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**LICENSING SUB-COMMITTEE (DWYFOR) 23-11-11**

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**Present:** Councillor Robert J. Wright (Chairman of the Dwyfor Area Committee)

Councillors: Glyn Roberts, Sion Selwyn Roberts and R.H. Wyn Williams.

**Also present:** Sion Huws (Propriety Officer), Amlyn ab Iorwerth (Licensing Manager), Alwyn Thomas (Licensing Enforcement Officer) and Ioan Hughes (Committee Officer).

**Others present:** Mr X (hackney vehicle owner in relation to exempt item A), Mr K (private hire operator in relation to disciplinary hearing B).

**Apologies:** Councillors: Selwyn Griffiths, Alwyn Gruffydd and Ieuan Roberts

**1. DECLARATION OF PERSONAL INTEREST**

No declarations of personal interest were received from any member present.

**2. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED to exclude the press and public from the meeting during the discussions on the following items due to the likely disclosure of exempt information as defined in paragraph 12, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs are relevant because the individuals in question are entitled to privacy and there is no overriding public interest that requires the disclosure of personal information relating to the individuals, or their financial and business matters. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

**3. DISCIPLINARY HEARING – HACKNEY OWNER**

Submitted – the report of the Licensing Manager.

The formal procedure for considering the case was followed and the members were asked to consider Mr X's disciplinary case, who owned a hackney vehicle.

It was noted that the Licensing Unit had received notification from the Disclosures Department at North Wales Police that Mr X had received a caution in relation to theft.

In line with policies and conditions, Mr X was required to submit information to the Licensing Department notifying them of such an incident, but he had failed to do so.

Mr X was given the opportunity to submit information verbally, and he explained that he had taken wheel trims off a vehicle which he had thought had been left as scrap.

Mr X apologised to the Sub-committee and in response to questions asked to him by members, he noted the following:

- That he had not looked to see if the vehicle had a tax disc for using the vehicle on the road.
- That he had not tried to open the vehicle's doors.
- He confirmed that the wheel trims had been returned to the owner and that the owner was happy with that.

The Propriety Officer referred to policies regarding convictions, and noted that each case should be considered on its own merits, and that the most important issue was to protect public safety. He explained that the Council's policy made the following provision: *"In general, an application showing a caution may be considered and approved but the overriding consideration should be the protection of the public"*.

The Licensing Manager, the Licensing Enforcement Officer and Mr X left the room to allow the Sub-committee to consider the matter.

As members considered the case, the following observations were made:

- That there was no evidence that Mr X had committed offences in the past.
- That the incident had not affected public safety.
- Reference to the Council's policy.

**RESOLVED to issue a caution to Mr X, noting that the matter will remain on the Council's records and will be taken into consideration should Mr X appear before this Sub-committee in the future.**

## **6. POSITION OF A PRIVATE HIRE OPERATOR**

Submitted – the report of the Licensing Manager.

The Sub-committee was requested to consider the case involving Mr K, a private hire operator licence holder.

The formal procedure for considering the case was followed, and the Licensing Manager outlined the background to the case. The following main points were made:

- That Mr K had appeared before the Sub-committee in the past.
- That reasonable efforts had been made since then to assist Mr K to ensure that he complied with Gwynedd Council's Policies and Conditions with regard to Private Hire Operators.
- That the problems persisted, with Mr K failing to present vehicles for a mechanical check on behalf of the Council, after appointments had been arranged.
- That the appointments could be rearranged, but Mr K had not requested this.
- That the information along with the number of vehicles being used by Mr K could have changed since the time of completing the written report.

The Licensing Enforcement Officer elaborated that it was a requirement for vehicles to be examined through a standard MOT test. Furthermore, every vehicle had to be examined for the Council's mechanical check. In general,

there was a pattern of arranging the Council's mechanical check six months after the MOT test.

He added that Mr K had 15 vehicles at present and that five of those had not been examined for the Council's check.

