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MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 25 APRIL 2023

Present:

Councillor Hutton (in the Chair)

Councillors

Farrell

Hunter

Mrs Scott

Wilshaw

In Attendance:

Sharon Davies, Senior Licensing Solicitor

Lee Petrak, Licensing and Trading Standards Manager

Ryan Ratcliffe, Licensing Enforcement Officer

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 MINUTES OF THE LAST MEETING HELD ON 28 MARCH 2023

The Sub-Committee considered the minutes of the last meeting held on 28 March 2023.

Resolved: That the minutes of the meeting held on 28 March 2023 be approved and signed by the Chairman as a correct record.

3 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

The Sub-Committee considered the cases a licence holders and new applicants for a Hackney Carriage and Private Hire Drivers Licence who had been convicted of offences or who had otherwise given the Licensing Authority cause for concern.

R.N.W

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case of RNW to the Sub-Committee. He informed members that RNW had applied for a Private Hire Driver's Licence, where upon they had disclosed that they had a conviction for a driving while under the influence of drugs in April 2019 and had been disqualified from driving until April 2020. Mr Ratcliffe highlighted that Section 10 of the Hackney Carriage and Private Hire Licensing Policy which outlined that an applicant with such convictions on their record should not be considered a fit and proper person to hold a licence. He further reported that a period of seven years would need to elapse before a licence would normally be granted. He therefore advised that the Licensing Service recommended that Sub-Committee not depart from policy and refuse RNW application.

RNW appeared before the Sub-Committee, accompanied by an existing Private Hire Licence Holder, and stated that the incident had been a mistake for which they were sorry. They further added that being stopped by the police had occurred during a difficult period in their life following the ending of a long-term relationship in 2018, when they began to use marijuana. RNW stressed that being stopped by the police and being

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convicted for the offence had led to them ceasing to use marijuana and seeking to reform their lifestyle for the better and stated that they had not used any proscribed substances since their conviction. They added that prior to 2019 they had worked as a driving instructor and therefore possessed a high standard of driving ability.

The Sub-Committee queried the circumstances under which RNW had been stopped by the Police. RNW replied that they could not be sure of why they decided to drive on the night of the incident or the exact reason that had led the Police to stop them, but confirmed that they had been stopped within Blackpool. They further repeated that the decision to drive on that occasion had been a mistake and they accepted that they should not have driven.

Members of the Sub-Committee considered the application and were satisfied that the reasons provided for the incident and RNW subsequent apology and acceptance of fault were sufficient for the Sub-Committee to depart from the relevant policy and grant the application for Private Hire Drivers Licence. However they also asked to ensure RNW's future conduct that the licence be issued with a severe warning letter and that it be subject to a condition that they undergo drug testing for at least the first twelve months of holding a licence.

Resolved: That;

1. The application for the Private Hire Driver's Licence in relation to RNW be granted subject to a severe warning letter outlining that in the event of future misconduct the licence may be suspended or revoked; and
2. That the licence be subject to a condition that RNW undergo drug testing once per month for at least the first twelve months of their licence period.

L.J.H.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case of LJH to the Sub-Committee. He informed members that LJH had submitted an application for a Private Hire Drivers Licence in December 2023, as part of which they had not disclosed any convictions. However following Disclosure and Barring Service and DVLA checks the Licensing Service had been informed that LJH had two convictions following an incident in 2012 and had received three penalty points on their driving licence in 2020. Mr Ratcliffe added that although these offences would not normally mean that LJH would not be eligible under the licencing guidelines to hold a licence, their failure to disclose the relevant offences had given the Licensing Service cause for concern regarding LJH's fitness and propriety to hold a licence. The Licensing Service there had recommended that a minimum of a strict warning letter be issued in this case.

LJH attended the Sub-Committee, accompanied by their partner, and presented the circumstance regarding why the convictions had not been disclosed at the time of their application. They presented evidence from the DVLA that the points on their licence that had been received in 2020 had expired in January 2023 and would be removed from their licence in January 2024 and therefore their licence was "clean" at the time of the meeting. Mr Ratcliffe noted however that LJH had made the application for a licence in December 2022, at which point the penalty points would have been valid on their licence.

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Mr Ratcliffe further questioned the circumstance of the failure to disclose the convictions on LJH's application. They responded that the penalty points had been omitted in error, due to LJH's belief that they points had expired. In relation to the convictions from 2012 LJH informed the Sub-Committee that both the conviction for disorderly behaviour and activating a emergency alarm on a train without reasonable cause were in relation to a single incident. This had occurred when LJH had found themselves on the wrong part of a train that had separated during a long journey. Having realised that they were on the wrong train LJH had become anxious this had led to them activating the alarm and behaving in a manner that had led to the convictions.

