schedule 12A (as amended) of the Act, the relevant paragraphs of the Schedule being referred to in brackets after the minute heading.

543 DISCIPLINARY FOR A VEHICLE PROPRIETOR – EXISTING DRIVER - M (DEH) (EXEMPT INFORMATION – PARAGRAPHS 12, 13 AND 14) –

The Committee was requested to determine whether M was a fit and proper person to hold Vale of Glamorgan Hackney Carriage and Private Hire Vehicle Proprietor Licences.

The Senior Licensing Enforcement Officer began by advising that M was a Licensed Hackney Carriage and Private Hire Vehicle Driver between July 2012 and July 2019 and also a licensed proprietor with three vehicles licenced with the Vale of Glamorgan.

On 11th September, 2019 officers received a report of a Private Hire Vehicle being used without door identification in place and the information was supported by photographic evidence. The vehicle in question was identified as belonging to M and officers attempted to contact him without success. Officers were instead contacted by the driver who was using the vehicle and it was subsequently inspected. Both the driver concerned, and M as proprietor, were issued with warnings, and a copy of the letter sent to M was attached at Appendix A to the report.

On 24th October, 2019 another of M's licensed vehicles was brought to the Civic Offices and the driver of the vehicle requested door stickers. The driver stated that the stickers were "peeling off", and when questioned further he said they had come off when the car was washed. When the vehicle was inspected it was found to have no sticker on the driver's door, but the passenger door had a sticker that had been magnetically attached and this was removed by the Officer.

Condition number 9 of the Vale of Glamorgan's Conditions for Private hire Vehicles specified that stickers must be "permanently fixed to each door with the identification sticker's adhesive backing", and Condition number 10 stated that "The door stickers shall not be altered or defaced in any way".

The Officer then explained that the rationale for Condition 9 was that members of the public could clearly identify licensed Private Hire Vehicles from both the rear and the side of the vehicle. The door stickers also clearly advised that the vehicle must be pre-booked and displayed the licence number, which aided both the public and the Licensing Authority with regard to enforcement and helped to ensure that the public were less likely to unwittingly get into an unlicensed vehicle. The use of magnetised door stickers presented a particular problem as, not only could they be removed from the licensed vehicle making it less identifiable to the public, but they could easily be taken off the car and placed on an unlicensed vehicle giving the appearance that it was licensed for hire. Compliance with conditions 9 and 10 was the responsibility of the driver and the proprietor of a vehicle, and breach of conditions was a matter dealt with as a disciplinary matter under Section 61 of the 1976 Act rather than prosecution.

Since the incidents described above had taken place, officers had attempted to contact M about this and other alleged non-compliances without success, and had therefore not had an opportunity to question him in relation to these issues.

In addition to the matters relating to door stickers, M was issued with a special licence condition to produce the V5 Registration for two of his Private Hire Vehicles by 12th June, 2019 and 3rd July, 2019 respectively. The document in question was required to verify that the proprietor remained the keeper of the vehicles, and non-compliance was a breach of condition of licence, which was a matter for Committee to consider. Officers made numerous attempts to contact M with regard to this matter via telephone and left multiple voice mail messages, however were unable to contact him and received no response. Subsequently, on 6th November, 2019 the Council wrote to M enclosing a Section 60 Suspension Notice in relation to the non-production of the registration document. Officers had also attempted to contact M through the operator named on his application forms for various vehicles, and in all

cases the operators said that the vehicles were not working for them which was of concern in relation to the lawful operation of private hire vehicles.

The Chairman then invited M to make a verbal representation regarding the events described in the report and, following this, Members of the Committee questioned M in relation to the contents of his representation and the report, and sought clarity on a number of current and historical matters.

M did agree that his current inspection timetable was not adequate and suggested that he would carry out weekly checks of his licensed vehicles in future.

Following this, the Committee then deliberated the matter in private.

Following the Committee's deliberations, M and the Senior Licensing Enforcement Officer were invited back into the room for the Committee's decision.

The Committee, having considered the report presented and having taken into account all representations

RESOLVED –

(1) T H A T M was considered a fit and proper person to continue to hold a Vale of Glamorgan Hackney Carriage and Private Hire Vehicle Proprietor Licence.

(2) T H A T M receive a final written warning in light of the Committee's concern regarding M's breach of condition and lack of contact with the Vale of Glamorgan Licensing Department.

Reason for decisions

(1) To ensure decisions of the Licensing Authority are consistent with the adopted Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades.

(2) To ensure that M is reminded of his responsibility to abide by the conditions of his licences and to maintain contact with the Vale of Glamorgan Licensing Department and to advise the department of any periods of time where they may be travelling outside of the United Kingdom as well as undertake his offer of weekly vehicle checks going forward.

