

## **GENERAL LICENSING SUB-COMMITTEE 05.04.2016**

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**Present:** Councillor Tudor Owen (Chair), Councillors John Brynmor Hughes and Elfed Williams

**Officers:** Geraint B Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager), Bob Taylor (Licensing Enforcement Officer) and Lowri Haf Evans (Member Support and Scrutiny Officer).

### **1. WELCOME and APOLOGIES**

The Chairman, Councillor W. Tudor Owen, welcomed everyone to the meeting. The panel and the officers were introduced to everyone present.

In response to a request from the applicant, the hearing was held in English.

### **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 because of 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 because the individuals in question were entitled to privacy and there was no overriding interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

### **5. APPLICATION FOR HACKNEY / PRIVATE HIRE DRIVER'S LICENCE**

- a) The Licensing Manager presented the written report on the application received from Mr A. for a new hackney/private hire driver's licence.
- b) It was reiterated that a statement of convictions had been submitted. No convictions that were relevant to the licensing field had been included in the applicant's statement, but attention was drawn to additional information submitted by the Police that was relevant to the application. The Committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant crimes and convictions.
- c) The Licensing Manager's recommendation was to refuse the application due to matters disclosed by the Police, and in accordance with the Council's taxi policy 'Suitability Criteria for Drivers and Operators'.
- ch) The applicant was invited to expand on his application. The applicant referred to a letter he wrote to the Betsy Cadwaladr Health Board explaining his situation.
- d) The applicant withdrew from the room while the Sub-committee members discussed the application.

- dd) In reaching their decision, the Sub-committee had considered the following factors
- the applicant's application form
  - the Licensing Department's report along with the DBS statement
  - Gwynedd Council letter dated 17 December 2012
  - letter dated 4 November, 2015 submitted to the Betsi Cadwaladr University Health Board
  - the requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire - specifically paragraphs 7.1, 7.2 and 7.5 in relation to sexual offences and indecency.
  - oral observations

- e) The Sub-committee accepted the information recorded in the DBS statement as a correct description of the events. The Sub-committee was reminded, in accordance with section 59 of the Local Government (Miscellaneous Provisions) Act 1976, that a licensed could not be issued unless they were satisfied that the applicant was a fit and proper person to hold a licence.

The Sub-committee was advised of the meaning of a "fit and proper person" and reference was made to the ruling of *McCool v Rushcliffe Municipal Council [1988] 3 All ER 889*, where the High Court confirmed its meaning: "...those licensed to drive...are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers."

- f) While considering the incidents which were sexual, indecent and violent in nature, the Sub-committee was not persuaded that the applicant was a suitable person and that he would not take advantage of his employment. There was concern that the applicant had submitted a complaint to Betsi Cadwaladr University Health Board for sharing personal, confidential details with the Police. The Sub-committee's opinion, in the interests of the protection of public safety, was that this information had been shared correctly, and as result, the applicant's unwillingness to share the information with a relevant authority raised doubts regarding his honesty. In addition, the observation that employment details had been submitted on the application form, without asking for employment nor support from the company, also cast doubt on the applicant's honesty.
- ff) It was accepted that the applicant had Asperger's Syndrome which affected his communication, social and interaction skills and his imagination. However, the main priority of the Sub-Committee was to protect the public by ensuring that they were safe in the hands of Gwynedd's taxi drivers.
- g) Under the circumstances, the Sub-committee was not satisfied that the application complied with the criterion of "a fit and proper person". The application was refused.

**RESOLVED that the applicant was not a fit and proper person to be granted a hackney/private hire driver's licence and Mr A's application for a hackney/private hire driver's licence was refused.**

The Solicitor reported that the decision would be confirmed formally by letter. He also notified the applicant that he had the right to appeal the decision within 21 days of receiving the letter.

The Sub-committee encouraged the applicant to attend suitable training courses to maximise his hopes of employment in future.

The meeting commenced at 2.15pm and concluded at 3:10pm