The officer emphasised that all Mr K's paper work was correct – the vehicles' MOT tests and insurance were fully acceptable. However, he noted that difficulties had arisen because Mr K did not adhere to the need to operate in accordance with the arrangement of taking vehicles for the Council's mechanical check.

He noted that it was difficult for the Licensing Department to safeguard the public without the cooperation of private hire operators.

Mr K was given the opportunity to submit information verbally, and the following main observations were noted:

- The Licensing Department did not show fairness towards him.
- That he was making an effort to contact the Department but they did not respond to his calls.
- That he had not received certificates to prove that he had taken vehicles to the garage for the Council's mechanical check, and due to this, he was being called to take vehicles to be checked as often as twice in six months.
- By now, he insisted on being issued with a certificate to ensure that the situation was fair.
- That he had been running the business for twenty years and no complaints had been made against him by customers.
- That some of his vehicles were currently in garages being repaired, and that there was no purpose to the mechanical check if it was not possible for him to use the vehicles.

In response to questions asked by Mr K to members, he noted that a month's notice was given to him with regard to taking a vehicle for the Council's mechanical check. He added that the Licensing Unit's records were inaccurate, as he was receiving calls to take vehicles to be examined every four months rather than every six months as he should be.

Mr K confirmed that he was given assistance at times to ensure that all the paper work in connection with the vehicles was in order.

In response, the Licensing Enforcement Officer explained that efforts were made to conduct the Council's mechanical check six months following the MOT test.

However, when a vehicle was licensed for the first time, this was dependent on the date of the MOT test, since it was required to have a hackney test, MOT test and the Council's mechanical check. After the first year, the pattern of testing every six months would be followed.

The licensing officers were given an opportunity to summarise the case and respond to any observations, and they highlighted the following matters:

- That Mr K was shown fairness consistently.

- That an officer was present in the office to respond to calls the vast majority of the time.
- That the cooperation of private hire operators must be ensured so as to protect the public.
- That it was not possible for the officers to know where all Mr K's vehicles were at any one time, and whether or not they were being used, and whilst they were licensed, they could possibly be on the road.

Mr K was given the opportunity to make any further observations and he noted that the vehicles that had not received the Council's mechanical check were not being used by him, and he did not see how he had done anything wrong. The Licensing Manager, the Licensing Enforcement Officer and Mr K left the room to allow the Sub-committee to consider the matter.

As members considered the case, the following observations were made:

- That Mr K had appeared before the Sub-committee in the past, but the problems persisted.
- That the Sub-committee had to take action to ensure the safety of the public.
- That it was possible for Mr K to use all the vehicles in his possession despite him stating that this did not happen.
- That Mr K could be dealing with extensive paper work, and perhaps this caused problems for him.
- That lack of communication was the main cause of the difficulties.

#### **RESOLVED:**

- a) **Not to revoke or suspend Mr K's licence at present.**
- b) **That it will be arranged for the Licensing Officers and Mr K to appear before this Sub-committee at the end of January, 2012. *(It was later arranged to hold the meeting on 27 January, 2012).***
- c) **At that time, the Sub-committee will expect a report from the officers on the situation in terms of Mr K's compliance with Gwynedd Council's Policies and Conditions with regard to Private Hire Operators.**
- (ch) **If the situation continues to be unsatisfactory at that time, the Sub-committee will have to consider more serious steps such as suspending or revoking the licence.**
- d) **In the meantime, it is expected for Mr K to keep weekly contact with the Licensing Officers, to update them on the situation and to comply with any instruction issued by them.**
- dd) **Mr K will be expected to ensure that he is available on the date of the next meeting, and information will be sent to him in good time, so as to be certain that he will attend.**

The officers and Mr K's representative were called back to the room, and the Chairman emphasised that the Sub-committee considered the matter to be a serious one, and that it was expected for Mr K and the Licensing Officers to cooperate so that the situation could be remedied by the next meeting in January 2012.

The meeting commenced at 1.30pm and concluded at 3.15pm.