

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO:	<u>THE CHAIR AND MEMBERS OF THE COUNCIL</u>
SUBJECT:	<u>SPECIAL PLANNING, REGULATORY & GENERAL LICENSING COMMITTEE (GENERAL LICENSING MATTERS) – 14TH JANUARY, 2020</u>
REPORT OF:	<u>DEMOCRATIC OFFICER</u>

PRESENT: COUNCILLOR W. HODGINS (CHAIR)

Councillors D. Bevan
G. L. Davies
J. P. Morgan
K. Pritchard
K. Rowson
T. Smith
B. Thomas
B. Willis
L. Winnett

WITH: Ms. A. Jones – Head of Legal & Corporate Compliance
(Advisor for Item No. 1.1.(a) only)
Mr. M. Woodland – Solicitor ***(Advisor for Item No. 1.1.(b) only)***
Mrs. S. Burchell – Licensing Enforcement Officer
Mrs. S. Jayne – Licensing Officer
Miss. N. Griffiths – Licensing Student

AND: Mr. Simon R. Lewis – Licence Holder
Mr. Leigh J. Edwards – Applicant

DECISIONS UNDER DELEGATED POWERS

<u>ITEM</u>	<u>SUBJECT</u>	<u>ACTION</u>
-----	<p><u>CHAIR</u></p> <p>In the absence of both the Chair and Vice-Chair it was proposed, seconded and unanimously,</p> <p>RESOLVED that Councillor W. Hodgins take the Chair.</p>	
No. 1	<p><u>SIMULTANEOUS TRANSLATION</u></p> <p>It was noted that no requests had been received for the simultaneous translation service.</p>	
No. 2	<p><u>APOLOGIES</u></p> <p>Apologies for absence were received from:</p> <p>Councillors M. Moore, B. Summers and D. Wilkshire.</p>	
No. 3	<p><u>DECLARATIONS OF INTEREST & DISPENSATIONS</u></p> <p>There were no declarations of interest or dispensations reported.</p>	
-----	<p><u>APPRECIATION</u></p> <p>It was reported that Martin Woodland – Solicitor and Advisor to the Planning, Regulatory & General Licensing Committee would shortly be leaving the Authority to take up a new post with a neighbouring authority. Members commended the phenomenal support that Martin had provided during his time at the Authority and said that he would be sorely missed.</p> <p>RESOLVED that a letter be forwarded expressing appreciation to Martin for all the support he had provided and expressing best wishes for the future in his new role.</p>	CLEB

<p>No. 4</p>	<p><u>EXEMPT ITEM</u></p> <p>To receive and consider the following report which in the opinion of the proper officer was an exempt item taking into account consideration of the public interest test and the press and public should be excluded from the meeting (the reason for the decision for the exemption was available on a schedule maintained by the proper officer).</p>	
<p>No. 5</p>	<p><u>SCHEDULE OF APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES</u></p> <p>Having regard to the views expressed by the Proper Officer regarding the public interest test, that on balance the public interest, in maintaining the exemption, outweighed the public interest in disclosing the information and that the report should be exempt.</p> <p>RESOLVED that the public be excluded whilst this item of business is transacted as it was likely there would be a disclosure of exempt information as defined in Paragraph 12, Schedule 12A of the Local Government Act 1972 (as amended).</p> <p>Order of Agenda – it was agreed that Application Reference Nos. 1.1(b) and 1.1(c) be heard at this juncture in the meeting.</p> <p><u>New Licence Application Reference No. 1.1 (b)</u></p> <p>The Chair welcomed everyone to the meeting and introductions were made accordingly.</p> <p>The Licensing Enforcement Officer reported that the meeting had been convened to consider a new application received for a Hackney Carriage and Private Hire Vehicle Licence. The Officer provided Members with information in relation to the applicant and offences committed which had been highlighted as part of the DBS checking process and said it was, therefore, a matter for the Committee to determine whether the applicant should be granted a licence for the full period of 36-months or any other period the Committee saw fit or to refuse the application.</p>	

The Chair then invited the applicant to explain the circumstances surrounding the offences committed.

In mitigation as to the offences the Applicant stated that they were all committed when he was a juvenile and he deeply regretted the offences. Since that time he had held down a full time job – the last 13 years working as a HGV driver and did community work in his local area. He informed Members that he had a passion for driving and wanted an opportunity to help members of the community by assisting in the provision of taxi services.

The Applicant informed the Committee that should he be granted a licence he would become employed with a local taxi firm in the Abertillery area.

In reply to a question, the Applicant gave full details of the offence that was committed during 2002.

At this juncture, the Solicitor read out character references which had been received in support of the Applicant.

The Applicant and officers from the Licensing Section left the meeting whilst Members considered the application.

Following consideration by Members the Applicant was invited to re-join the meeting and at the request of the Chair the Solicitor read out the unanimous decision of the Committee as follows:

The Committee had considered the evidence placed before them and when reaching its decision, the Committee had also considered the previous convictions, the representations made by the Applicant, the Licensing Officers present at Committee, the character references and had taken into consideration matters contained within the Council's Information and Guidance Booklet including conditions relating to Hackney Carriage Driver's Licenses and Private Hire Vehicle Licenses.

