
GENERAL LICENSING SUB-COMMITTEE 09-04-24

Attendance:

Councillors: Elfed Williams (Chair), Anwen Hughes and Huw Rowlands

Officers: Siôn Huws (Senior Solicitor - Corporate), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Nia Grisdale (Legal Services Manager) - observing

Item 5:

Applicant - Mr A, his partner and his representative
Tomos Wyn Jones (Public Protection Enforcement Officer)
Robert Taylor (Licensing Enforcement Officer)

Item 6:

Applicant - Mr B

1. APOLOGIES

None to note.

2. DECLARATION OF PERSONAL INTEREST

None to note.

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 DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. He explained that the decision would be made in accordance with Cyngor Gwynedd'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 was a fit and proper person
- The person did not pose a threat to the public
- The public were safeguarded from dishonest persons
- Children and young people were protected
- Vulnerable persons were protected
- The public had confidence in using licensed vehicles.

The Licensing Manager presented the written report on the 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 relevant convictions.

It was recommended that the Licensing Authority gave Mr A an opportunity to explain the background of the incident and offer valid reasons to the Sub-committee about why he believed that he was now a 'fit and proper' person to receive a hackney licence. If the Sub-committee following that, was not convinced that the applicant was a 'fit and proper' person, then it was recommended that the application was refused because it was contrary to clause 6.1 and 6.2 of the Council's Suitability Criteria for Drivers and Operators.

The applicant's representative was invited to expand on the application and provide information about the background of the conviction and the applicant's personal circumstances. It was noted that the incident had been acknowledged by the officers at the Licensing Unit, but it was alleged that the other individual had been hit first. It was added that the individual's behaviour towards the applicant had been unacceptable on many occasions, and that the applicant had tried to call the Police, but they were unable to respond in time. However, it was explained that the other individual had also been prosecuted and convicted for the same crime.

Two references were submitted for the character of the applicant along with brief descriptions of this judgement in the Court.

It was agreed to share a video of the incident.

It was noted that the applicant did not have no other convictions or other matters to be considered and that driving a taxi was his livelihood (he had a licence since 2018). This was an isolated incident, contrary to his character; there was no pattern of inappropriate behaviour, and the applicant had already received a punishment from the Court for his behaviour.

In response to a question regarding how the applicant could convince the Sub-committee that he was a fit and proper person, it was noted that this was one incident and he had not been a part of any dispute prior to this, and that he was not a violent man.

In response to an observation that the applicant's documents had been sent to the incorrect address, the Licensing Manager noted that the Licensing Unit had not received the new updated address and that the address that was on the applicant's licence had been used.

It was RESOLVED that the applicant was not a fit and proper person to be issued with a hackney carriage/private hire driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The Licensing Department's report and Enforcement Officers' Statements
- DBS Statement

- The applicant's application form
- Verbal observations by the applicant's representative and a reference

Specific consideration was given to the following matters:

Background

In December 2022, the applicant's licence had been suspended to safeguard the public: in accordance with the provisions in Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. In February 2023, he received a conviction for Using / Threatening Violence in a public space, and a fine of £200; costs of £85 and surcharge of £80.

Based on the fact that the applicant had pleaded guilty to the accusation; the Licensing Unit decided to remove his taxi vehicle driving licence and gave him a copy of the revocation notice in accordance with section 61 of the Local Government (Miscellaneous Provision) Act 1976 with immediate action.

RELEVANT CLAUSES OF THE POLICY

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 the person 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/she 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 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of the conviction or the other matter.

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

Paragraph 6.1 noted that, since licensed drivers came into close contact with the public regularly, the sub-committee would adopt a firm stance towards those who had violence-related offences.

Paragraph 6.2 noted that anyone found guilty of an offence relating to violence was unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration had to be given to the nature of the offence.

Paragraph 6.5 of the Policy stated that an application for a licence would normally be refused if the applicant had 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.

CONCLUSIONS

The Policy's provisions, the applicant's representative's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

It was reported that the Sub-committee had some sympathy with the applicant regarding the incident and accepted that there were two obvious sides to the story, with the other individual in question sharing responsibility for what happened. However, it was noted that

attention had to be given to the Authority's Policy provisions, that stated that the application would normally be refused, unless a period of at least 3 years had elapsed since such an offence happened.

The Sub-committee was aware, although the period of time was noted in the guidelines, that there was an opportunity for the applicant to evidence that he was a fit and proper person to hold a hackney vehicle/private hire driver's licence. Although those officers of the department had not received any complaints about threatening / violent behaviour on the part of the applicant since the incident in December 2022, it was a cause for concern that only about half the expected period of 3 years had passed since the incident.

The Sub-committee gave very serious consideration to the fact that the incident happened whilst the applicant worked as a taxi driver, therefore it was concerned, if he was in a stressful situation where he would be likely to have to deal with challenging or provocative behaviour, that he would be expected to respond appropriately. It was considered that how the driver responded to such situations was relevant, as there was a need to ensure that the safety of the public was central to the Sub-Committee's duty when considering applications.

After considering all the factors, the sub-committee was not convinced that the applicant was a fit and proper person to hold a licence currently. To address the Authority's Policy requirements, it did not consider that enough time had passed since the conviction and that there were no exceptional circumstances in this case that would justify deviating from the Policy.

The Sub-committee determined in favour of refusing the application as the applicant was not a fit and proper person to hold a hackney and private hire vehicle driver's licence.

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

6. APPLICATION TO RENEW A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B

The Chair welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Cyngor Gwynedd'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 was a fit and proper person
- The person did not pose a threat to the public
- The public were safeguarded from dishonest persons
- Children and young people were protected
- Vulnerable persons were protected
- The public had confidence in using licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr B for a new hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions. It was noted that the applicant had acknowledged the conviction on his application form for a licence.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on his application and provide information about the background of the offence. He noted that the incident happened when he was at school and that he had not offended since.

RESOLVED

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In April 1976, the applicant received a conviction in a Juvenile Court for Assault causing Actual Bodily Harm (ABH) contrary to S.47 of the Offences Against the Person Act 1861. He received a fine of £5.

RELEVANT CLAUSES OF THE POLICY

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 the person 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/she 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 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of the conviction or the other matter.

Paragraph 4.5 was considered which stated 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 6.1 noted that, since licensed drivers came into close contact with the public regularly, the sub-committee would adopt a firm stance towards those who had violence-related offences.

Paragraph 6.5 of the Policy stated that an application for a licence would normally be refused if the applicant had 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.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

The Sub-committee decided in favour of approving the application as the only conviction had happened over 48 years ago therefore far beyond the three year period and there was no evidence of any misconduct since then.

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

The meeting commenced at 10.00am and concluded at 11.50am