

North Yorkshire Council

General Licensing and Registration Sub-Committee

Minutes of the meeting held on Tuesday, 23rd April, 2024 commencing at 10.30 am.

Councillors Barbara Brodigan, Tim Grogan and Andy Solloway..

Officers present: Emma Hayton, Senior Licensing Enforcement Officer; Amy Ross, Regulatory Solicitor; and David Smith, Democratic Services Officer.

In attendance: The licence holder; and the licence holder's friend.

Copies of all documents considered are in the Minute Book

1 Election of Chair

The decision:

That Councillor Tim Grogan be elected as Chair for the duration of the meeting.

(Councillor Grogan in the Chair)

2 Apologies for Absence

There were no apologies for absence.

3 Disclosures of Interest

There were no declarations of interest.

4 Procedure for Meeting

The decision:

The Sub Committee agreed the procedure for the meeting as outlined by the Chair.

5 Exclusion of the Press and Public

The decision:

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the item of business at minute no 6 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 Act as the Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

6 Review of a Hackney Carriage Driver's Licence

To consider the report to the Licensing sub-committee and determine whether the licence holder remains a fit and proper person to hold a Council issued Hackney Carriage Driver's

Licence.

The Licensing sub-committee considered the written report and verbal presentation from the Senior Licensing Enforcement Officer, who provided members with the background history of this matter as set out in the report, including that on 26th January 2024, the licence holder was convicted for careless driving relating to an incident which took place on 7th May 2023, and was disqualified from driving until 25th January 2025. The Senior Licensing Enforcement Officer confirmed that the licence holder cannot therefore currently make use of their taxi licence.

The Senior Licensing Enforcement Officer advised the sub-committee that under the Council's policy at paragraph 313, taxi drivers must hold a DVLA driving licence. The Senior Licensing Enforcement Officer also highlighted paragraph 506 of the policy which states that 'Applicants who have been disqualified from driving will not normally be granted a licence unless they have held a licence for at least three years following the expiry of the period of disqualification without receiving any further penalty points', and paragraph 474 of the policy which states that 'These guidelines will apply equally to existing licence holders as they do to new applicants in determining suitability. Therefore, if a new applicant would be refused on the basis of their individual circumstances, a revocation would be an appropriate sanction for an existing licence holder under the exact same circumstances.'

The Senior Licensing Enforcement Officer advised members that they must take one of the steps outlined in point 12 of the report, i.e., to take no action, to suspend the license, to revoke the licence, or to revoke the licence with immediate effect in the interests of public safety, and that it is for the members to decide whether it is appropriate to depart from the policy in this case. The Senior Licensing Enforcement Officer informed members that if they decide to take no action, upon the end of the licence holder's DVLA Driver's Licence suspension period, they would be able to recommence working as a council-licensed taxi driver, and that their badge is due to expire on 30th March 2025.

The Senior Licensing Enforcement Officer reminded members that they are unable to review the merits of the licence holder's conviction, and that their role is to decide whether the licence holder is a 'fit and proper person' to hold a Hackney Carriage driver's licence as detailed in the Taxi and Private Hire Vehicle Standards issued by the Department of Transport, and that each case must be considered on its own merits.

The Senior Licensing Enforcement Officer informed the sub-committee that if they chose to revoke the licence holder's licence, any subsequent application would be deemed as a new application and they would be required to complete and pass all parts of the application procedure, including the knowledge test.

The Senior Licensing Enforcement Officer also assured the sub-committee that the licensing officers involved in this case are under no doubt that the licence holder did report the incident in question in the proper way.

The Senior Licensing Enforcement Officer advised members that the licence holder has provided to the sub-committee six character references, which members confirmed that they had received and read.

The Senior Licensing Enforcement Officer went on to play the CCTV footage of the incident to the sub-committee and verified with the licence holder that this was the same CCTV footage they had previously seen.

In response to members' questions, the Senior Licensing Enforcement Officer confirmed that they did not know how old the female victim was, and did not believe that the male victim had been injured. The Senior Licensing Enforcement Officer clarified that regarding

the form sent to the licence holder to complete following the incident, licensing officers have been unable to locate the completed copy but that actions on the file show that it seems to have been received and it appears that it had just not been filed by officers in the proper way.

Regarding how long the licence holder had been licensed with the Council, the Senior Licensing Enforcement Officer confirmed that Council records only go back ten years, but that the licence holder states that they have been licensed with the Council for thirty years (previously Craven District Council, and now North Yorkshire Council). The Senior Licensing Enforcement Officer confirmed that usually unless there have been any serious issues as to drivers' conduct (such as badge suspensions/revocations and/or criminal matters), records older than ten years have been destroyed due to the Council having gone paperless. The Senior Licensing Enforcement Officer also explained that unfortunately due to software changes, some documents have also been lost.

