

# MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 26 APRIL 2022

## **Present:**

Councillor Hutton (in the Chair)

Councillors

Collett	Farrell	D Scott
Cox	Hunter	Wilshaw

## **In Attendance:**

Sharon Davies, Senior Licensing Solicitor  
John Greenbank, Democratic Governance Senior Adviser (Scrutiny)

## **1 DECLARATIONS OF INTEREST**

There were no declarations of interest on this occasion.

## **2 EXCLUSION OF PRESS AND PUBLIC**

The Public Protection Sub-Committee considered excluding the public and press from agenda item five as that item contained information which was exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

It considered that the public interest would not be served by allowing the information to be held in open session due to the sensitive information about individuals outlined.

**Resolved:** That under Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of agenda; item three, Horse Drawn Hackney Carriage Driver Licence, item four, Private Hire Driver Licences and item five Use of Delegated Powers – Revocation of Private Hire Driver's Licence.

## **3 MINUTES OF THE LAST MEETING HELD ON 29 MARCH 2022**

**Resolved:** That the minutes of the meeting held on 29 March 2022 be approved and signed by the Chair as a correct record.

## **4 HORSE DRAWN HACKNEY CARRIAGE DRIVER LICENCE**

The Sub-Committee considered a new application for a Horse Drawn Hackney Carriage Driver Licence, JS, who had failed to declare convictions for offences on their application for a new licence.

Mr Ryan Ratcliffe, Licencing Enforcement Officer, presented the case and explained that upon receipt of JS's application form in November 2021, an enhanced Disclosure and Barring Service certificate had been requested and revealed that JS had three convictions for battery in July 2013, dangerous driving in July 2014 and common assault in May 2016.

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Mr Ratcliffe explained that failure to disclose convictions on an application for a licence was contrary to sections 5.7, 6.7, 6.8 and 9.4 of the Hackney Carriage and Private Hire Convictions Policy in relation to violence and dishonesty. As such the Licensing Service recommended that JS's application for a licence be refused.

JS and a representative appeared before the Sub-Committee to explain the circumstances that had led to the convictions not being disclosed as part of the application process. The Sub-Committee was informed that the application form had been completed on JS's behalf by their perspective employer whom they had informed of the convictions. However they had failed to include the convictions as they believed that those over five years old did not have to be disclosed. JS's representative stated that the most recent offence had occurred six years ago and the first offence nine years ago. Since this time JS had improved their behaviour and had applied for a licence in order to provide for their family. It was added that the failure to disclose had been an honest mistake and that JS had not sought to mislead the Licensing Service at any point.

Mr Ratcliffe asked JS if at any point in the application process the individual filling out the form had read any portion of the document to them, highlighting that part four stated "any convictions or cautions must be declared, irrespective of if they could normally be regarded as spent". JS responded that they had been read parts of the form but could not recall this specific section.

The Sub-Committee informed JS that as a legal document they were legally responsible for the accuracy of its contents and could under certain circumstances be prosecuted for failing to do so.

Ms Sharon Davies, Legal Advisor, asked JS if they had been read the declaration of the application form. JS confirmed that they had and Ms Davies highlighted that point d stated "If no convictions are declared, I can confirm I have never been convicted of any offence and have no pending convictions." JS also confirmed in response to a query that they had not sought any advice from the Licensing Service while the form was being completed.

The Sub-Committee considered the information that had been provided by both parties and noted that ignorance of the responsibility to disclose convictions was not an acceptable excuse and that the Hackney Carriage and Private Hire Convictions Policy in relation to violence and dishonesty was clear. It was therefore agreed that JS's application for a new Horse Drawn Hackney Carriage Driver Licence be refused.

**Resolved:** That JS's application for a Horse Drawn Hackney Carriage Driver Licence be refused.

### 5 PRIVATE HIRE DRIVER LICENCES

The Sub-Committee considered three licence holders who had been convicted of offences or who had otherwise given reasons for concern.

i) PWH

Mr Ryan Ratcliffe, Licencing Enforcement Officer, presented the case of PWH who had

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been licenced since August 2011. On 1 April 2022 the Licensing Service had been informed that PWH had received six penalty points for using a mobile phone while in control of a vehicle. The Licensing Service therefore had recommended that PWH received a strict warning.

PWH had declined to attend the meeting of the Sub-Committee and informed Mr Ratcliffe that he would not be renewing their licence once it expired.

The Sub-Committee considered the information provided and agreed that in this a strict warning be issued in line with the Licensing Services recommendation.

**Resolved:** That PWH be issued with a strict warning in relation to penalty points they had received.

### ii) CVS

Mr Ryan Ratcliffe present the case of CVS to the Sub-Committee, informing them that they were an existing Private Hire Licence holder who in March 2022 had informed the Licensing Service that they had received three penalty points on their driving licence for speeding. Following a check with the DVLA Mr Ratcliffe reported that CVS had accumulated nine penalty points over the last two years. He added that CVS had therefore been referred to the Sub-Committee for consideration in line with section 14.5 of the Hackney Carriage and Private Hire Convictions Policy. As a result of the accumulated penalty points Mr Ratcliffe informed the Sub-Committee that it was recommending a minimum of a suspension of CVS's licence.

