
GENERAL LICENSING SUB COMMITTEE 9/03/20

Present: Councillor Elfed Williams (Chair), Councillors Annwen Hughes and Dafydd Owen

Officers: Geraint Brython Edwards (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

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 Manager presented the written report on the application received from Ms A for a new hackney/private hire vehicle driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS disclosure, the guidelines on criminal offences and relevant convictions. The Licensing Authority had recommended that the Sub-committee should refuse the application.

The applicant and the prospective employer were invited to expand on the application and provide information about the background of the convictions and the applicant's personal circumstances. The applicant explained that the incidents that were recorded on the DBS were historical incidents that had occurred when she went through a difficult period as a teenager. She added that she herself now had a child, and that she wanted to set a good example and have stability in her life. The applicant's prospective employer noted that she was aware of Ms A's background, but she had faith in her and was willing to give her a chance. She added that she had received a reference from Ms A's former employer as a carer in a children's home.

b) **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.**

c) In reaching its decision, the Sub-committee had 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 and her prospective employer's verbal representations

ch) Specific consideration was given to the following matters

The applicant had received a caution in June 2003 from North Wales Police for assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861. In September 2004 she received a conviction from Conwy Youth Court for an offence in relation to taking a motor vehicle without authority, contrary to the Theft Act 1968. She received an order that was deferred for five months and was ordered to pay costs of £20. In May 2006 the applicant received two convictions from Gwynedd Youth Court - one conviction of resisting or obstructing a person who was assisting a police officer, and one of assaulting a police officer, contrary to the Police Act 1996. She received an Action Plan Order for three months for the first crime, and a community service order and a specific ten hour order to make amends for her behaviour. In July 2015 she received another caution for damaging property which was contrary to the Criminal Damage Act 1971.

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 would normally be expected to remain free of any conviction for an appropriate period as stated in the Policy, and to show evidence that the individual is a fit and proper person to hold a licence. The onus was on the applicant to prove that she was a fit and proper person. Paragraph 2.3 of the Policy confirmed that "other matters to be considered" included cautions.

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 take a firm stance towards those who have offences involving violence. Paragraph 6.4 of the Policy states that an application for a licence will usually be refused or revoked if the applicant has a conviction for one of the listed offences, and that the conviction is within ten years of the date of the application. It was noted that the list of offences included Police assault, amongst others. 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 that is less than three years prior to the date of the application.

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

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.

- d) The Sub-committee came to the conclusion that the caution in 2003 was a violent offence, however, as the last offence had occurred over 16 years ago (which is beyond the period of three years), paragraph 6.5 was irrelevant, and there was no reason to refuse the application. It was considered that the 2004 conviction was for an offence relating to dishonesty. However, as the conviction had occurred over 16 years ago (beyond the period of three years), paragraph 8.2 was irrelevant, and there was no reason to refuse the application.

It was considered that the 2006 conviction was in relation to a violent offence, listed as a 'police assault' within paragraph 6.4. However, as the last conviction occurred over 13 years ago (beyond the period of ten years), paragraph 6.4 of the Policy was irrelevant and there was no reason to refuse the application. It was considered that the 2015 caution was in relation to a violent offence. However, as this caution dated from over four years ago (beyond the period of three years), there was no reason to refuse the application.

In considering collectively the caution in 2003, and the convictions dating from 2004, 2006 and the caution in 2015, there was a pattern of repeat offending that indicated a lack of respect for the welfare and property of others. The last of these offences had occurred over four years ago, and therefore when considering a ten year period, the Sub-committee concluded that the provisions of paragraph 16.1 were relevant and were grounds for refusing the application.

The Solicitor highlighted that the Policy's provisions were not mandatory and that the Sub-committee could deviate from the recommendations if the facts of the case justified that. Particular consideration was given to paragraph 5.1 of the report which addressed the seriousness of the offences, their relevance, the date they were committed, the date of conviction and the applicant's age at the time of

conviction, the sentence given by the Court and whether the offences related to a pattern of offending, as well as any other relevant factors.

It was considered that the 2015 caution was the only incident recorded within the past decade, with the caution in 2003 and convictions in 2004 and 2006 having occurred when the applicant was under 18 years old. A full explanation had been received from the applicant about the background of the individual incidents, and it was concluded that there was no material link between these incidents.

- dd) Having carefully weighed up the evidence and the information, the Sub-committee was willing to deviate from the presumption in favour of refusing the application in this case, and under the circumstances it was decided that the applicant was a fit and proper person to hold a hackney/private hire vehicle driver's licence.

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

The meeting commenced at 10.45 am and concluded at 11.30 am

CHAIRMAN