544 DISCIPLINARY FOR EXISTING DRIVER – A(DEH) (EXEMPT INFORMATION – PARAGRAPHS 12, 13 AND 14) –

The Chairman highlighted that the application had been deferred from the previous meeting of the Committee held on 14th November, 2019 and advised that A had submitted further apologies for his absence on this occasion and had asked for his application to be deferred to the next meeting of the Committee, which would take place on 14th January, 2020.

The Chairman then invited the Democratic and Scrutiny Services Officer to read out the written submission received from A via e-mail which provided his apologies and evidenced his reasons for not having been able to attend the Committee meeting and requested that his application be deferred or heard in his absence.

As A was not in attendance to present his case and the Committee did not wish to make a decision without him having had an opportunity to represent himself, it was subsequently

RESOLVED – T H A T the matter be deferred to the next Committee meeting on 14th January 2020.

Reason for decision

To ensure decisions of Licensing Authority decisions are consistent with the adopted Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades and that Applicants and Licensees have the opportunity to make their case to committee.

545 DISCLOSURE AND BARRING SERVICE – R (DEH) (EXEMPT INFORMATION – PARAGRAPHS 12, 13 AND 14) –

The Committee was requested to determine whether R was a fit and proper person to hold Vale of Glamorgan Hackney Carriage and Private Hire Vehicle Driver Licences.

The Senior Licensing Enforcement Officer began by advising the Committee that R was licensed as a Hackney Carriage / Private Hire Driver and his last licence had been issued on 1st October, 2019 to expire on 30th September, 2022, having first been licensed in October 2010.

The Licensing Authority required an enhanced Disclosure and Barring Service (DBS) check for any criminal convictions / cautions in order to determine whether or not an applicant or an existing licence holder was a fit and proper person to hold a Hackney Carriage and Private Hire Drivers Licence. The DBS stopped issuing a duplicate certificate to Licensing Authorities in 2013, and the Licensing Authority therefore had to rely on the driver submitting his / her copy and was unaware of any new convictions until the driver did so. For this reason the driver's licence was issued with a condition that they had to produce their DBS certificate within six weeks of the date of the application for the driver's licence. A copy of R's licence was attached to the report at Appendix A, and the Officer advised the Committee that the date of the breach of licence was 12th November, 2019.

The Licensing Section commenced checks of the DBS tracking service to confirm the status of R's application. This confirmed that a DBS Certificate was dispatched to his home address on 7th October, 2019, and a copy of the DBS tracking evidence was attached at Appendix B to the report. On 19th November, 2019 the Licensing Office contacted R who advised that he had not received the certificate. He had been given the form reference number and was advised to contact the DBS and

keep the Licensing Office informed. On 20th November, 2019 R emailed the Licensing Office to confirm that he had requested a copy of the DBS certificate and that it would take 7 to 10 days to receive it. A copy of R's email was attached to the report at Appendix C.

R's case was reviewed on 3rd December, 2019 and the Licensing Office contacted him and they advised that he had not received the certificate, and he was advised to contact the DBS again. On the same date, R emailed the Licensing Office stating that he had contacted the DBS and had been told that another certificate would be sent out to him on the same day. A copy of R's email was attached to the report at Appendix D.

The DBS certificate reprint guide (Appendix E) clearly stated that a reprint of the certificate would not be processed if a reprint of the certificate had already been dispatched and the copy had not been received.

At its meeting of 3rd September, 2019 the Licensing Committee adopted Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades. Section 1.2 stated that "The purpose of hackney carriage and private hire licensing is to protect and ensure the safety of the travelling public; there are many instances where an application will be refused, or a licence suspended or revoked if the person falls short of the fit and proper test. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and their family is not a consideration to be taken into account". Section 2.2 stated that "Powers to suspend, revoke or refuse to renew a driver's licence are contained within Section 61 of the Act, where the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) act 1976; or any other reasonable cause."

The information received about R fell into the above Guidance at Section 1.2 and Section 2.2. Whilst R had completed a declaration on the application form stating that he had no new criminal convictions, the Authority had been unable to verify this.

The Senior Licensing Enforcement Officer then advised that since publication of the meeting papers, the Licensing Office had received a copy of the relevant DBS Certificate which did not contain any offences.

The Chairman then invited R to give a verbal representation regarding the events described in the report and following this, there being no further questions from Committee Members, the Committee deliberated the matter in private.

Following the Committee's deliberations, R and the Senior Licensing Enforcement Officer were invited back into the room for the Committee's decision.

The Committee, having considered the report presented and having taken into account all representations

RESOLVED – T H A T R was considered a fit and proper person to continue to hold a Vale of Glamorgan Hackney Carriage and Private Hire Vehicle Driver Licence.

Reason for decision

To ensure decisions of the Licensing Authority are consistent with the adopted Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades.