

Licensing Sub-Committee – Meeting held on Wednesday, 26th November, 2014.

Present:- Councillors Ajaib (Chair), Bains and Malik

Officers Present:- Teresa Clark, Senior Democratic Services Officer, Neil Fraser, Democratic Services Officer, Rachael Rumney, Senior Licensing Officer, Mick Sims, Licensing Manager, Niall Toru, Legal Advisor to the Sub-Committee

Apologies for Absence:- Councillor Sohal (Councillor Malik was substituted for Councillor Sohal)

PART 1

51. Declarations of Interest

None.

52. Guidance on Predetermination/ Predisposition - To Note

Members confirmed they had read and understood the guidance on predetermination and predisposition.

53. Minutes of the Meetings of the Sub-Committee held on 2nd September and 25th September 2014

Resolved – That the minutes of the meeting held on 2nd September be approved as a correct record, and the minutes of the meeting held on 25th September be received.

54. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

55. Private Hire Operator Conduct Hearing- (Reference 02-14)

The following is a summary of the hearing:

The Sub-Committee was asked to consider whether the Private Hire operator Ref 02-14, was fit and proper to continue to hold a private hire operator's licence.

The Senior Licensing Officer presented the Licensing Authority's case to the Sub-Committee and referred to an incident in October 2013 which led to

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convictions of the operator under the Act and to the identification of other failures to comply with the Act. In June, 2014, the operator and the Director of the company had pleaded guilty at Slough Magistrates Court to operating an unlicensed driver and an unlicensed vehicle in Slough in October 2013. In addition the driver had pleaded guilty to acting as a private hire driver without a valid private hire driver's licence. Fines and costs were awarded and the Magistrates Court stated that they regarded this to be a very serious set of offences, putting the public at risk and depriving legitimate drivers of income.

The Officer discussed the legal requirements when a company held separate operating licences and advised that the operator had failed to adhere to his responsibilities under the Licensing Act. In view of the seriousness of the offences and breaches, the Officer recommended that the private hire operator's licence be revoked in this case.

Operator Ref 02-14 and a colleague addressed the Sub-Committee. They accepted the business had acted wrongly and were sincerely sorry for this. They stated that all parties had been heavily penalised by the Courts and did not want these mistakes to happen again. It was accepted that serious offences had been committed, which all parties pleaded guilty to. In light of the measures they said had been put in place since the incidents referred to, they asked the Sub-Committee to be lenient on this occasion.

The Sub-Committee considered all the written and oral information at its disposal. In reaching its decision the Sub Committee's primary concern was public safety. The Sub-Committee took into account the measures that the operator advised had been implemented since the incident to ensure better compliance with the requirements of his licence.

Having carefully considered all the evidence the Sub Committee:

Resolved –

- (a) That the Operator's licence (Ref 02-14) be suspended for the period of one calendar month.
- (b) That it be noted that Slough BC takes a very serious view of an operator's failure to comply with licensing obligations and that a strict formal written warning be issued to the operator (Ref 02-14).

56. Private Hire Driver Application- (Reference 03-14)

The following is a summary of the hearing:

The Licensing Sub-Committee was asked to consider whether Applicant (Reference 03-14) was a fit and proper person to be granted a private hire drivers licence. The Licensing Manager, summarised the background to the application and discussed the relevant Policy and Legislative considerations in the case. He advised Members that the Sub-Committee could only grant a private hire driver's licence if they were satisfied that the applicant was a 'fit

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and proper' person to hold that licence. Members were advised that the application was subject to a criminal record check and a DBS Certificate detailed a number of previous convictions dating from 2001 to 2010. The Officer advised that due to the number and nature of these convictions, the Applicant was not deemed to be a 'fit and proper person' to hold a private hire driver's licence.

Members were advised that in this case convictions would normally be 'spent' under the Rehabilitation of Offenders Act 1974, but the law had created an exception where local authorities were considering whether to licence individuals to drive hackney carriages or private hire vehicles. This exception stipulated that all relevant convictions could be taken into account, regardless of whether they would otherwise be spent.

Details of the convictions were revealed at the hearing and the Sub-Committee was asked to consider whether the offences were relevant and should be admitted. The offences were varied but covered property damage, offences of dishonesty, driving offences (including driving without insurance) and alcohol-related offences. The Licensing Manager submitted that the Sub-Committee had the option to grant the private hire driver's licence application; grant the licence subject to conditions or refuse the licence application.

The Licensing Manager referred to extracts from case law which dealt with the fit and proper test. He reminded the Sub-Committee that an applicant's personal circumstances, for example his need of a licence to provide for his family, should not be taken into account when deciding an application. The Officer recommended that the application be refused due to the previous convictions and sentencing.

The Applicant addressed the Sub-Committee and acknowledged that he had many previous offences. He advised however that these incidents were in the past and therefore not relevant to his application.

The Legal Advisor to the Sub-Committee referred Members to a High Court case where it was held that the Applicant's previous offences were relevant and it found that it would be wrong not to have regard to all of these. The Sub-Committee adjourned to reach its decision. Having carefully considered all the evidence the Sub Committee:

Resolved – That the Applicant's (Ref 03-14) application for a Private Hire Licence be refused.

57. Private Hire Driver Application- (Reference 04-14)

It was highlighted by the Democratic Services Officer that that the notification letter sent to Applicant (Ref 04-14) through the Royal Mail recorded delivery had not been delivered.

The Sub-Committee decided that in the circumstances the application be deferred to a hearing in the near future.

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Resolved- That determination of the application be deferred to a future hearing.

58. **Personal Licence Application- (Reference 05-14)**

It was highlighted by the Democratic Services Officer that that the notification letter sent to Applicant (Ref 05-14) on 18th November, 2014 through Royal Mail recorded delivery had not been delivered.

The Applicant was made aware of the hearing on 25th November and requested an adjournment on the grounds that he had not been able to appoint a Legal Representative in the short timescale.

The Sub-Committee agreed to the request.

Resolved- That determination of the application be deferred to a future hearing.

Chair

(Note: The Meeting opened at 10.00 am and closed at 1.35 pm)