The Sub-Committee queried the circumstance of the penalty points that LJH had received. In response they explained that they had held a provisional licence at the time of the incident and the points had been imposed due to a failure to display L plates while they were driving. LJH reported that they had been stopped due to damage to their car, following it having been vandalised, which they had temporarily repaired. The failure to display L plates had followed a journey home, with their partner, who held a full driving licence, accompanying them, at night following a social event. On this occasion LJH stated that they had forgot to display the plates and recognised that this had been a mistake.

Subsequent to this incident LJH had received a full driving licence and confirmed that this was the first occasion on which they had held one.

The Chairman of the Sub-Committee advised LJH that the disclosing of offences to the Council as part of their application was a legal requirement and that failure to do so could lead to the authority prosecuting them. He added that while this would be unlikely in relation to their case, that they should remember this in future applications made to the Council.

Members noted that LJH's application had only been submitted for consideration due to their failure to disclose their convictions, and that they would not normally meet guidelines to refuse the licence. It was therefore agreed to grant the application subject to the issue of a severe warning letter.

Resolved: The application for the Private Hire Driver's Licence in relation to LJH be granted subject to a severe warning letter outlining that in the event of future misconduct the licence may be suspended or revoked.

M.O.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case of MO to the Sub-Committee. In October 2022 MO had made an application for a Hackney Carriage Drivers Licence as part of which they had submitted a medical form showing that they had been examined to DVLA Group 2 standard by a GP. The form had shown that while the GP considered MO to be medically fit to hold a licence, they also suffered from heart failure and recommended that they be subject to a review every three years.

Subsequent to this the Licensing Service was made aware in December 2022 that MO had also applied for a Hackney Carriage Driver's Licence to Wyre Borough Council and that in this case they had failed an initial medical examination due to heart failure. Following this MO's medical form had been sent by Wyre Borough Council to an independent medical

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consultant who had observed that MO did not meet DVLA Standard 2 due to heart failure, highlighting high blood pressure, no echocardiogram results, no confirmation of heart failure type and a statement regarding MO's failure to take medication. It had concluded that MO should be fully reviewed by a cardiologist, following which a final determination of their medical fitness to hold a licence could be assessed. MO had subsequently failed to provide this additional medical information to Wyre.

MO had responded to Blackpool's Licensing Service in February 2023 by providing a further GP's letter stating that they were medically fit to hold a licence, subject to three yearly review of their heart failure.

Mr Ratcliffe advised that due to the conflicting medical reporting on MO's fitness to drive determination of the application had been referred to the Sub-Committee. He added that the Licensing Service recommended that consideration be given to the frequency of checks of MO's medical status, which is set at five years for licence holder of their age group.

MO appeared before the Sub-Committee, accompanied by their partner, and presented their case for why they should be granted the licence. They stated that MO's heart failure was not of a serious nature and that they did not need to see a doctor regularly. Issues surrounding their blood pressure had been managed via medication, which MO stated they now ensure was taken as advised. In relation to the failed examination at Wyre Borough Council MO stated that they had been examined following a stressful period and that they had suffered from a lack of sleep on the day of the examination. It was added that they had been referred to a cardiologist but had yet to receive an appointment. MO also stressed their desire to work and informed members that it could take up to one year to receive an appointment and that they needed employment to support their family.

Mr Ratcliffe queried when MO had been first diagnosed with heart failure. Mo replied that they had first received a diagnosis five years ago and had seen doctors in the UK and Turkey whom had advised that the condition could be managed with medication. Mr Lee Petrak, Licensing and Trading Standards Manager, also question MO previous employment to which they advised that they had operated an off-licence until 2022.

Mr Petrak advised that heart failure was a condition that should be reported to the DVLA by those holding a driving licence.

It was noted that MO had failed to complete their application for a licence at Wyre and the Sub-Committee highlighted that MO had submitted parallel applications to both Wyre and Blackpool Licensing Services for a licence. MO explained that they had decided not continue their Wyre application due to what they perceived to be a failure to communicate what information was required and the delays they had experienced. In respect of the rational for submitting two application to separate authorities MO stated that they had done this to keep their options open and increase the likelihood of them finding work.

The Sub-Committee considered that MO had failed to demonstrate that they were a fit and proper person to hold a Hackney Carriage Driver's Licence and therefore agreed that the application should be refused.

