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## GENERAL LICENSING SUB COMMITTEE 7/10/19

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**Present:** Councillor Elfed Williams (Chair), Councillors Gareth Jones and Angela Russell

**Officers:** Geraint Brython Edwards (Solicitor), Alun Merfyn Roberts (Licensing Officer) and Lowri Haf Evans (Member Support Officer).

### 1. APOLOGIES

None to note

### 2. DECLARATION OF PERSONAL INTEREST

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

### 3. URGENT ITEMS

None to note

### 4. EXCLUSION OF PRESS AND PUBLIC

**RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

### 5. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

- a) The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Officer presented a written report on an application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions. The report recommended that the application be refused.

The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He highlighted that the violence-related offence that occurred in 2014, was one of hitting back when his former partner had behaved aggressively to him. He stated that he had been driving taxis since 2008, and had received a licence following the conviction in 2014. The licence expired in 2019. The applicant's employer highlighted that she had known him for over 20 years and had not received any complaints about his behaviour during that period. She added that the incident of hitting back was out of character. She had no concerns or doubts about continuing to employ him and she trusted him.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

- b) **RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.**
- c) In reaching its decision, the Sub-committee considered the following:
- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
  - the applicant's application form
  - verbal observations presented by the applicant and his representative during the hearing
  - the Licensing Department's report along with the DBS statement

In March 1983, the applicant received a conviction from Blaenau Ffestiniog Magistrates' Court for a series of five charges associated with taking a vehicle without consent contrary to Section 12 (1) of the Theft Act 1968. For these offences he received a total of £113 in fines, was disqualified from driving for 12 months and received penalty points on his driving licence. In February 1984, the applicant received a conviction from Blaenau Ffestiniog Magistrates' Court for one charge of stealing from non-residential property - contrary to Section 9 (1) (B) of the Theft Act 1968. He was given a conditional discharge of 12 months, an order to pay costs of £3 and damages of £29. In May 2014, he received a conviction from Gwynedd Magistrates' Court for one charge of battery contrary to the Criminal Justice Act 1998. He received a community order together with supervision orders and unpaid work, costs of £85 and a victim's surcharge of £60.

Paragraph 2.2 of the Council's Policy was considered, in which it states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to remain free of conviction for an appropriate period as stated in the Policy, and to show evidence that he/she was a fit and proper person to hold a licence. The applicant has a responsibility to show that he is a fit and proper person.

Paragraph 4.5 of the Council policy was considered, which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002

allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise under the 1974 Act.

Paragraph 6 of the Policy addresses violent offences. Paragraph 6.1 states that licensed drivers have close, regular contact with the public therefore the sub-committee should adopt a robust stance with those who have offences involving violence. Paragraphs 6.3 - 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for common assault that is less than three years prior to the date of application. The paragraph lists offences and common assault is included in the list.

Paragraph 8.0 of the Policy, which addresses dishonesty offences, was considered together with paragraph 8.1 that states that a serious view is taken of any conviction involving dishonesty. Paragraph 8.2 notes that an application would normally be refused where the applicant has a conviction(s) for an offence listed, and that the conviction was received less than three years prior to the date of application. It was noted that the list of offences included amongst other offences burglary, taking a vehicle without consent and theft.

Paragraph 12.2 notes that an application would normally be refused where the applicant had a conviction resulting in a period of disqualification of 12 months or more, unless a period of 18 months had elapsed from the end of the disqualification period.

Paragraph 16.1 of the Council's policy deals with repeat offending. Firstly, it is necessary to ensure that the convictions, independently, satisfy the policy guidelines, but that, collectively, they create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that 10 years must have elapsed since the most recent conviction.

The Sub-committee determined that the 1983 and 1984 offences concerned offences of dishonesty. However, as the last offence had occurred over 35 years ago (beyond the period of 3 years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

In considering the offence of speeding that led to the driving disqualification, it was highlighted that the disqualification had ended 35 years ago and therefore paragraph 12.2 was irrelevant as grounds to refuse the application.

The sub-committee determined that the 2014 conviction was violence-related, however, as the offence had occurred over 5 years ago, there was no reason to refuse the application.

Although the Sub-committee came to the conclusion that the individual convictions were no grounds to refuse the application, it was decided to consider the convictions collectively, under paragraph 16.1. It was concluded that the convictions concerning dishonesty and violence indicated a history of repeat offending which demonstrated a lack of respect for the welfare and property of others. Consequently, this consideration was grounds to refuse the application. The Policy's provisions were not mandatory and it was possible to deviate from the recommendations if the facts of the case could justify this. In considering if discretion should be applied to deviate from the grounds presented, consideration had been given to the seriousness of the offence, its relevance, the date committed, the date of conviction, the applicant's age at the time of conviction, the sentence given, whether a pattern of criminal behaviour was seen, as well as any other relevant factors.

Specific consideration was given to

- the explanation received regarding the background of the convictions
- that the convictions in 1983 and 1984 had occurred over 35 years ago
- that there was no relevance between these historical offences and the 2014 offence
- the applicant has already been a taxi driver licence holder since 2008. Although there was no answer or reason why the applicant had received his licence back following the 2014 conviction, it was stated that the hearing formalised the procedure.
- It was noted that the applicant had been driving taxis without any recorded incident since the 2014 conviction - this was considered to be a strong element in the applicant's favour to deviate from the grounds to refuse the application.

Having weighed-up the evidence and the information carefully, the Sub-committee was willing to deviate from the Policy and it was resolved that the applicant was a fit and proper person to hold a hackney/private hire driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 2.00 pm and concluded at 3.05 pm

**CHAIRMAN**