

Licensing Committee

Wednesday, 12th October, 2016
6.00 pm

Attendees	
Councillors:	Wendy Flynn (Chair), David Willingham (Vice-Chair), Mike Collins, Adam Lillywhite, Paul McCloskey, Dennis Parsons, Diggory Seacome, Max Wilkinson and Pat Thornton
Also in attendance:	Vikki Fennell, Louis Krog and Phil Cooper

Minutes

1. APOLOGIES

Apologies were received from Councillor Harman.

2. DECLARATIONS OF INTEREST

None

3. PUBLIC QUESTIONS

None

4. MINUTES OF LAST MEETING

The minutes of the last meeting held on 29 July 2016 were approved and signed as a true record, subject to the amendment of the resolution in item 7 of the word 'not' a fit and proper person to 'no longer', to align it with the resolution in the exempt minutes.

5. MINUTES OF SUB COMMITTEE MEETINGS

The minutes of the sub-committee meetings held on 19 August 2016, relating to Chelsea Bar and Brasserie, Indian Voojan and Masala Bites, were approved and signed as a true record.

Upon a request from a member, the Licensing Officer up-dated members on the current situation relating to the 3 premises. He stated that both Chelsea Bar and Brasserie and Masala Bites had lodged appeals to the Magistrates Court. Chelsea Brasserie on the basis that the sanction against the manager had been withdrawn. Both these cases were now with One Legal and would be going to court in March. In the meantime, they could continue to trade.

Indian Voojan was currently in the middle of its suspension period, however as the Soho Bar situated next door was owned by the same person, clients at Voojan were being served drinks via the Soho Bar, which was quite legal. Cheltenham Borough Council Licensing Officers have been monitoring the situation through evening visits to the premises to ensure they are operating legitimately. In spite of this, the manager has confirmed that business is being affected.

6. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Licensing Officer, Phil Cooper, introduced the report regarding the review of Mr Mohammed Shahin Ahmed's Hackney Carriage driver's licence HCD104. In September 2016, Mr Ahmed was found guilty of an offence under the Social Security Administration Act, namely failing to notify a relevant change in circumstances knowing that the change would affect his entitlements to benefits. Mr Ahmed received a Community Order which consisted of an unpaid work requirement and was ordered to pay costs and a victim surcharge, details of which were outlined in the background papers.

The Officer continued that Mr Ahmed had failed to notify the licensing authority of his conviction within 7 days in accordance with the Council's requirements. Instead the Licensing team were made aware by the benefit fraud team. Members were advised to consider whether, in light of the conviction, they were satisfied that Mr Ahmed remained a fit and proper person to hold his Hackney Carriage driver's licence and, if not, to consider whether revocation should be with immediate effect in the interest of public safety.

In reply to a question from a member, the Officer informed members that Mr Ahmed had held his licence since 2013 and that he had no other convictions against his name.

The Chair invited Mr Ahmed to speak in support of his review. Mr Ahmed told members that he was extremely sorry, that he had lived here for the last 21 years and had never done anything like this before. He said he had a young family and taxi driving was his livelihood and that if he lost his licence his family would suffer and he would get behind with his repayments. He promised he wouldn't do anything like this again in the future and requested the committee to give him another chance.

In response to questions from members, Mr Ahmed confirmed that he had been aware of the conditions of his licence and explained that he had worked in a restaurant for 18 years, until he slipped a disc, and because of that he started part time taxi driving. He confirmed that he knew he should have declared his taxi driving work, but said he was greedy as he had been out of work for 6 months and was struggling financially. Mr Ahmed admitted that he knew it was wrong. He confirmed that he had claimed housing benefit since 2012 and been unemployed from July 2013 to February 2014. Mr Ahmed said he was unsure how he was found out, but thought it could have been a letter to a previous employer from the Job Centre.

In reply to questions about the offence, Mr Ahmed stated that the amount of the fraud was £5,500 and that he had been paying £125 in monthly payments to the council and so far had paid a fifth back. With regard to the 100 hours of unpaid work, he confirmed he was doing one day a week of voluntary work and had already done 34 hours and hoped to finish the rest within the next 10 weeks.

The Chair reminded members that they had to decide if Mr Ahmed was a fit and proper person to retain his licence, or whether to revoke it, revoke it with immediate effect in the interest of public safety, or to consider giving Mr Ahmed a written warning, stating that if any other matter regarding his licence was to come to light within the next year, that Mr Ahmed would have to come before

the committee again. One member reminded members to consider the wording 'in the interest of public safety', in that Mr Ahmed had not committed a driving offence. It was also confirmed that if the licence was revoked, that Mr Ahmed would be able to apply for benefits again.

In summing up, Mr Ahmed reiterated that he had no previous convictions, that he paid his rent and council tax and that this job was his livelihood. He stressed that he was very sorry about what had happened and asked the committee to give him one more chance.

As the committee wished to debate the matter in private, Mr Ahmed was asked to leave the room at 18.30. Mr Ahmed was asked to return at 18.50.

The chair asked members to vote on the additional wording to be added to 1.4.1 of the report, namely that a written warning be placed on Mr Ahmed's file for a period of one year and that he be required to come back to committee in July 2017 for a review.

Upon a vote on the additional wording it was 7 for, 2 against.

The chair moved to vote on 1.4.1, plus the additional wording.

Upon the vote it was 7 for, 1 against, 1 abstention.

Upon a vote for the revocation of his licence, it was 2 for, 7 against.

RESOLVED THAT, Mr Mohammed Shahin Ahmed's Hackney Carriage driver's licence be continued, because the committee was satisfied that he was a fit and proper person to hold such a licence but that a written warning be placed on Mr Ahmed's file for a period of one year and that he be required to come back to committee in July 2017 for a review.

7. REVIEW OF THE LICENSING CODE OF CONDUCT

The Legal Officer, Vikki Fennell, introduced the report regarding the Licensing Code of Conduct, which was adopted by Full Council on 6 December 2004 and which had been reviewed and amended by a Working Group of Members. The Working Group had suggested changes to the Code to reflect changes in legislation, Code of Conduct and best practice. The draft amended Licensing Code of Conduct was attached at Appendix 1 and the committee were asked for comments before it was put before Standards Committee on 20 October 2016 with a view to them approving it and recommending it to full Council.

The Officer advised that the revised Code of Conduct had been brought up to date and followed the format of the current one, with slight re-organising and a contents page added for ease of reference. The main substantive change reflected changes in the Standards Code of Conduct in relation to members' interests from personal and prejudicial interests to disclosable pecuniary interests and other interests. There was also an addition relating to predetermination and the role of ward members, should a licensing matter fall within their ward, and the wording 'relevant director' had replaced actual job titles.

Members were asked to consider if the Licensing Code of Conduct was up to date and fit for purpose.

In reply to a member concern that this was another policy that predecessors had drawn up, the Officer advised that very little had changed and thus she didn't feel it was necessary to revisit with the new committee.

One member requested that tracked changes be shown in future and a few minor alterations were suggested by other members and noted by the Legal officer, otherwise there were no other comments.

8. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, 2 and 7, part 1 Schedule 12A (as amended) Local Government Act 1972, namely:

Information relating to any individual,

Information which is likely to reveal the identity of an individual,

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

9. EXEMPT MINUTES

The exempt minutes of the meeting held on 29 July 2016 were approved and signed as a true record.

10. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

The Chair informed members that Cheltenham had been awarded the Purple Flag for its night time economy and wished to record her thanks to all involved, especially to Phil Cooper and Colin Pilsworth for their hard work. She continued that the awards ceremony was to be held in Cheltenham in recognition of the excellent standard achieved.

11. DATE OF NEXT MEETING

Wednesday 9 November 2016 at 6pm.

Wendy Flynn
Chairman