

## **GENERAL LICENSING SUB COMMITTEE**

Minutes of a meeting of the General Licensing Sub Committee of the Bolsover District Council held in Committee Room 1, The Arc, Clowne on Thursday, 1<sup>st</sup> February 2024 at 10:00 hours.

### **PRESENT:-**

Councillors Sally Renshaw, Emma Stevenson and Rita Turner.

Officers:- Samantha Craig (Chartered Legal Executive), Sharon Smith (Licensing and Enforcement Officer), Hannah Douthwaite (Governance and Civic Officer) and Matthew Kerry (Governance and Civic Officer).

Also in attendance at the meeting was Councillor David Bennett (observing), the Licence Holder and their representative.

### **GLSC23-23/24 ELECTION OF CHAIR FOR THE MEETING**

Moved by Councillor Rita Turner and seconded by Councillor Sally Renshaw.

**RESOLVED** that Councillor Emma Stevenson be elected as Chair for the meeting.

Councillor Emma Stevenson in the Chair

### **GLSC24-23/24 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **GLSC25-23/24 URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **GLSC26-23/24 DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **GLSC27-23/24 MINUTES - 5<sup>TH</sup> OCTOBER 2023**

Moved by Councillor Rita Turner and seconded by Councillor Sally Renshaw

**RESOLVED** that the minutes of a meeting of the General Licensing Sub Committee held on 5<sup>th</sup> October 2023, be approved as a true and correct record.

### **GLSC28-23/24 EXCLUSION OF THE PUBLIC**

Moved by Councillor Emma Stevenson and seconded by Councillor Rita Turner

**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the stated Paragraph of Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.

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### **GLSC29-23/24 TO CONSIDER WHETHER AN APPLICANT REMAINED 'FIT AND PROPER' TO HOLD A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE**

The Environmental Health Team Manager submitted a report which asked the Sub Committee to consider whether AB remained fit and proper to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Chair introduced the parties and outlined the procedure to be followed.

The Licence Holder, AB, was present and was accompanied by a representative.

The Chair invited the Licensing Officer to present the report.

The Licensing Officer presented the report, first noting that AB had five speeding offences, with six points having since expired leaving a total of nine points currently on their licence. AB had notified the Council for three of the offences but had failed to notify the Council of the other two.

The Licensing Officer drew attention to Appendix 1 of the report for the speeding offence of 16<sup>th</sup> August 2023. AB had emailed the Licensing Section on 18<sup>th</sup> September 2023 when, while working in London, they had failed to comply with a 20mph speed limit. AB had advised that they had been travelling at a speed of 26mph at the time of the offence.

The Licensing Officer highlighted the relevant sections of the Council's policies for the general principles for assessing whether an applicant could be considered 'Fit & Proper' to hold such a licence.

The Licensing Officer noted that isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence would be taken into account. If there were several minor traffic offences the applicant would normally be expected to show a period free of conviction for at least six months. An applicant with 6-12 penalty points on their licence would merit further consideration and may be refused depending on the circumstances of the case. A licence would normally be refused where the applicant had 12 or more penalty points on their DVLA licence for minor traffic offences but had not been disqualified from driving.

All parties were invited to question the Licensing Officer on their submission.

AB stated that for the first of the two occasions when they had failed to notify the Council, they had received a telephone call from the Council alerting them of their failure to provide notification. For the second occasion, AB stated they had been on a five-week tour and so had telephoned and spoken to the Licensing Team Manager, as they would not have been able to send an email – i.e., a written statement. The Licensing Officer responded stating that there was no record of this telephone call due to a technical issue.

The Legal Officer sought clarification of the period in which licence holders should notify the Council of such an offence. The Licensing Officer stated the Council should be notified within seven days of a conviction, and that this was printed on the back of each licence.

The Chair invited AB to present their case.

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AB stated that they could not deny speeding. They stated that they do not work in the same area as other drivers, but across the country and mainland Europe. Some areas were in the process of changing the speed limits, for example in London. In August 2023 roads had had a speed limit of 30mph, but this had changed to 20mph. AB stated that their satellite navigation had also not stated these changes and when they had been travelling through a new area, they were concentrating on other road users and the correct lane positioning for the unfamiliar road networks.

All parties were invited to question AB on their submission.

A Member sought clarification on the locations of the speeding offences. AB confirmed on 16<sup>th</sup> August 2023 the offence had taken place in London, on 13<sup>th</sup> May 2023 it had been on the motorway, and on 2<sup>nd</sup> April 2022 it had been in Leeds, reiterating that these offences were across the country. AB stated that as they worked for a chauffeuring company for the music industry, travelling far and wide was the norm. They had been driving professionally for forty-five years without incident, and while they appreciated they had been caught speeding, it had been only 1-2mph over the limit.

A Member asked what their speed had been when the offence on the motorway had taken place. AB answered that they had been working all day in Leeds, a fellow driver's mother had passed away, and so AB had driven them home to Wigan. It had been 02:30am, and all the previous gantries had been showing a speed limit of 60mph. AB stated they had set the cruise control function to 60mph, but one gantry had been set to 50mph and therefore had been caught speeding.

