
GENERAL LICENSING SUB COMMITTEE 25/11/21

Present:

Councillors: Annwen Hughes (Chair)
Gareth T M Jones and Dafydd Owen

Officers: Siôn Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager)
and Lowri Haf Evans (Democratic Services 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

It was **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 12A 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

The Chair welcomed everyone to the meeting. She explained that the decisions 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 the application received from Mr A for a hackney/private hire vehicle driver's licence. The Sub-committee was requested to consider the application according to the DBS record, the guidelines on criminal offences and relevant convictions. The Licensing Authority had recommended that the Sub-committee should refuse the application.

In response to the applicant's observation that the conviction had surpassed the period noted in the policy, the Licensing Manager noted the rights of the Sub-Committee to consider every conviction on the DBS record. Although the applicant's frustration was accepted it was added that the Council's Policy was to consider every conviction in order to provide a clear and comprehensive picture of the background. The Sub-committee's priority was the public's safety and by weighing up all the evidence it was possible to determine whether the applicant was a fit and proper person for the post.

The applicant was invited to expand on his application and provide information about the background of the offences and his personal circumstances. He noted that he was remorseful, and had improved his behaviour, and following the incident in 2018 he had learnt a lesson by calling the Police and keeping a record of every incident in a diary. He noted that he had driven buses for 27 years and that the complaint wasn't regarding his attitude or his driving.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Gwynedd Council.

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
- the Licensing Department's report and the DBS statement
- the applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In October 2010, the applicant was found guilty by Gwynedd Magistrates Court of using threatening, aggressive/insulting language, or behaving with the intention of causing distress or harassment, contrary to the Public Order Act 1986. He was fined £200, ordered to pay costs of £85 and additional costs of £15.

In November 2018, the applicant was found guilty by North West Wales Magistrates Court of using threatening, aggressive/insulting language likely to cause harassment, alarm or distress contrary to the Public Order Act 1986. He was fined £100, ordered to pay costs of £85 and additional costs of £30

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence. Paragraph 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 and/or criminal damage and/or an offence under the Public Order Act 1986 which happened less than three years before the date of application.

Paragraph 16.1 of the Policy deals with repeat offences. Firstly, it must be ensured that the convictions satisfy the policy guidelines individually, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that ten years must have elapsed since the most recent conviction.

The Sub-committee concluded that the convictions in 2010 and 2018 were violence-related offences. They were content that the period of time noted in the Policy where applications should be refused due such offences has passed in the case of both matters. However, as there was a 'pattern' of re-offending the matter was considered under paragraph 16.1. Under this paragraph the policy states that the application should be refused if a period of 10 years hasn't passed since the last conviction. As such a period of time had not elapsed, the sub-committee considered if there were any reasons and evidence presented to persuade them differently.

The nature of the re-offending pattern was considered and the applicant's explanation and evidence regarding the background of the offences and personal circumstances. The offence in 2010 had happened 11 years ago and was related to a specific family incident. However, the offence in 2018 was a cause of concern for the Sub-committee due to the situation that arose while the applicant was driving a public bus and therefore very relevant in the context of an application for a hackney / private hire driver's licence. The Sub-committee highlighted that very difficult situations would arise from time to time where it would be essential to avoid losing one's temper and to not respond if provoked. The Sub-Committee gave consideration to the circumstances of the incident that lead to the conviction and came to the decision that the behaviour was unacceptable. Despite this, the behaviour was only relatively serious and no physical violence had taken place.

The Sub-Committee received a declaration from the applicant stating he had learnt his lesson following the incident and he now phoned the Police when a similar situation arose and he kept a record of every incident in a diary. It was also considered that the applicant has driven buses for years and that no complaints have been presented to his employer regarding his driving or behaviour.

Having weighed-up the evidence and the information carefully, the Sub-committee decided that the nature of re-offending and the evidence of what had happened since the last conviction justified deviating from the Policy. Consequently, the Sub-committee was in favour of approving the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. The applicant was reminded that if a similar incident occurred again then the licensing authority would have to consider taking appropriate measures under those specific circumstances, and the measures may include

removal of the licence.

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

The meeting commenced at 2.30 pm and concluded at 3.30 pm

CHAIRMAN