The Committee unanimously agreed that the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence and the Committee, therefore, granted the licence for a period of 36-months.

RESOLVED, subject to the foregoing, that the Hackney Carriage/Private Hire Vehicle Licence be **GRANTED.**

New Licence Application Reference No. 1.1 (c)

The application before the Committee was made by the Applicant for a Hackney Carriage Driver's Licence. The Applicant had not previously held a Hackney Carriage Driver's Licence. Members were informed that the Applicant had failed to attend the last Committee where the application was due to be considered and Members, thereupon, allowed the application to be deferred to the next scheduled Committee on 14th January, 2020.

The Applicant had failed to attend this meeting and Members of the Committee decided that the application be withdrawn and requested that Officers notify the applicant of their decision.

Therefore, due to the non-attendance of the applicant for the second occasion it was unanimously,

RESOLVED that the application be **WITHDRAWN.**

Councillor B. Thomas left the meeting at this juncture.

Adjournment – an adjournment took place between 10.25 a.m. – 10.45 a.m.

Existing Licence Reference No. 1.1 (a) – HCD/PHVD No. 018; PHV No. 009 and PHVO No. 003

The Chair welcomed everyone to the meeting and introductions were made accordingly.

The Licensing Enforcement Officer addressed Members and informed them that she had been contacted by an officer from the Council's Home to School Contract Section. The Licence Holder held a contract with the Council to convey a pupil with special education needs to and from school. However, he had failed to make provision for suitable cover for his contract whilst on

holiday and this action was contrary to the terms of the Council contract and his licence conditions.

The Committee was advised that the Licence Holder had allowed an unlicensed driver to drive the child to school who had not been checked in accordance with the Disclosure and Barring requirements and it was alleged that these actions had also compromised the safety of a learner with special educational needs.

It was noted that all drivers must be appropriately licensed to drive a private hire/hackney carriage vehicle for hire or reward purposes. Also, prior to starting work for contracts arranged, a driver/escort must complete an advanced DBS check and have been cleared by the Education Directorate. The Council's School Transport Contract Manager had spoken to the person who had driven the vehicle on 11th November, 2019 who had confirmed to the Licensing Enforcement Officer that no current DBS check was in place for the unlicensed driver.

The Licence Holder had, therefore, been interviewed under caution for employing an unlicensed driver. During this interview the Licence Holder had not contested the offence and had provided a detailed explanation surrounding the circumstances of the offence. The officer advised that the Licence Holder had been cautioned for the offence committed, which he had accepted. It was noted that the Licence Holder had held 3 licences (driver, operator and private hire) since 2006 and since that date no complaints had been received that required addressing.

Members were advised by the Licensing Enforcement Officer that they could:

1. Revoke the current licence.
2. Take no action.
3. Allow the licence holder to retain his current licences but issue a written warning, which remained on file for duration of the licences.

The Chair then invited the Applicant to explain the circumstances surrounding the offence committed.

The Licence Holder addressed the Committee informing Members in mitigation of his actions that he did not contest the comments made by the Licensing Enforcement Officer. He had advertised for another driver and this driver (the driver of the car that day) had recently applied for a DBS check. He had completed his knowledge test and safeguarding certificate, however, he was still waiting for the DBS check to be returned when the licence holder went away on holidays – it was anticipated that the DBS check would be completed before his holiday. He realised that he had done wrong to take a chance before the application had been formally completed and had no excuse for his actions. He had not thought about the consequences because he had not wanted to let passengers down whilst he was on holiday. Also, there was a close family member who was the properly appointed escort on that home to school contract and he knew she would supervise the journey. He apologised to the Committee for his actions.

At this juncture, the Solicitor read out a character reference which had been received in support of the Licence Holder.

The Applicant and Officers from the Licensing Section left the meeting whilst Members considered the application.

Following consideration by Members, the Licence Holder was invited to re-join the meeting and at the request of the Chair the Solicitor read out the unanimous decision of the Committee as follows:

The Committee had taken into consideration representations made by the Licence Holder and the comments of the Licensing Enforcement Officer and the matters contained in the Councils information and guidance including conditions relating to Hackney carriage and Private Hire Vehicle Drivers Licences and given due consideration to the character reference that had been provided.

Members unanimously agreed that the Licence Holder remained a fit and proper person to hold a Private Hire/ Driver's Licence, Operator's Licence and Vehicle Licence but felt that the actions of the Licence Holder were irresponsible and therefore, a final written warning be issued as to future conduct. This warning would subsist throughout the current period of his licence and Members advised the Licence Holder that should he commit further offences, or have any other cause to be brought before the Committee in the future, that his licence could be revoked at that time.

RESOLVED, subject to the foregoing, that the Licence Holder be permitted to **RETAIN** his current licences but a final written warning be issued which would subsist and remain on file throughout the current duration of the licences.