The Chair asked why AB had failed to inform the Council of the speeding offence dated 29<sup>th</sup> February 2020 (the first time they had failed to notify the Council). AB answered that they had forgotten to and that they had then received a telephone call from the Council, the purpose of which had been to be given a warning regarding the failure to notify. On the failure to notify for 13<sup>th</sup> May 2023 speeding offence, AB reiterated that they had telephoned the Licensing Team Manager, which was in their contacts, but not in the Council's records.

The Chair asked AB if they had received any speed convictions before 2014. AB answered not in their own personal vehicle, and speeding offences had only taken place in unfamiliar locations.

The Chair asked if there had ever been 12 points on their licence. AB answered no, only previously 6 points, though it currently stood at 9.

One Member sought clarification on whether AB would lose their licence if they had 12 points. AB answered that they had been in the Police for thirty years, so yes, they would lose their licence if they received 12 points. AB added that it would take fourteen days for the notification of a speeding offence to come through; notifying the Council within seven days of the offence would not be possible.

AB also stated that when they had been on tour for five weeks, they had not been able to send an email and had therefore phoned the Licensing Team Manager to inform of the delay. AB stated that they were not certain they had spoken with the Licensing Team Manager themselves, but the Licensing Team Manager's number was saved in their contacts.

The Chair invited the Licensing Officer to make their closing statement.

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The Licensing Officer asked the Committee to consider the minor offences and the failure to notify, but to refer to the Council's Taxi Licensing Policies in the agenda pack for guidance.

The Chair invited AB to make their closing statement.

AB stated that they could not deny speeding but having received 9 points on their licence, they were conscious that they would lose their licence if caught again for speeding.

AB, his representative and the Licensing Officer left the meeting at 10:32 hours for the Sub Committee to consider its decision.

All parties returned at 11:14 hours for the announcement of the decision.

Moved by Councillor Emma Stevenson and seconded by Councillor Sally Renshaw

**RESOLVED** that the Hackney Carriage and Private Hire Driver's Licence in respect of AB be **REVOKED** as the Sub Committee did not consider them to be a fit and proper person to hold such a licence.

The Sub-Committee made findings of fact and gave the following reasons:

1. The Panel considered the representations and submissions made by AB in relation to the failure to notify the Licensing Authority of speeding offences on two separate occasions dated 13.05.2023 and 29.02.2020. In relation to the speeding offence dated 29.02.2020 AB admitted they had not informed the Authority as they had forgotten. In relation to the speeding offence dated 13.05.2023, AB stated that they had informed the Licensing Authority by way of a telephone call. AB stated they could not remember the date of the telephone call but thought they had spoken to the Authority's Licensing Manager, but the Applicant could not be certain of this and the Panel did not have any supporting evidence that AB informed the Licensing Authority by telephone.
2. The Panel accepted that although AB had notified the Licensing Authority about the speeding offence dated 16.08.2023 by way of an email dated 18.09.2023, the notification was not within 7 days as was required by Condition 4.7 of the Authority's Private Hire Driver's Licence Conditions.
3. The Panel considered AB's comments about the total of 9 points on their licence and the speeding offences they had received – stating that they were a safe driver and that they had 'just been unlucky'. AB stated their job involved transporting music professionals around the country and they regularly travelled throughout the country. They said that speeding restrictions on roads often changed, and this made it more difficult when driving on unfamiliar roads.
4. The Panel heard that AB had some mitigating circumstances in that they had said their friend's mother had died recently, but the Panel did not accept this was an exceptional circumstance and therefore it did not justify a departure from the Authority's Taxi Licensing Policy.
5. The Panel considered the number, type and frequency of speeding offences, noting the last 2 speeding offences dated 13.05.2023 and 16.08.2023 occurred

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within 6 months of each other. In addition, the speeding offence dated 16.08.2023 had occurred within the previous 6 months.

6. The Panel asked themselves whether they 'would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person who they cared for to get into a vehicle with the Applicant' – the unanimous answer was 'no'. The overriding consideration of the Authority is to ensure the safety of the public and the Panel, considering all the information available to them, therefore believed that AB was no longer fit and proper to drive a taxi.

### Considerations:

In reaching its decision, the Sub Committee took into consideration the following factors:-

- (i) The report and evidence of the Licensing Officer;
- (ii) The Driver's submissions;
- (ii) The provisions of the Local Government (Miscellaneous Provisions) Act 1976;
- (iii) The Human Rights Act 1998 and of The First Protocol, Article 1;
- (iv) The Council's Policy and Guidelines.

AB was informed they would receive the decision notice within 5 days, and if they wanted to appeal the Sub Committee's decision, this had to be lodged at the local Magistrates' Court within 21 days of date of receipt of the Council's decision.

The meeting concluded at 11:17 hours.