

COUNCIL MEETING – 28 NOVEMBER 2017

REPORT OF THE LICENSING SUB-COMMITTEE

23 October 2017

Present: Councillors Simmons, (Chairman), Ekins and Scarborough.

Also present: Miss J Thomas, (Director), Mrs A Wilcox, (Principal Environmental Health Manager), Mr R Essex, (Solicitor/ DistrictLaw), Mr M O'Donnell, (Licensing Officer) and Mrs C A Mundy, (Democratic Services Officer).

The meeting commenced at 11.15am.

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Simmons be appointed as chairman for this sub-committee.

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting during consideration of the following items in accordance with Section 100A(4) to the Local Government Act 1972 on the grounds that they would involve the likely disclosure of exempt information of the description shown in schedule 12A to the Act.

Minute No.	Item	Exemption
3	Application to revoke or suspend licence	E1 & 2
4	Application to revoke or suspend licences	E1 & 2
5	Application to revoke or suspend licences	E1 & 2

3. APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE DRIVER'S LICENCE

The annexed circulated exempt report of the director was received in relation to a potential revocation or suspension of a private hire driver's licence.

The licence holder and his employer's wife attended the sub-committee and the chairman introduced everyone to them.

Mrs Wilcox, Principal Environmental Health Manager, reported that the licence holder had been granted a licence on 31 October 2016 and that it was due to expire on 30 April 2019. She explained that he had been before the sub-committee in December 2015, when it was decided that no action be taken

against him. He had also attended a further sub-committee in September 2016 when a decision was taken to renew his licence.

On 16 September 2017, the licensing team had received a letter from the police which stated that on 10 September 2017, the licence holder had been arrested on suspicion of an historical rape and sexual abuse. The licence holder strongly denied the allegation and had not yet been charged or found guilty of any offence.

Under the terms of the licence, a licence holder needed to inform the council of any police investigation. He had failed to do so. It was considered that such failure indicated the desire to mislead the council, or alternatively, that he was unaware of the content of the council policy despite the council warning him in September 2016 that he must make himself aware of the content of the policy and him meeting with the licensing officer to discuss the policy.

There was also some disparity over his address. The council had been informed of one address and the police had an alternative address.

Mrs Wilcox reminded the sub-committee that the licensing authority's key objective is to ensure public safety and she detailed the options open to the sub-committee. The licence holder needed to remain a 'fit and proper' person to hold a private hire driver's licence.

The chairman thanked Mrs Wilcox for her presentation.

The chairman accepted a letter of support provided by the licence holder's wife, and read the letter out to the sub-committee. He then asked the licence holder if he wished to address the meeting.

The licence holder spoke about the allegation and subsequent police investigation which he said had totally ruined his life. He and his family were distraught and wanted the investigation to be concluded as soon as possible so they could get on with their lives.

His friend supported his comments and said that his family had been destroyed by the accusations, which she believed were unfounded. The licence holder had informed his employer of his arrest and assumed that this was all that he was required to do. The police had not contacted his employer at all about the allegations. He was one of the company's best employees and was very hard working, reliable, generous, popular and helpful with the customers as well as being a family man. He worked hard to provide for his family in the UK and in Europe.

The licence holder also clarified that he had two addresses purely because his son had moved to the UK and moved into a flat. His son was young and his family did not want him to live on his own so the licence holder decided to move into the flat with him, though he spent some time at his family home too.

He still visited and spent time at his 'home' address and because of this hadn't thought about changing the information on his file because all his paperwork, bills and appointments were all sent to his 'home' address.

Councillor Ekins asked the licence holder why he had failed to inform the council of both his arrest and the change of address when both the council policy and section 57 of the Local Government (Miscellaneous Provisions) Act 1976 clearly stated that he had a duty to declare all addresses.

Councillor Scarborough also asked why he had failed to comply, and whether he was on police bail.

The licence holder said that he considered that his arrest had been a family matter and he wasn't aware that he needed to report it to the council, just his employer. He still spent time at his original address so hadn't considered informing the council of any change. He confirmed that he was not on police bail.

Mr O'Donnell, Licensing Officer, reminded the licence holder that, following the decision of the sub-committee in September 2016, when he appeared to have a lack of knowledge of the driver licence conditions, he had spent some considerable time going through the policy with him. He had explained all the licensing conditions and detailed the reasons why it was so important to inform the council. He asked the licence holder if he recalled this. The licence holder confirmed that he did.

There being no further questions the chairman adjourned the hearing at 11.55am.

The meeting was reconvened at 12.30pm.

Decision:

RESOLVED that the licence be suspended with immediate effect, pending the outcome of the police investigation.

Reasons for the decision:

- (i) the sub-committee considered that there was a duty to protect the public and as such the licence be suspended until the outcome of the police investigation was known;
- (ii) the sub-committee decided that no further action would be taken in relation to the failure of the licence holder to notify the council of his change of address, until the suspension of the licence is reviewed at the end of the police investigation.

