

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON FRIDAY 4 NOVEMBER
2016, AT 2.00 PM

PRESENT: Councillor Jeff Jones (Chairman)
Councillors D Andrews and R Brunton.

ALSO PRESENT:

Councillors P Ballam, G McAndrew,
P Ruffles and N Symonds.

OFFICERS IN ATTENDANCE:

James Ellis	- Advisory and Litigation Solicitor
Claire Mabbutt	- Licensing Enforcement Officer
Peter Mannings	- Democratic Services Officer
Oliver Rawlings	- Senior Specialist Licensing Officer

25 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor D Andrews and seconded by Councillor R Brunton that Councillor J Jones be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor J Jones be appointed Chairman of the Licensing Sub-Committee for the meeting.

26 MINUTES – 04 OCTOBER AND 19 OCTOBER 2016

RESOLVED – that the Minutes of the meetings held on 4 and 19 October 2016 be confirmed as correct records and signed by the Chairman.

27 TAXI DRIVERS LICENCE DD127 – DUAL DRIVER WITH 12 LICENSING RECORD POINTS

The Chairman outlined the procedure to be followed. All those present were introduced. The Senior Specialist Licensing Officer stated that Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 permitted the Authority to suspend or revoke the licence of a driver of a hackney carriage or private hire vehicle on the grounds detailed in paragraph 1.3 of the report submitted.

The Sub-Committee was advised that the driver had accumulated 12 or more licensing record points for the reasons detailed in paragraph 2.3 of the report and also for his conduct when challenged by the police. The Senior Specialist Licensing Officer stated that the burden was on the Sub-Committee to prove that the driver was not 'fit and proper' rather than the licence holder having to prove that he was.

He reiterated that this hearing was to consider a case where the evidence pointed towards the driver no longer being a 'fit and proper' person to hold a taxi drivers licence. At this point the Sub-Committee viewed the body camera footage recorded by a Police Officer from Hertfordshire Constabulary.

Mr Heard gave his version of events in that he had purchased food whilst waiting on double yellow lines to collect a 19 year old female passenger who had gone into a fast food outlet adjacent to the taxi office.

Mr Heard detailed a situation where his neck lanyard had been pulled from behind during a previous journey. He explained that since that incident, he had not worn a badge on the grounds of health and safety and for fear of being attacked. He stated that he had had a "bad day" and his behaviour had been out of character when he had stopped on the yellow lines. Two character references for

the taxi driver were circulated by his friend and fellow taxi driver.

Mr Heard answered a number of questions regarding the police body camera footage and the events portrayed in the video. Councillor R Brunton put it to Mr Heard that he had not mentioned to the Police Officer that he was waiting to collect a passenger at any point, and that he should have made this clear. Mr Heard confirmed to Councillor R Brunton that although he had worked earlier in the evening this had not been significantly earlier.

Mr Heard's friend alleged that taxi drivers were permitted to stop on double yellow lines. The legal advisor clarified the position in that the law permitted stopping on double lines only if the customer was ready to get in to the taxi and no waiting was permitted whilst taxi drivers tried to locate a customer. In a situation where the Taxi driver was early, or conversely the passenger was late, a Taxi driver would need to, effectively, "drive round the block" rather than wait on double yellow lines.

Mr Heard's friend stated that he was shocked at the conduct of his friend and emphasised that this had been totally out of character and he had simply been having a bad day. He pointed out that the local taxi drivers typically had very little respect for the police and he summarised the reasons for this.

Mr Heard driver confirmed to Councillor D Andrews that he did not dispute the facts detailed in the Police Officer's statement. He confirmed that he had taken no steps to repair his damaged neck lanyard or secure an alternative means of displaying his taxi drivers' badge.

Councillor D Andrews put it to Mr Heard that the Police Officer had acted in a firm but polite manner. He also stated the purpose of double yellow lines and summarised the Highway Code regulations regarding the wearing of seatbelts and driving or parking on the footway or pavement.

The Senior Specialist Licensing Officer referred to the appeal lodged by the taxi driver regarding the Licensing Record Points and the Head of Housing and Health's response. Members were advised that taxi drivers must display their badges at all times and if they did not wish to use a neck lanyard, then it was for them to comply in another way.