When asked by members if licensing officers contacted the police to ask for a report about the accident, the Senior Licensing Enforcement Officer responded that they did not believe this to be the case, and that their colleague had contacted the police to request the CCTV footage, but nothing else. The Senior Licensing Enforcement Officer was unsure as to whether there were any statements taken from victims, and confirmed that if there were, the Council have not had sight of them.

The licence holder did not ask any questions of the Senior Licensing Enforcement Officer.

In support of the licence holder, a friend of the licence holder told the sub-committee that they had been a taxi driver since 1991, and started working with the licence holder after 1993 when the licence holder was first licensed with Craven District Council. They explained that the licence holder, until this incident, has been a taxi driver for thirty years without any other incidents. The friend informed members that the sentence the licence holder received, including the 12-month ban, 100 hours of community service and fine seemed to be very harsh, and that it was going to severely impact on the licence holder's life and work, but that they were hoping the licence holder would be able to return to work as a taxi driver once the driving ban had expired.

The licence holder then provided the sub-committee with their verbal presentation, explaining that they had been driving since 1989, a taxi driver since 1993 and up until the incident of May 2023, had never had any prior incidents or accidents. The licence holder explained that they had been honest in court and to the Council about the incident from the beginning, has always had a clean licence and always tries their best to do everything correctly, but that unfortunately, they were distracted by the passengers in the back of the car at the time of the accident and as a result did not see the victims that were crossing the road. The licence holder explained that they knew what happened was wrong, and that were the sub-committee to give them another chance they would try to be more careful.

In response to questions from members, the licence holder confirmed that they did not appeal their conviction or sentence, and that this was because they could not afford it, and that their legal representative advised them not to. They went on to explain that they did not expect such a serious sentence, having been told by police and their legal representative that it would likely result in six points on their licence and/or a fine. They explained that they were very shocked by the sentence, having seen other drivers commit worse acts and not receive the same level of sentence.

Members questioned the licence holder's belief that they had collided with the passengers with only the tyre of the vehicle, to which the licence holder explained that they were confused, as the passengers in the back of their car were having an argument at the time, and that they do not know how the incident happened; it was a momentary lapse of concentration.

The licence holder went on to tell the sub-committee that Skipton is their hometown, and that no customer had ever made complaints about them to the Council before. They highlighted the character references which had been provided.

When asked by members whether the licence holder called the police when the accident happened, the licence holder told the sub-committee that after the accident, they asked if they could park their car as their 'head was different'. Their cousin who owns a takeaway on the other side of the road came to the scene and offered the victims drinks. The licence holder then explained that when the police arrived, they checked their breath, and the licence holder provided their details. Within twenty minutes the ambulance arrived. The licence holder informed members that they told the police that the victims came in front of the tyre of their car, and that the tyre had hit them on the foot. After around an hour, the licence holder explained, the police told them that they could return to work, however, the licence holder was too upset to do so and therefore called their manager/operator to say they was going to be off-service for the remainder of their shift.

Regarding their current badge, the licence holder explained that they still currently have their Hackney Licence badge, but that they have sold the vehicle and have handed their vehicle licence back to the Council.

DECISION: After having considered the content of the report, the verbal presentation by the Senior Licensing Enforcement Officer on behalf of the licensing authority, the verbal presentation and character references provided by the licence holder, the supporting verbal presentation by the licence holder's friend, the relevant legislation and case law, the Council's Taxi Licensing Policy and the statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport, and taking into account all relevant matters, the Licensing sub-committee

UNANIMOUSLY DECIDED

That the licence holder is not a fit and proper person within the meaning of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 and consequently has taken the decision to revoke their Hackney Carriage Licence.

Whilst impressed by the licence holder's honesty and the manner in which they responded to the questions of the sub-committee, as well as the character references provided by the licence holder, the members concluded that the incident resulted in a serious injury to a pedestrian due to a lapse in concentration by the licence holder, which resulted in conviction at the Magistrates' Court in January 2024, and that the licence holder had not shown to the sub-committee specific circumstances which would justify them allowing an exception to the Council's policy to be made, in this case, paragraphs 313 and 506 of the policy. Where an applicant has been convicted of an offence, the licensing authority cannot review the merits of the conviction.

For the reasons detailed above the sub-committee members were not satisfied the licence holder is a fit and proper person to hold a Hackney Carriage drivers' licence and therefore their licence has been revoked with immediate effect in the interests of public safety.

However, in recognition of the licence holder's previous excellent driving history whilst licensed with the Council, the sub-committee would welcome and consider an application to the Council for a new Hackney Carriage Driver's License, before another sub-committee, after two years following the expiry of their driving ban, should there have been no further incidents following the reinstatement of their DVLA driver's licence.

APPEALS INFORMATION:

There is a Right of Appeal against this decision to the Magistrates' court. This appeal must be commenced within 21 days beginning with the date upon which a driver aggrieved by

this decision receives notification of the decision. A fee may be payable to the Magistrates' Court when submitting your appeal application. Appeals are to be made to York Magistrates' Court.

The meeting concluded at 11.18 am.