Mrs Wilcox advised the licence holder that he had 21 days in which to lodge an appeal to the decision of the sub-committee.

This part of the meeting concluded at 12.35pm.

4. APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE DRIVER, VEHICLE AND OPERATOR LICENCES

This part of the meeting commenced at 12.40pm.

The circulated exempt report of the director was received in relation to a potential revocation or suspension of a licence holder's private hire driver's licence, vehicle and operator licences.

Mrs Wilcox presented the case to the sub-committee. She explained that a complaint had been received in April 2017 where the licence holder was witnessed smoking within his licensed private hire vehicle. Under the Health Act 2006 it is illegal to smoke at any time in any commercial vehicle used to carry members of the public.

In June 2017, a licensing officer noticed damage to the licensed private hire vehicle, which is a breach of the council policy. Licensing officers informed the licence holder that he needed to repair the damage by the end of July 2017, and that he needed to take his vehicle to the offices for inspection. He failed to do so and despite numerous letters officers still had no evidence that the work had been completed.

During discussions with officers the licence holder had been dismissive and confrontational.

When determining whether a driver should continue to hold a licence the sub-committee needed to decide if he was a 'fit and proper' person to do so. Details of the licensing objectives were contained within the report.

The chairman thanked Mrs Wilcox for her presentation and addressed the licence holder asking why he had been smoking in his vehicle.

The licence holder explained that he had been 'off duty' taking his wife to town and that he considered it was acceptable to smoke.

Councillor Scarborough asked why he had failed to carry out the repairs to his vehicle to comply with the policy.

The licence holder said that he had obtained a quote for the repairs which was very expensive. He considered that he was able to do the job himself but hadn't had the time to do so before the inspection deadline.

Councillor Ekins asked why he had been abusive to a council employee.

The licence holder didn't feel he had been but said he was annoyed when photographs were being taken of his vehicle without permission first being sought.

The licensing officer clarified that he had sought permission prior to taking the photographs.

Councillor Ekins asked why as private hire licence holder and a holder of a vehicle and operator licences that he had failed to comply with the law and policy, as the vehicle was not fit for use.

The licence holder said he had not read the policy and assured the sub-committee that he had now completed the repairs.

The licensing officer was unable to clarify that the repairs had been carried out to an acceptable standard.

The chairman adjourned the meeting at 12.50pm.

The meeting was reconvened at 1.05pm.

Decision:

RESOLVED that the private hire driver's licence, operators licence and vehicle licence be suspended until the vehicle had been repaired to a standard approved by the licensing officer.

Reason for decision:

- (i) The licensing authority was not aware if the repairs to the vehicle had been carried out to an acceptable standard, but a period in excess of 4 months between the first contact between the licencing officer and the licence holder and the most recent inspection, should have been more than sufficient time for the licence holder to have the work done;
- (ii) Licensing officers should be treated with the utmost respect whilst carrying out their duties and bad behaviour was not acceptable.

5. APPLICATION TO REVOKE OR SUSPEND HACKNEY CARRIAGE DRIVER AND VEHICLE LICENCES

This part of the meeting commence at 1.10pm.

The annexed circulated exempt report of the director was received in relation to the potential revocation or suspend of a hackney carriage driver licence and vehicle licence.

The licence holder had failed to attend the meeting. The sub-committee agreed to deal with the matter in his absence.

Mrs Wilcox presented the case to the sub-committee explaining that over the last three years a number of complaints had been made against the licence holder. One of the most recent incidents had arisen where the licence holder had, during a 'test purchase operation' undertaken in conjunction with Northamptonshire Police, failed to activate his meter.

A further complaint had been received from a member of the public who had complained that the licence holder had been rude and attempted to drive off with her legs protruding from the side door of the vehicle.

Following further investigations it was found that the licence holder's vehicle had failed its MOT and the vehicle was suspended immediately. Remedial work had been undertaken and the vehicle licence had been reinstated.

The report detailed the options open to the sub-committee and Mrs Wilcox reminded the sub-committee that a licence holder needed to be a 'fit and proper person'.

Decision:

RESOLVED that the licences be revoked with immediate effect. It was considered to be in the interests of safety of passengers that revocation of all licences held should be immediate.

Reasons for decision:

The following were taken into consideration:

- Prosecution for failing to set his taximeter;
- Two incidents which had been reported to the Licencing Officer which concerned the licence holders standard of driving;
- Complaints received regarding breaches of a number of the conditions of his licence over a period of the past 4 years, including failing to set the meter in his vehicle at the beginning of the journey, failing to use the shortest route to convey his passengers to their destination and inflating the fares he charged beyond the prescribed fare;
- Faults found with his licensed vehicle, one of which was deemed so serious that it would be deemed to be an MOT failure.

The meeting concluded at 1.20pm.

Chairman