

## COUNCIL MEETING – 16 OCTOBER 2018

### REPORT OF THE LICENSING (REGULATORY) SUB-COMMITTEE

17 September 2018

Present: Councillors Ekins (Chairman), Aslam and V Waters.

Also present: Mrs A Wilcox (Principal Environmental Health Manager), Mr M O'Donnell (Team Leader Health Protection), Mrs A Walton-Miller (Solicitor/DistrictLaw) and Mrs C A Mundy (Democratic Services Officer).

(Councillor Griffiths was also in attendance as an observer.)

The meeting commenced at 12.45pm

#### 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Ekins 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.

<b>Minute Item No.</b>		<b>Exemption</b>
3	Application to revoke or suspend a private hire driver's licence and private hire vehicle licence	E1 & 2

#### 3. APPLICATION TO REVOKE OR SUSPEND A PRIVATE HIRE DRIVER'S LICENCE AND PRIVATE HIRE VEHICLE LICENCE

The annexed circulated exempt report of the director of place and strategic growth was received to consider a potential revocation or suspension of a private hire driver's licence and private hire vehicle licence.

The chairman welcomed the applicant and his colleague and friend to the meeting and introduced the sub-committee members and those present to them.

The principal environmental health manager presented the report to the sub-committee. She explained that the council had recently received a

complaint about the licence holder following his refusal to carry an assistance dog. The complainant had made a statement which was appended to the report. Under the Equalities Act 2010 a private hire driver cannot refuse to accept a booking, if the reason for the refusal is that the disabled person is accompanied by an assistance dog. This is also a breach of the licensing policy. The driver was questioned under caution about the incident and denied the allegation stating he did not realise it was an assistance dog at the time he refused to take the customer. He also stated the complainant was rude, abusive and made racist comments towards him. In certain circumstances a licence holder can request that the council grant him an exemption from carrying an assistance dog. The licence holder had not applied for such exemption.

The licensing authority's key objective was to ensure public safety. On reviewing an existing licence the sub-committee could make a decision to:

- Take no further action;
- Revoke or suspend the licence;
- Issue a warning;
- Require further training/retraining or other control measure to be put in place.

Members were asked to consider whether the driver remained a 'fit and proper' person to hold a private hire driver's licence and private hire vehicle licence.

The principal environmental health manager informed the sub-committee that the complainant was away on holiday but could be reached on the telephone if clarity was sought on anything within her report..

The chairman thanked the officer and asked the licence holder if he wished to say anything.

The licence holder said that he was unaware when he went to collect the complainant that the dog was an assistance dog. The dog walked out of the house in front of the complainant and did not have a harness on. He confirmed that he had said that he wasn't prepared to take the dog in his vehicle but was not aware at that time that the animal was an assistance dog and that the complainant was visually impaired.

He told the complainant that he would phone for another vehicle and contacted his controller. He explained that he had to move his vehicle, to let another pass, as the road was narrow and then decided that he would take the complainant and the dog and informed him of this. He claimed the complainant was then abusive and the licence holder decided that he would not drive him.

The licence holder said he was now aware that he should have asked if the dog was an assistance dog before assuming that it wasn't and was

unreservedly sorry that he had refused to take the complainant and the dog. He was aware that he had breached the licensing policy and the Equalities Act 2010.

(Miss J Thomas, Director of Place and Strategic Growth, entered the room.)

The chairman asked the sub-committee if they wished to ask any questions of the licence holder.

Councillor Aslam asked at what point the licence holder had become aware that the dog was an assistance dog. The licence holder clarified that he was not aware until the complaint had been made and he was informed by his boss.

Councillor Waters asked the licence holder to clarify this as the complainant in his statement had said that he informed the licence holder that it was a guide dog. The licence holder clarified that he was unaware of this at the time.

The chairman asked why he had refused to take the dog. The licence holder said it was because it would have caused him to sneeze. He was aware that he could apply for an exemption but did not feel it was necessary to do so.

The team leader health protection asked the licence holder why he had decided to change his mind and take the complainant and the dog when he was aware that another vehicle was on its way. The licence holder said he was aware that the complainant needed to get to the railway station and that he was agitated and cross as he was late, this sometimes led to abusive behavior, which he was used to but when the complainant became racially abusive he declined to take him.

There being no further questions the chairman asked the licence holder if he considered that he'd had a fair hearing. The licence holder said he had.

The chairman adjourned the meeting at 1.05pm.

The meeting reconvened at 1.35pm.

**DECISION:**

**RESOLVED** that:

- (i) the private hire driver's licence and private hire vehicle licence be suspended for a period of 28 days;

- (ii) the licence holder should, during this time, attend at the council offices to undertake and pass an approved disability course as this would be beneficial, in not only refreshing his knowledge and understanding of the law, but also for his own personal welfare. Failure to pass the test within the 28 days will result in an extension to the suspension until such time as it is successfully passed.

**REASONS FOR DECISION:**

the sub-committee:

- (i) considered the papers and heard from the licence holder personally;
- (ii) acknowledged that the licence holder accepted that he was at fault on this occasion in refusing to carry an assistance dog and had apologised for his actions;
- (iii) takes very seriously the fact that the licence holder acted in breach of the Equality Act 2010 and the council's policy;
- (iv) noted that the licence holder admitted that he had not been granted a valid exemption from carrying assistance dogs and that he did not intend to apply for an exemption any time soon;
- (v) considered that the licence holder had not acted in a 'fit and proper' manner on this occasion and that a period of suspension was reasonable and proportionate in the circumstances.

The legal adviser informed the applicant of his right to appeal and the process to do so.

The meeting concluded at 1.45pm

Chairman