

MINUTES

of the

REGULATORY COMMITTEE

held on 21 November 2019 at 7pm

Present:

Councillor L.A. Mascot (Chair)

Councillors, L. Ashley, D.J.R. Clark, A.E. Davidson, J.A. Frasca, P.V. Hughes, D.G. Jones, A.M. John, R.J. Lee, L.A. Millane, T.E. Roper, R.J. Shepherd and C.R. Tron

1. Apologies for Absence

Apologies for absence were received from Councillors Ambor, Fuller and Roberts.

2. Minutes

The minutes of the meeting on 17 October 2019 were confirmed as a correct record and signed by the Chair.

3. Public Question Time

No questions were asked, or statements made.

4. Declarations of Interests

All Members were reminded to declare any Disclosable Pecuniary Interests (DPI) or other registerable interests where appropriate in any of the items of business on the meeting's agenda. None were made.

5. Urgent Business

There were no items of urgent business to consider.

Exclusion of the Public

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Items 6 & 7 on the grounds that they involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

6. Review of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. A

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Mr. A to determine whether or not he is a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- To revoke the licence
- To add any conditions to the licence they feel necessary
- To allow Mr A to continue to hold a Hackney Carriage/ Private Hire Dual Drivers licence

The Committee was informed that a complaint had been received from a member of the public about Mr A's behaviour. The Committee heard that a customer had booked a taxi which arrived late, therefore the customer decided to use the train instead. The Committee was informed that the customer ("the complainant") alleged that the driver (Mr A) then demanded a cancellation fee, became aggressive and then racially abused the customer. It was further alleged by the complainant that Mr A had then followed her to the railway station, had shouted at her and asked for money again, and then used further racially offensive language towards her. The Committee was also informed that since the incident, Mr. A had phoned the complainant and explained that he had lost his job and had a family to support. The Committee heard that under interview, Mr. A admitted to using racist language and asking for a cancellation fee, but that he had been racially abused first. During an interview with licensing officers, Mr A said he had not contacted the complainant but did subsequently admit to doing so.

Mr. A attended the meeting to address the Committee. Mr. A stated that he was very sorry for the incident and had learnt from his mistake. Mr. A explained that he phoned the complainant to say he would be late. However, when he arrived, they decided to use the train instead as the quoted fare was also too expensive. The Committee heard that after asking for a cancellation fee the complainant racially abused him and he responded by saying 'how would you feel if I called you a...' followed by racist comments. Mr. A explained that he phoned the complainant after the incident to apologise and resolve the issue, but the complainant still wanted to uphold her complaint. Mr. A was also asked by a member of the Committee about a previous complaint referenced in the report at paragraph 3.13 (unrelated to the complainant) and he explained that he had been tailgated himself, rather than as described.

The Committee gave careful consideration to the officers' report and to the representations made by Mr A at the meeting.

The Committee recognised that the complainant and Mr A had given different versions of events. However, on balance the Committee was inclined to give more weight to and prefer the complainant's version of events over that of Mr A's.

In particular, the Committee had taken into account the following matters -

(i) Mr A's assertion that he followed the complainant to the station because he thought that she was getting some money out to pay the "cancellation fee" lacked plausibility. The Committee considered it more likely than not that the complainant had refused outright to pay the cancellation fee when at Mr A's vehicle and that Mr A (knowing that the complainant had refused to pay) then followed her to the station to remonstrate with her and to try to persuade her to pay. The Committee considered that Mr A's conduct (i.e. following a lone female customer to the station and trying to get her to pay) was unacceptable and could even be construed as menacing or harassment by the female concerned.

(ii) The complainant telephoned Mr A's employer to make a complaint without delay, as soon as she was on the train. The spontaneity of her complaint was, in the Committee's view, indicative of her having experienced behaviour on the part of Mr A that had given her genuine cause for concern.

(iii) Mr A telephoned the complainant after she had complained to his employer / the Council with a view to persuading her to withdraw her complaint. This was completely inappropriate behaviour.

(iv) Furthermore, Mr A had initially lied to Council licensing officers when interviewed over the matter. Mr A had told them that he hadn't contacted the complainant after the incident, but after further questioning admitted that he had done so. This dishonest conduct gave the Committee cause to question Mr A's credibility in relation to the account of the incident that he had given to officers and the Committee.

The Committee considered that the behaviour of licensed taxi drivers should always be above reproach. The racist language used by Mr A towards the complainant, together with his other conduct, was unacceptable and the Committee was no longer satisfied that he was a fit and proper person to continue to hold a Private Hire Vehicle / Hackney Carriage driver's licence. Furthermore, even if Mr A's own version of events were to be correct, the Committee would still take the view that he was not a fit and proper person to hold a driver's licence, on the basis that: (a) the language used by him in his response to the complainant was nonetheless racist in content and unacceptable, and (b) the conduct outlined in (i), (iii), and (iv) above gave cause for serious concern.

RESOLVED that the dual drivers licence held by Mr. A be revoked pursuant to section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for "other reasonable cause": namely that due to his conduct the Committee is no longer satisfied that Mr A is a fit and proper person to hold such a licence.

(7.01 pm to 7.29 pm)

7. **Application for the Renewal of a Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. L**

Public interest statement: It is not in the public interest to disclose the content of this report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider an application for the renewal of a dual Hackney Carriage/ Private Hire drivers licence held by Mr. L and to determine whether or not he was a fit and proper person to hold the licence.

Members were advised that the following options were available to them;

- To grant the licence as applied for.
- To grant the licence as applied for, but for a shorter period than the normal three years.
- To refuse the application.

The Committee were informed that in June 2019, Mr. L applied to renew his licence. The Committee heard that as part of the process, applicants had to complete an enhanced Disclosure and Barring Service form. The Committee heard that using the tracking service, officers could see it had been dispatched to Mr. L in July 2019. Officers informed the Committee that they attempted to contact Mr. L by phone, email and in writing but no response had been received. The Committee also heard that Mr L was advised to request a reprint of his DBS in the event he had not received the first copy. He was also advised that failure to produce it would lead to his licence being suspended. In September 2019, Mr. L was suspended and advised to return his badges, he was informed by letter, email and attempted to be contacted by phone. The Committee heard that in October, Mr. L contacted the Council and said he would drop in the certificate, but it had not been produced to date.

Mr. L did not attend the meeting and officers had not been contacted by him regarding the issue. The Committee agreed that there was no possibility to renew the licence as Mr. L had not followed the correct procedures. The Committee noted that without a DBS it could not ascertain whether he was a fit and proper person. The Committee was also concerned that Mr. L had failed to engage with the Council and had not delivered the DBS certificate to officers despite saying that he would.

The Committee therefore concluded that it had no option but to refuse the application for renewal of the licence. By law, the Committee had to be satisfied that Mr. L continued to be a fit and proper person to hold a driver's licence and in the circumstances the Committee simply could not satisfy itself on this point.

The Committee also asked officers to contact taxi companies to inform them that Mr. L's licence had not been renewed and was no longer valid. This was due to it not being clear whether Mr. L had received recent correspondence suspending his licence.

RESOLVED that;

1. the application for renewal of the licence be refused pursuant to 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 for "other reasonable cause" namely that the Committee is not satisfied that Mr L is a fit and proper person to hold such a licence; and
2. officers contact local taxi companies, to inform them that Mr. L was no longer licensed.

(7.30 pm to 7.36 pm)

The meeting closed at 7.36 pm