The Sub-Committee agreed to a short adjournment at the request of the taxi driver and his friend. Following this, the Sub-Committee listened to the final submissions of the Mr Heard and his friend, a fellow taxi driver. The friend stated that the hearing had not allowed a fair judgement of the taxi driver's character.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Adviser and Democratic Services Officer to consider the evidence. Following this they returned and the Legal Adviser explained that he had taken no part in the decision making process and had been there to advise Members on points of law and the Democratic Services Officer had been present to record the decisions.

The Chairman announced that the Sub-Committee had listened carefully to the comments of Mr Heard and Officers and had decided to revoke the Taxi Drivers Licence for the reasons now detailed. The applicant was advised of his right to appeal to the magistrates' court within 21 days of receiving the decision notice.

RESOLVED – that the Taxi Drivers Licence be revoked for the reasons now detailed.

Reasons:

1. The Sub-Committee was sufficiently convinced by the video evidence shown at the hearing that the licence holder's behaviour on the night in question was confrontational,

uncooperative and generally fell far below what was expected of a licenced taxi driver who was fit and proper to hold a licence.

2. The Sub-Committee reasonably expect licence holders to obey the rules of the road, including those around the wearing of seatbelts, not breaching Traffic Regulation Orders, and not driving on the pavement. The evidence provided to the Sub-Committee showed that the licence holder failed to comply with all of the above, indicating that he has ceased to be a fit and proper person to hold a licence.
3. It was also plain to see from the evidence provided that the licence holder failed to wear his driver's badge at all times, and in so doing was in breach of section 54 of the Local Government (Miscellaneous Provisions) Act 1976. The Sub-Committee listened to the licence holder's mitigation in relation to why he had failed to follow this requirement, namely that he was traumatised following a previous incident where the badge had been pulled back by a customer. However, the licence holder had not considered other ways in which he could wear the badge and instead wilfully decided to breach the requirement. Such flagrant disregard to the law was not something the Sub-Committee consider to be consistent with someone who was a fit and proper person to hold a licence.

28 TAXI DRIVERS LICENCE 0612 – DUAL DRIVER WITH LICENSING RECORD POINTS

The Chairman outlined the procedure to be followed. The Senior Specialist Licensing Officer stated that Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976 permitted the Authority to suspend or revoke the

licence of a driver of a hackney carriage or private hire vehicle on the grounds detailed in paragraph 1.3 of the report submitted.

The Sub-Committee was advised that the driver had accumulated 12 or more licensing record points for the reasons detailed in the report and there were a number of matters for Members to consider regarding the fitness and propriety of the taxi driver. The Senior Specialist Licensing Officer stated that the burden was on the Sub-Committee to prove that the driver was not 'fit and proper' rather than the licence holder having to prove that he was as the licence could only have been issued if the applicant had been considered to be 'fit and proper'.

Mr Clarke confirmed that when he had been made aware that his licence had expired he had taken steps to rectify this oversight. He confirmed that he had believed he was able to work as a private hire driver. He confirmed to Councillor D Andrews that he had not realised his insurance had limited him to this work and neither had the taxi company he worked for.

Mr Clarke had received e-mails he believed had corrected his insurance oversight and had not realised his license and insurance were invalid. He did not believe he needed any further proof and had been in touch with the taxi office regarding working as a private hire driver. He acknowledged that he had picked up customers whilst being unlicensed.

Councillor R Brunton referred to the fact that the taxi driver had worked in this capacity for 20 years and reminded him that the Authority set the bar for public safety very high. Mr Clarke stated that driving unlicensed was not an intentional act and he had made an honest mistake.

Mr Clarke made a final statement along the lines that he had enjoyed his work for 20 years and had never been the subject of any complaints. At the conclusion of the

representations, the Sub-Committee withdrew with the Legal Adviser and Democratic Services Officer to consider the evidence.

Following this they returned and the Legal Adviser explained that he had taken no part in the decision making process and had been there to advise Members on points of law and the Democratic Services Officer had been present to record the decisions.

The Sub-Committee listened carefully to the comments of Mr Clarke and Officers and decided to extend the period for which the Licensing Record Points remained 'live' from the standard 2 years, to 3 years. The applicant was advised of his right to appeal to the Magistrates' Court within 21 days of receiving the decision notice.

