

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON TUESDAY 28 JANUARY
2014, AT 2.00 PM

PRESENT: Councillor Rose Cheswright (Chairman).
Councillors R Beeching and J Jones.

ALSO PRESENT:

Councillors M McMullen and P Ruffles.

OFFICERS IN ATTENDANCE:

Chris Clowes	- Licensing Enforcement Manager
Claire Mabbutt	- Licensing Officer
Peter Mannings	- Democratic Services Officer
Oliver Rawlings	- Senior Specialist Licensing Officer
George Robertson	- Legal Services Manager

35 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor J Jones and seconded by Councillor R Beeching that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor Mrs R Cheswright be appointed Chairman of the Licensing Sub-Committee for the meeting.

36 MINUTES – 19 NOVEMBER 2013

RESOLVED – that the Minutes of the meeting held on 19 November 2013 be confirmed as a correct record and signed by the Chairman.

37 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100 (A) (4) of the Local Government Act 1972, to exclude the press and public during consideration of the business referred to in Minutes 38 – 40 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

38 ACCUMULATION OF 12 OR MORE LICENSING POINTS IN A ROLLING 24 MONTH PERIOD – MR H

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors M McMullen and P Ruffles and a Licensing Officer could remain in the room as observers.

The Licensing Enforcement Officer advised that the applicant had been issued with 12 Licensing Penalty Points for the offences detailed in the report now submitted.

Members were advised that the taxi driver detailed in the report had first been licensed by East Herts Council in January 2013 and his current driver's badge was due to expire on 7 June 2014. The Sub-Committee was advised of a number of questions that Members might wish to ask the taxi driver regarding his level of responsibility for his actions and his failure to comply with legislation and taxi licensing policy.

The Licensing Enforcement Officer referred to the fact that the taxi driver was being prosecuted by Hertfordshire Constabulary as detailed in paragraph 2.7 of the report

now submitted.

Members were advised that, if they suspended or revoked the taxi driver's licence, the decision would not take effect until the statutory 21 day period for making an appeal to the magistrates court had expired.

Members were advised that Officers considered it had been appropriate to issue the Licensing Points so that due consideration was given as to whether the taxi driver remained a 'fit and proper' person to hold a dual driver's licence. Members were asked to consider what, if any, disciplinary action was necessary in accordance with the Licensing Points Policy.

Councillor R Beeching queried the impact of there being a different proprietor than the taxi driver in ownership of a taxi. Members were advised that East Herts Council issued licenses to individuals or to a proprietor. The responsibility for the vehicle lay either with the individual or the proprietor depending on who the licence had been issued to.

The Sub-Committee asked the taxi driver a number of detailed questions regarding the ownership and insurance arrangements in respect of the car he was stopped in on the 22 November 2013. The taxi driver explained the circumstances of the stop operation carried out by Hertfordshire Constabulary and Licensing Officers.

The taxi driver explained what he had been led to believe regarding the insurance arrangements of the Vauxhall Vectra he had purchased in early November 2013. He also explained the detailed circumstances surrounding his purchase of the vehicle from the previous owner. The taxi driver confirmed that he had not received the vehicle's log book from the previous owner.

In response to a query from Councillor R Beeching, the taxi driver confirmed that he wanted to work in East Herts as the volume of taxi drivers in the Luton area meant that

he had been working long hours with a limited income. He also confirmed that he had worked for a company called Herts Line since June 2013.

The taxi driver concluded that he was due in court in respect of the stop operation carried out by Hertfordshire Constabulary and Licensing Officers. He stated that he had been the victim of fraudulent activity regarding the sale and insurance of the car he was driving on 22 November 2013.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Services Manager and Democratic Services Officer to consider the evidence.

Following this they returned and the Chairman announced that the Sub-Committee had listened to the comments of the applicant and Licensing Officers. The Sub-Committee was very concerned that the applicant had been driving without insurance, which it considered a very serious matter and noted the ongoing police investigation. In this regard, the Sub-Committee confirmed the 12 Licensing Points awarded by Officers.

The Sub-Committee commented that they had given serious consideration to revoking the applicant's licence, but felt this was premature and it might be the case that Licensing Officers report this issue back to Members at a later stage.

RESOLVED – that, for the reasons now detailed, the 12 Licensing Penalty Points awarded by Officers be confirmed.

39 ACCUMULATION OF 12 OR MORE LICENSING POINTS IN A ROLLING 24 MONTH PERIOD – MR R

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors M McMullen and P Ruffles and a Licensing

Officer could remain in the room as observers.