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Resolved: The application for the Hackney Carriage Drivers Licence in relation to MO be refused.

H.M.

The Sub-Committee was informed that in respect of HM's application for a Hackney Carriage and Private Hire Drivers Licence, HM had requested that consideration of their application be deferred to July 2023.

Resolved: That consideration of an application for a Hackney Carriage and Private Hire Drivers Licence in the case of HM be deferred to July 2023.

D.S.C.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case of DSC to the Sub-Committee. He informed members that DCS held a Hackney Carriage and Private Hire Drivers Licence and that in April 2023 the Licensing Service had received a complaint from a member of the public following a journey in DSC's vehicle. The complaint stated that DSC "uses their position to impose their faith" and further alleged that they had expressed transphobic and homophobic views. It was also explained that DSC had handed out religious literature and had signage within their vehicle expressing their faith. The complainant had described feeling distressed and expressed concern for their own and others safety.

In addition to this complaint Mr Ratcliffe reported that DSC had also previously been the subject of similar complaint in October 2022. This had described similar behaviour in respect of DSC expressing their controversial views to a passenger and making them feel unsafe. On this occasion their employer C Cabs had dismissed DSC as one of their drivers and passed the complaint to the Licensing Service, following which Mr Ratcliffe had issued a verbal warning to DSC regarding their behaviour via telephone.

Mr Ratcliffe also noted that DSC had previously appeared before the Sub-Committee in October 2022, where their application was considered in respect of a number of previous convictions had received. On that occasion a severe warning letter had been issued in relation to future misconduct.

It was therefore recommended by the Licensing Service that in view of evidence of repeated instances of misconduct that a minimum of a suspension be considered by the Sub-Committee.

DSC attended the meeting accompanied by a representative of the Blackpool Licensed Taxi Operators Association, who presented the case on DSC's behalf. They informed the Sub-Committee that the first complaint that had been received in October 2022 was one of DSC's first journeys as a licensed driver. He reported that although DSC had accepted that a conversation where they expressed their religious views had taken place, they denied that anything offensive had been said. They added that they believed that this had been a minor incident and that DSC's operator had acted inappropriately in dismissing them and passing the complaint to the Licensing Service.

In respect of the second complaint DSC's representative stated that they had no

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recollection of the incident and questioned its accuracy. It was added that signage expressing DSC's religious views had been removed from the vehicle and they had ceased handing out religious literature following their verbal warning by Mr Ratcliffe. DSC also expressed the view that the signage when it had been in place had attracted a mixed reaction from passengers, while some had been positive, it had also caused some negative responses, including personal attacks on DSC's beliefs. DSC expressed the view that this could have the cause for the second complaint which they regarded as malicious.

Example of DSC's behaviour in the past were highlighted with their representative detailing circumstances where DSC had helped in need individuals. This included the award of a Blackpool Taxi Driver of Year medal for assisting an injured elderly lady return to Bolton free of charge. DSC stated that they viewed their role as a licence holder as a public service and that they were proud to serve Blackpool. They added that they recognised that conversations of a religious nature were inappropriate while operating a taxi and apologised for their previous behaviour, and provided assurance that they would not engage further in such behaviour. Their representative added that they regarded DSC as a good driver and a person who was fit and proper to hold a licence, although they had accepted that in this case a warning could be necessary.

Member of the Sub-Committee raised a query in relation to the alleged transphobic and homophobic comments reported in the October 2022 complaint. DSC strongly rejected the accusation and stated that they did not hold such views and that they had often transported members of the gay community without incident.

The Sub-Committee noted that DSC had been accused of using the phrase "you-know-whats" in reference to people living in the Midlands and queried what had been meant by this. DSC responded that they had no recollection of using the alleged phrase and therefore could not comment on its meaning.

Following consideration the Sub-Committee agreed that due to concerns regarding the nature of the complaints made against DSC that they were not a fit and proper person to hold a licence and therefore agreed that the licence be revoked.

Resolved: That in the case of DSC their Hackney Carriage and Private Hire Drivers Licence be revoked.

The meeting represented the last meeting of the current Chairman, Councillor Adrian Hutton, who would be standing down from the Council following the May 2023 local elections. He thanked the Members and Officers present for all their hard work during his tenure as Chairman and wished them well for the future.

4 DATE OF NEXT MEETING

The Sub-Committee noted that date and time of the next meeting was subject to confirmation at Annual Council.

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Chairman

(The meeting ended 8.00 pm)

Any queries regarding these minutes, please contact:
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