RESOLVED – that the period of time the Licensing Record Points remained 'live' on the Taxi Drivers Licence be extended from the standard 2 years to 3 years for the reasons now detailed.

Reasons:

1. The Sub-Committee was not impressed by the licence holder's lack of attention to detail pertaining to important matters around the validity of his taxi licence, however were mindful that the licence holder's period of operating with a lapsed licence was minimal.
2. The Sub-Committee had regard to the licence holder's long history as a driver, spanning 20 years, and would expect him to pay proper attention to the matters relating to his licence and insurance going forward.

29 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100(A) (4) of the Local Government Act 1972 as

amended, to exclude the press and public during consideration of the business referred to in Minute 30 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

30 TAXI DRIVERS LICENCE 030172 – CONSIDERATION OF THE FITNESS AND PROPRIETY OF AN EXISTING LICENSED DRIVER

The Chairman outlined the procedure to be followed. The Taxi Driver was accompanied by a friend to assist with interpretation if required. The Senior Specialist Licensing Officer stated that there had been an allegation made against the taxi driver by a 16 year old female. Hertfordshire Constabulary had arrested the driver and he had been released on bail with a number of conditions which no longer applied as no further action had been taken by the police.

As the mother of the female passenger was not available and as the driver had consistently denied the alleged version of events, Members of the Sub-Committee had to consider, on the balance of probabilities, which version of events they believed to be true based on the available evidence.

The Senior Specialist Licensing Officer referred to the statements included in the report now submitted and advised that if the Sub-Committee considered there to be an element of doubt regarding the conduct of a Taxi Driver, then Members should exercise their duty to protect the travelling public. He confirmed to Councillor D Andrews who had provided the written statements included with the report now submitted.

Councillor R Brunton commented on the credibility of the witnesses. The Senior Specialist Licensing Officer stated that he had spoken to the female passenger and her mother and had no reason to doubt the creditability of their statements. The police had also believed them to be

credible based on the actions they had taken in arresting and bailing the taxi driver.

The taxi driver gave his version of the events on the night in question and confirmed to Councillor R Brunton what had been said in the taxi office following the alleged incident. The taxi driver stated that the alleged conversation referred to in the statement of the female passenger had never occurred.

The taxi driver confirmed to the Sub-Committee that his only reaction to the report was that the alleged incident had not occurred and he had continued to work until he was arrested by the police on the Monday following the night in question.

Councillor J Jones questioned the taxi driver as to whether there was any reason why the witness statements would have been made up. The taxi driver was unable to give a rational reason as to why his female passenger or her mother had said what was included in their statements. He answered a number of questions regarding the timings of the taxi journey and the subsequent phone calls and meetings with the taxi office.

The taxi driver emphasised that he had worked in the Bishop's Stortford area for 7 years and had never received any previous complaints. He stated that he had been shocked at the allegations and was concerned at the effect on his family and career. The legal adviser reminded all present that the effect of these proceedings on the career or family life of the taxi driver could not be taken into account by Members.

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

Following this they returned and the Legal Adviser explained that he had taken no part in the decision making process and had been there to advise Members

on points of law and the Democratic Services Officer had been present to record the decisions.

The Chairman announced that the Sub-Committee had listened carefully to the comments of the Taxi Driver and Officers and had decided to revoke the Taxi Drivers Licence for the reasons now detailed. The applicant was advised of his right of appeal to the magistrates' court within 21 days of receiving the decision notice.

RESOLVED – that the Taxi Drivers Licence be revoked for the reasons now detailed.

Reasons:

1. The Sub-Committee was faced with two conflicting versions of events surrounding a taxi journey that took place in the early hours on 24 April 2016. Having considered the evidence provided at the hearing, the Sub-Committee felt that on the balance of probabilities, it preferred the version given by the passenger over the one provided by the licence holder. The Sub-Committee found no reason to doubt the evidence provided by the passenger and proceeded on the basis that her statement was a true account of what took place during the journey.
2. Having made the determination outlined at point 1 above, the Sub-Committee was then faced with deciding whether such conduct was consistent with someone who remained to be a fit and proper person to hold a licence, and determined that it was not.
3. In so determining that the licence holder was no longer a fit and proper person to hold a licence, the Sub-Committee had no option other than to revoke the licence.

The meeting closed at 5.00 pm

Chairman

Date