The Licensing Enforcement Officer advised that the applicant had been issued with 16 Licensing Penalty Points for the offences detailed in the report now submitted. Members were advised that the taxi driver detailed in the report had first been licensed by East Herts Council in July 2013 and his current driver's badge was due to expire on 3 July 2014.

Members were advised that, if they suspended or revoked the taxi driver's licence, the decision would not take effect until the statutory 21 day period for making an appeal to the magistrates court had expired.

Members were advised that Officers considered it had been appropriate to issue the Licensing Penalty Points so that due consideration was given as to whether the taxi driver remained a 'fit and proper' person to hold a dual driver's licence. Members were asked to consider what, if any, disciplinary action was necessary in accordance with the Licensing Points Policy.

The taxi driver explained that he had sold the Vauxhall Vectra detailed in the report in November 2013. He confirmed that the buyer had been given the car's paperwork and became the owner of the vehicle on 15 November 2013. The driver summarised the detailed circumstances surrounding the cash purchase of the vehicle and confirmed that he was not in possession of the vehicle's original log book.

The taxi driver advised Members that he had advised the buyer of the car that he would have to arrange his own insurance. Members were referred to the bill of sale that had been circulated as part of the Agenda.

The Licensing Enforcement Officer stated that the taxi driver had produced an insurance document to Licensing Officers as evidence the car was insured when he had in fact cancelled the policy that same day, 5 November

2013.

Following further questioning from Officers and the Sub-Committee, the taxi driver confirmed that, following the seizure of the Vauxhall Vectra, this vehicle had been collected from the police by the registered keeper of the vehicle and he had thought the car was insured under a fleet policy.

The Licensing Officer in attendance as an observer advised Members that all of the insurance documents produced by the taxi driver were individual policy documents and were not fleet policies.

The Licensing Enforcement Officer reminded Members that a licensed taxi vehicle had been used in East Herts that was uninsured from 5 to 22 November 2013, and there had been ample opportunities for the taxi driver present to contact Officers with this information.

Members were advised that the Authority had been exposed to the risks of an uninsured taxi operating in the District. The taxi driver apologised for the errors regarding the taxi insurance and the inconvenience these had caused.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Services Manager and Democratic Services Officer to consider the evidence.

Following this they returned and the Chairman announced that the Sub-Committee had listened to the comments of the applicant and Licensing Officers. The Sub-Committee was very concerned regarding the submission of inaccurate insurance details, the licensing points issued to the applicant for not wearing a badge on 22 November 2013, and the failure to produce insurance documentation.

The Sub-Committee commented that it had given serious

consideration to revoking the applicant's licence. Members decided to confirm the 16 Licensing Points. The applicant was advised that if he came before the Sub-Committee and was found guilty of any further offences he would be at risk of losing his licence.

RESOLVED – that, for the reasons now detailed, the 16 Licensing Penalty Points awarded by Officers be confirmed.

40 APPLICATION NUMBER 025201

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors M McMullen and P Ruffles could remain in the room as observers.

The Senior Specialist Licensing Officer advised the Sub-Committee of the details of the application and how it related to Section 151 of the Licensing Act 1976. Members were reminded that all convictions remained live in respect of applications for Taxi Driver's licences.

The Sub-Committee was provided with background information relating to the applicant and the convictions that he had declared as part of his application. The Senior Specialist Licensing Officer stated that the applicant already held a taxi driver's licence with Aylesbury Vale District Council.

Members were reminded that it was for the Sub-Committee to decide whether the applicant was a "fit and proper person" to hold a taxi driver's licence. The applicant provided detailed information regarding the circumstances that led to the cautions and convictions he had declared to Licensing Officers.

In response to a query from Councillor R Beeching, the Senior Specialist Licensing Officer advised that the applicant had been first granted a taxi driver's licence by Aylesbury Vale District Council in 2010 and the applicant

was licensed by that Authority until March 2016.

In response to Members’ queries, the applicant confirmed that, whilst he lived in Luton, he wished to work as a taxi driver in East Herts due to the improved income he hoped to secure in the area.

At the conclusion of the representations, the Senior Specialist Licensing Officer and the applicant withdrew from the Council Chamber to allow the Sub–Committee to consider the evidence.

Following this they returned and the Chairman announced that the Sub–Committee had listened to the comments of the applicant and Licensing Officers and had decided to approve the application. The Sub-Committee stated that the applicant had been working without problems for Aylesbury Vale District Council and Members expected the same situation at East Herts Council.

RESOLVED – that, for the reasons now detailed, the application for a taxi drivers licence be approved.

The meeting closed at 4.40 pm

Chairman
Date