

## **LICENSING SUB-COMMITTEE**

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 26 March 2019 at 2.30 pm in the executive meeting room, floor 3 of the Guildhall, Portsmouth

### **Present**

Councillor David Fuller (in the Chair)

Councillors Scott Payter-Harris  
Claire Udy

#### **8. Appointment of Chair**

Councillor Fuller was duly appointed as Chair for this meeting.

#### **9. Declarations of Members' Interests**

There were no declarations of interest.

#### **10. Exclusion of Press and Public**

Under the provisions of Section 100A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded for the consideration of the following item on the grounds that the report contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act 1972.

Minute 7 (Agenda Item 4 - Local Government (Miscellaneous Provisions) Act 1976 - Consideration of a driver licence matter.

Exemption paragraph numbers 1, 2 & 3:

1. Information relating to an individual
2. Information that is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

#### **11. Local Government (Miscellaneous Provisions) Act 1976 and/or Town Police Clauses Act 1847 - consideration of a driver licence matter**

Introductions were made by all present.

Consideration of the driver licence matter was held wholly in exempt session, with the driver in attendance and the simplified hearing procedure was followed.

**Decision:**

The Sub-Committee considered very carefully a report relating to the fitness of a private hire driver following disclosure of a criminal conviction, following trial, of racially aggravated assault. The Sub Committee noted

that the conviction related to an incident involving a passenger whilst the driver was driving in his capacity as a licensed driver.

The Sub Committee also heard from the driver and considered references submitted at the hearing. The personal circumstances of the driver were explained. It was stated by the driver that leaving the complainant at the Hilsea roundabout had been merely a joke. Use of racist words was denied but it was accepted that inappropriate words were used. It was explained that evidence was unavailable at trial from the operator that may have assisted the defence.

The Sub Committee accepted legal advice given during the course of the hearing that the Sub Committee had no power to 'go behind' a conviction and must accept the Magistrates' finding as a matter of fact. This being the case and in consideration of the relevant policy outlined in the report, that ordinarily at least five years should pass since such a conviction, the Sub Committee felt that it had no option other than to revoke the licence.

The Sub Committee further accepted legal advice during deliberations that personal circumstances cannot be taken into consideration. The Sub Committee stresses that it must put public safety to the forefront of its mind whilst making its decision.

Human rights have been borne in mind whilst conducting the hearing as well as principles of natural justice.

The Sub Committee carefully considered all of the options available to it under S.61 of the Local Government (Miscellaneous Provisions) Act 1976 and further whether a written warning would be appropriate, but did not feel that it could depart from policy in this case. In consideration of public safety the Sub Committee has determined that the revocation should be with immediate effect in accordance with S.61 (2B) of the Act.

There is a statutory right of appeal against this decision and any appeal must be made to the Magistrates Court within 21 days of formal notification of the decision.

The meeting concluded at 4.13 pm.

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Councillor David Fuller  
Chair