

General Licensing Committee

A meeting of General Licensing Committee was held on Tuesday, 17th March, 2020.

Present: Cllr Paul Kirton (Chair), Cllr Lynn Hall (Sub Cllr Jacky Bright), Cllr Evaline Cunningham, Cllr Tina Large, Cllr Mick Moore, Cllr Maurice Perry, Cllr Andrew Sherris, Cllr Marilyn Surtees, Cllr Hilary Vickers and Cllr Bill Woodhead MBE.

Officers: Leanne Maloney-Kelly, Peter Bell (MD); Jonathan Nertney (HR, L&C).

Also in attendance: Private Hire Driver Applicant - Ref 131975

Apologies: Cllr Eileen Johnson, Cllr Jacky Bright, Cllr Chris Clough, Cllr Ken Dixon and Cllr Julia Whitehill

GLC 31/19 Evacuation Procedure

The evacuation procedure was noted.

GLC 32/19 Declarations of Interest

There were no declaration of interests.

GLC 33/19 Minutes from the General Licensing Committee meeting which was held on 7th January 2020

Consideration was given to the Minutes from the General Licensing Committee meeting which was held on the 7th January 2020 for approval and signature.

RESOLVED that the minutes be approved and signed as a correct record by the Chair.

GLC 34/19 GENERAL LICENSING FUNCTIONS SUSPENSION POWERS DELEGATION

Consideration was given to a report on the General Licensing Functions Suspension Powers Delegation.

The report requested that officers be allowed to suspend licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to drug screening test failures where public safety was deemed to be a relevant consideration.

Officers carry out approximately 48 drug tests a year, the majority of these were random tests, but some could be based on intelligence. When a driver provided a non-negative drug screening test a further test was carried out and sent to the lab for confirmation. Officers then had to decide what to do with a driver in the period waiting for confirmation.

Numbers of non-negative lab confirmations were detailed within the report.

Certain powers had been delegated by the Committee to Officers, in consultation with the Chair of the Licensing Committee and Committee Legal Advisor. Other Licensing Committee Minute 25/18 was attached to the report.

Officers had powers to suspend a driver under Section 61(1) (b) of the Local

Government (Miscellaneous Provisions) Act 1976. If aggrieved the driver had a right of appeal against this decision which must be lodged with the Magistrates Court within 21 days. The driver would be able to continue to drive during the appeal period and until the appeal was determined.

Under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 a driver can be suspended with immediate effect, the driver still had the right of appeal but as public safety was deemed a consideration, the suspension was immediate and if an appeal was lodged the driver was still suspended during the appeal period and until the appeal was determined.

For officers to suspend under 61 (2B) a delegated decision must be produced and agreed in consultation with the Chair of Licensing Committee and Legal Advisor, before the suspension was produced and served onto a driver.

It was proposed the power to suspend under 61 (2B) be delegated to officers without consultation with the Chair, but only to be used when a non-negative screening result had been produced and:

- The test was a targeted test due to intelligence.
- There are historic factors such as a previous history of drug use or drugs convictions.
- An admission of drug use.

In addition any refusal to provide a sample was deemed to be relevant to public safety and therefore it was proposed the officer suspension takes immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

The proposed delegation streamlined the process to ensure public safety in these intelligence led cases. Lab confirmation can take 7-14 days and the production of and agreement of a delegated decision can take 48 hours. In addition this suspension could be used when conducting drug tests outside the office environment, when producing a written delegated decision is impractical.

This was practice for Middlesbrough Borough Council officers. An example of the proposed suspension notice was attached to the report.

It was proposed where this power was used by officers this information would be included in member's regular updates.

RESOLVED that officers be allowed to suspend licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to drug screening test failures where public safety was deemed to be a relevant consideration without consultation with the Chair, but only to be used when a non-negative screening result had been produced and:

- The test was a targeted test due to intelligence.
- There are historic factors such as a previous history of drug use or drugs convictions.

- An admission of drug use

**GLC
35/19** **Exclusion of the Public**

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

**GLC
36/19** **Private Hire Driver Application – 131975**

Members were asked to consider a report and determine what action to take for an application for a Private Hire Driver's Licence from Private Hire Driver Applicant - Ref 131975 who had previously had a licence suspended and failed to renew his licence.

Private Hire Driver Applicant - Ref 131975 was in attendance at the meeting and given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- A copy of Private Hire Driver Applicant - Ref 131975's application including his DVLA check.
- A copy of a previous suspension letter suspending Private Hire Driver Applicant - Ref 131975 following an incident committed in October 2014.
- A copy of a summary transcript with Private Hire Driver Applicant - Ref 131975.
- A copy of a written warning to Private Hire Driver Applicant - Ref 131975 following an incident in May 2014.

The Committee noted that Private Hire Driver Applicant - Ref 131975 had submitted an application for a private hire drivers licence and that Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 instructs a Local Authority not to grant a licence to drive private hire vehicles unless they were satisfied that the applicant was a fit and proper person to hold such a licence.

The Committee had regard to the report and appendices. Private Hire Driver Applicant - Ref 131975 also gave evidence to the Committee and answered questions which were put to him.

•The Committee noted that Private Hire Driver Applicant - Ref 131975 had been found guilty of criminal offences namely:-

Soliciting another for the purpose of obtaining their sexual services as a prostitute in a street / public place under Section 51A of the Sexual Offences

Act 2003 on 18 October 2014.

- The Committee had regard to the fact Private Hire Driver Applicant - Ref 131975 had solicited another for the purposes of obtaining their sexual services whilst in a licensed vehicle.

- The Committee had regard to current transport policy which stated: 'An applicant with a conviction, caution, reprimand or final warning for 'Sexual and indecency offences' should be required to show a period of at least 10 years free of conviction before an application was considered.

- The Committee resolved that given these facts Private Hire Driver Applicant - Ref 131975 was not deemed to be a fit and proper person to hold a licence and his application was refused.

RESOLVED that Private Hire Driver Application – Ref 131975's application for a Private Hire Drivers Licence was refused as detailed above.