

Medway Council
Meeting of Licensing Sub-Committee of Licensing and
Safety Committee

Friday, 8 September 2017

2.30pm to 3.40pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: Bhutia, Carr, Mrs Diane Chambers, Fearn, Godwin, Kemp and McDonald

In Attendance: Mr S, Appellant
Mr R Chishti MP, Appellant's representative
Mandy Francis, Principal Licensing and Enforcement Officer
Vicky Nutley, Planning and Licensing Lawyer
Ellen Wright, Democratic Services Officer

290 Election of Chairman and Vice-Chairman

Councillor Mrs Diane Chambers was elected Chairman and Councillor Carr elected Vice-Chairman for the 2017/18 Municipal Year.

291 Apologies for absence

There were none.

292 Record of meeting

The record of the meeting held on 10 March 2017 was agreed and signed by the Chairman as correct.

293 Urgent matters by reason of special circumstances

There were none.

294 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other interests

There were none.

295 Exclusion of the press and public

The press and public were excluded from the meeting during consideration of agenda item 7 because consideration of this matter in public would disclose information falling within paragraphs 1, 2 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972 as specified in agenda item 6 (Exclusion of Press and Public) and, in all the circumstances of the case, the Sub-Committee considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

296 Appeal against the suspension of a Hackney Carriage Driver Licence and Review of a Hackney Carriage Driver Licence

Discussion:

The Principal Licensing and Enforcement Officer requested that the Sub-Committee consider the information and evidence in her report and determine Mr S's appeal against suspension of his Hackney Carriage Driver Licence and to subsequently consider the continuance of the licence and determine what action should be taken.

The Sub-Committee was advised that Mr S had held a Hackney Carriage Driver Licence for a considerable number of years although the date he was first licensed was unknown.

The Principal Licensing and Enforcement Officer advised that following receipt of complaints from members of the public regarding concerns as to Mr S's poor standard of driving and concentration, he had been referred for a driving standards assessment on 19 July 2017 which he had failed. A copy of the assessment report was appended to the report at Appendix D. Copies of the complaints had been supplied to members of the Sub-Committee prior to the hearing and video footage taken from a vehicle following Mr S's Hackney Carriage was shown at the hearing.

The Sub-Committee was advised that Mr S had confirmed to the assessor on the day of the test that he did not have any medical conditions that may affect his driving and that he was not diabetic.

The Principal Licensing and Enforcement Officer advised the Sub-Committee that this was untrue as Mr S's medical records confirmed that he had been diagnosed with Type 2 diabetes since at least 2010.

In light of the above, Mr S's licence had been suspended with immediate effect.

The Sub-Committee was advised that Mr S had subsequently re-sat the driving assessment on 30 July which he had passed. Although Mr S had requested that the Council reconsider the suspension of his licence, the Principal Licensing and Enforcement Officer had advised that this would now be a decision for the Sub-Committee to determine.

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In presenting her report, the Principal Licensing and Enforcement Officer highlighted the very high standard that Medway Council expected from its licensed drivers.

Mr S's representative addressed the Sub-Committee to make representations in mitigation and responded to questions from members of the Sub-Committee.

Mr S's representative explained that when undertaking the initial driving assessment on 19 July 2017, Mr S had been asked if he had taken any medication that day which may affect his performance in the test and he had replied that he hadn't. This was not untrue as Mr S took medication for his diabetes but did so in the evening and therefore he had not taken any medication on the morning of the test. It therefore appeared that there was a misunderstanding of the question that had been asked of Mr S on the day of the initial test and the way in which this information had been recorded on the assessment form.

The Principal Licensing and Enforcement Officer confirmed that she had not been in attendance at the assessment test and therefore could not confirm the actual question which had been put to Mr S.

Mr S's representative also pointed out that one of the complaints related to Mr S's attitude to a customer and therefore this did not involve a complaint against his driving.

Both parties to the hearing left the room and the Sub-Committee considered the matter in private.

Decision:

After careful consideration of the written evidence and the representations made at the meeting by the Principal Licensing and Enforcement Officer and Mr S through his representative, the Sub-Committee agreed to:

- a) Uphold the decision of the Principal Licensing and Enforcement Officer to suspend Mr S's Hackney Carriage Driver Licence on the basis of the complaints received and his initial failure to pass the driving standards assessment.
- b) Reinstate Mr S's Hackney Carriage Driver Licence for one year on the basis that he passed the second driver assessment on 30 July but specified that he should undertake a further driver assessment after a period of 12 months.

**Licensing Sub-Committee of Licensing and Safety Committee, 8 September
2017**

Chairman

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