

MINUTES

of the

REGULATORY COMMITTEE

held on 4 July 2019 at 7pm

Present:

Councillor L.A. Mascot (Chair)

Councillors R.H. Ambor, L. Ashley, D.J.R. Clark, A.E. Davidson, I.D. Fuller, P.V. Hughes, D.G. Jones, A.M. John, R.J. Lee, I.C. Roberts, R.J. Shepherd and C.R. Tron

1. Apologies for Absence

Apologies for absence were received from Councillors, J. Frasca, G.B.R. Knight, L. Millane and T.E. Roper.

2. Minutes

The minutes of the meeting on 13 June 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. H

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. H 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 felt necessary
- To allow Mr. H to continue to hold a Hackney Carriage/ Private Hire Dual Driver's Licence

The Committee was informed that in late December 2018 Mr. H applied to renew his Hackney Carriage/ Private Hire Dual Driver's Licence and as part of the process all drivers must complete an enhanced Disclosure and Barring Service (DBS) form. The Committee heard that officers used the DBS tracker and could see the application had been dispatched to Mr. H in early March 2019. Mr. H was contacted and said he had not received the DBS, officers asked him to request a reprint and said that a failure to provide a DBS would lead to the suspension of his licence. By late April officers had still not received a copy and therefore suspended his licence. The Committee was informed that in mid May a copy of Mr H's Criminal Convictions certificate was received, this was detailed to members as Appendix C.

The Committee was informed that Mr. H had not informed the Council in writing of the convictions against him as he was required to do by virtue of a condition on his licence. The Committee heard that as a result of the serious nature of the undeclared conviction another notice of suspension effective immediately was sent to Mr. H. The Committee heard that as a result of the convictions recorded against Mr H, it was now up to the Committee to decide if he was a fit and proper person to hold such a licence. The Committee was reminded that the matter had been adjourned from the last meeting to allow Mr. H to attend. It was noted by the Committee that Mr. H had again failed to attend and had not contacted the authority. It was therefore decided that the matter be considered in his absence.

The Committee considered whether Mr. H was a fit and proper person but had serious concerns relating to both his personal integrity and suitability to act as a taxi driver. It was noted that he had not notified the Council of the various convictions. It was also noted that one of the convictions related to when he was operating as a taxi driver and did not demonstrate the conduct expected of a licensed driver. The Committee agreed that the licence should be revoked with immediate effect in the interest of public safety.

RESOLVED that

- i) the dual drivers licence held by Mr. H 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 and failure to declare convictions the Committee is no longer satisfied that he is a fit and proper person to hold such a licence;
- ii) that the revocation shall have immediate effect - as it appears to the Committee, pursuant to section 61 (2B) of the 1976 Act, that it is in the interests of public safety that this be the case. (Mr H's licence is to remain suspended until he is sent the decision notice formally notifying him of the immediate revocation of his licence.)

(7.03 pm to 7.19 pm)

7. **Application for a New Hackney Carriage/ Private Hire Vehicle Dual Driver's Licence – Mr. M**

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 a dual hackney carriage/ private hire driver licence made by Mr. M. The Committee was informed that Mr. M had held a dual drivers licence from 20th May 2015 to 14th September 2017 when it was revoked by the Regulatory Committee. The licence had been revoked following an incident that occurred on the 26th July 2017 whilst Mr. M was driving a hackney carriage vehicle.

The Committee heard that after the licence was initially revoked, this decision was appealed but upheld by the Magistrates Court. It was also noted that after this Mr. M applied for a new licence in April 2018, but this was rejected by the Committee. The Committee was informed that the minutes and reports from the two previous meetings were attached as appendices to the report before them. The Committee was informed that CCTV footage was central to the previous reports and the footage was played at this point of the meeting twice for members to view.

The Committee was informed that as a result of the history of refusal and revocation in relation to Mr M, the licence could not be issued at officer level and would therefore be a decision for members.

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

- To authorise the Director of Public Places to grant the licence as applied for.
- To authorise the Director of Public Places to grant the licence as applied for, but for a shorter period than the normal three years.
- To refuse the application.

Mr. M attended the meeting with his representative to put forward his case and to answer questions from the Committee. Mr. M also passed round to the Committee a letter from his employer stating his good character. Mr. M maintained his view from the earlier meetings that his actions were not as they appeared on the CCTV footage and he had been trying to assist the lady in the footage. He stated that the area was dangerous as the streetlights were off and he had simply been offering her a taxi journey home. He also stated that he had been desperate for the toilet and apologised for urinating in the road. Mr. M stated that no complaint had ever been made by the lady in the footage and he had just been trying to help.

Mr. M also informed the Committee that he had recently qualified as a SIA licence holder and worked at many venues in a role assisting the public. He stated that he had applied for a taxi licence as the flexible hours supported his other roles. He also stated that he had a clear DBS with no convictions and the previous character references from 2018 would still be happy to support him if contacted.

In response to questions from the Committee, Mr. M stated that:

- He did not like to use the public toilets late at night due to drug users and many being locked overnight.
- When he was parked up at the beginning of the footage he had been cashing up and did not see the lady walk past on the opposite side of the road.
- He pulled up on the right-hand side of the road in the later part of the footage as he was intending to drive back towards town for another job.
- He had been breathalysed by the police after the incident, but they were happy to take no further action.

The Committee then deliberated on the matter. The Committee considered the length of time that had elapsed since the incident on the 26 July 2017, Mr M's representations, the letter of good character, and the fact that he had no criminal convictions. However, the Committee had serious concerns arising from Mr M's conduct as depicted on the CCTV footage and for this reason was not satisfied that Mr M was a fit and proper person to hold a driver's licence. This being the case, the Committee was precluded by law from granting Mr M a licence. The safety and well-being of the public were paramount, and the Committee could not, therefore, give Mr M the benefit of the doubt.

In particular, the Committee had come to the same view as that taken by members at the two previous Committee meetings. The Committee considered that the CCTV video footage indicated Mr M's behaviour towards the lone female (who was clearly under the influence of alcohol and therefore especially vulnerable) to be predatory and menacing in nature and to be unwanted by her.

There was evidence to suggest that Mr M deliberately followed this woman in his vehicle. He then got out of his vehicle (initially with his back to her as she approached) and then, albeit for a brief period, blocked her access by the combination of the use of his own body and the open driver's door to his vehicle. It was evident to the Committee that the woman's body language indicated that she did not want Mr M's attentions. The Committee considered that Mr M's behaviour was unacceptable for a taxi driver and alarming. The Committee was in no doubt that, given, the time of night and the lack of other people in the vicinity, most lone women in this situation would have found his actions terrifying. The Committee was also very concerned that Mr M had persisted in following the woman up the road and appeared to physically grab her on several occasions. Mr M had then returned to the location where his car was parked and urinated in the road.

The Committee also noted and gave weight to the fact that an independent Magistrates' Court had viewed the CCTV video footage on appeal and reached the same interpretation and upheld the previous decision of the Committee to revoke Mr M's licence.

The Committee could give little weight to the good character reference and the one provided at the meeting by Mr. M. The referee had not been present at the incident on 27 July 2017. Neither were Mr M's subsequent work experience and qualifications enough to enable and justify the Committee taking a different view after viewing the CCTV footage.

RESOLVED that Mr. M's application be refused as the Committee was not satisfied that he was a fit and proper person to hold such a licence.

(7.19 pm to 8.03 pm)

The meeting closed at 8.04 pm