CVS appeared before the Sub-Committee to explain the circumstances under which they had received penalty point for speeding on his licence. They informed members that on 23 March 2022 they had been travelling on Devonshire Road when an Ambulance had approached them from behind with its siren and lights on. In order to swiftly reach a point to safely allow the ambulance past CVS stated they had sped up for a short period until they reach a point where they could pull their car over. During this brief period CVS had passed a speed camera which had recorded them exceeding the speed limit.

The Sub-Committee queried the circumstance of CVS's 2021 conviction for speeding to which they stated that it had been incurred while they were driving the vehicle of an older lady whom they periodically worked to transport to the shops. They added that as it was not their vehicle and therefore could have been used by others, they could not be sure that they had been driving the vehicle when the speeding offence occurred. In response to a query regarding how they came to be charged with speeding in another person vehicle, CVS responded that a member of their client's family had referred the fine to them. They also stated that they had not challenged the penalty points in these circumstance as they could not be sure who had been driving the vehicle.

In relation to the March 2022 fine CVS stated that they had been unaware that they could challenge the penalty points and that the circumstance under which it had occurred could have been used in this case. They also added that on no occasion had they been transporting a fare paying passenger when they had received penalty points.

The Sub-Committee considered the information that had been provided and the

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circumstance under which CVS had received their penalty points and agreed that in view of the multiple occasions that CVS had been fined for speeding that their licence be suspended for two weeks.

**Resolved:** That CVS's Private Hire Licence be suspended for a period of two-weeks.

### iii) MCE

Mr Lee Petrak, Trading Standards and Licensing Manager, presented the case of MCE to the Sub-Committee. MCE had been referred to the Sub-Committee following an incident where a passenger had fallen from MCE's vehicle while they were driving, and was under investigation by Lancashire Constabulary. Upon interviewing MCE regarding the incident they had provided a statement that was significantly different from the information provided by the Police based on the passenger statement.

Mr Petrak had therefore contacted the Police asking for additional information, including if a charging decision had been made in relation to the incident, if witness statements could be shared with the Licensing Service and if details of the passengers hospital visit and injuries could be shared. In response to this the police had informed Licensing that the case had been referred to the Crown Prosecution Service (CPS) to determine if MCE would be prosecuted, that the witness statements could not be shared but that they corroborated the statement made by the passenger. They had also replied that the details of passenger injuries and the circumstances of their hospital visit could not be shared until after the CPS charging decision had been made.

The Sub-Committee therefore sought advice from its Legal Advisor, Ms Sharon Davies, regarding how to proceed. Ms Davies informed members that nothing prevented the consideration of the case before a charging decision had been made, and that the Sub-Committee would have to determine how important the CPS charging decision was to its deliberations. Members also queried what legal liabilities could be incurred if the item was not deferred, for example if the Sub-Committee suspended MCE's licence but they were not charged by the CPS. In response to this Ms Davies explained that the Sub-Committee should only consider the case if members were satisfied that a fair decision could be made on the known facts.

The Sub-Committee agreed that although the case could be considered at the meeting, in order that MCE receive a fair hearing that the case be deferred until the outcome of the CPS's charging decision was known and additional information relating to the incident could be shared by the Police.

**Resolved:** That consideration of MCE's Private Hire Licence be deferred until the decision of the Crown Prosecution Service is known.

## 6 USE OF DELEGATED POWERS - REVOCATION OF PRIVATE HIRE DRIVER'S LICENCE

### (i)JH

Mr Lee Petrak, Trading Standards and Licensing Manager, outlined the circumstances of the revocation of JH's Private Hire Drivers Licence. He reported that Licensing had been informed by the Police that JH had been involved in a road traffic collision while under the

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influence of alcohol. JH had then declined to attend an interview with the Licensing Service and no record had been made of their reporting the incident as required by the conditions of their licence, Mr Petrak had therefore taken the decision, under delegated powers, based on the information provided by the Police to revoke JH's Private Hire Licence.

Subsequent to this JH had surrendered their licence to the Licensing Service but had objected to the wording of the revocation notice, stating that they had not been under the influence of alcohol. They also had stated that they had reported the incident to Licensing as required. Upon further investigation Mr Petrak discovered that JH's statement reporting the event had been submitted but not recorded due to a staffing error. Further to this Mr Petrak had contacted the Police regarding their reporting that JH had been under the influence of alcohol. In response to this the Police informed Mr Petrak that JH was not breathalysed following the incident and that the information in the police log had been included by mistake by police staff.

Mr Petrak had therefore taken the decision based on the new information to rescind JH's notice of revocation while accepting the surrender of their licence. He added that if JH applied for a licence in the future it would be brought before the Sub-Committee for consideration.

**Resolved:** That the use of delegated powers by the Trading Standards and Licensing Manager since the last meeting be noted.

### **7 DATE OF NEXT MEETING - 24 MAY 2022**

The date and time of the next meeting of the Sub-Committee was agreed as Tuesday, 24 May 2022 at 6.00pm.

### **Chairman**

(The meeting ended 7.15 pm)

Any queries regarding these minutes, please contact:  
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