

Licensing Sub-Committee 2pm 27 March 2018

Case No 1

Decision: The Licensing Sub-Committee was asked to determine whether this respondent was a fit and proper person to hold a Hackney Carriage/Private Hire Dual Driver's Licence against the background of having accumulated 6 further penalty points giving a total of 27 penalty points on the Council's Hackney Carriage and Private Hire Policy.

In respect of the 6 points awarded for breach of the code of conduct the respondent indicated that the points should never have been endorsed on the licence as under the principle of Res Judicata the issue was barred from further consideration due to the respondent's successful appeal against points being issued for failing to comply with the policy.

The Sub-Committee was advised by the Legal Advisor that as the Officer decision on points was not 'a final determination on the merits' the substantive issue being whether the respondent was 'fit and proper,' Res Judicata did not apply.

The Legal Advisor suggested to the respondent that they address the Sub-Committee as to whether or not they remained fit and proper.

The respondent explained to the Sub-Committee that he deeply regretted the incidents that had occurred and described them as an 'aberration.' The respondent confirmed that there would be no repeat of the incidents and that he was aware of his responsibilities. The respondent indicated that he valued his Hackney Carriage/Private Hire Dual Driver's Licence as it allowed him to provide for his disabled wife and child.

A member of the Sub-Committee drew the respondent's attention to the section of the report dealing with the respondent's previous appearance before a licensing Sub-Committee. The member quoted from the Decision Notice given at the time that the respondent 'should be under no illusions in the event of appearing before a future Sub-Committee.' The respondent accepted this.

Taking into account the above the Sub-Committee determined that the appropriate and proportionate action would be to suspend the driver's licence for a period of 28 days. This suspension takes effect 21 days from the date that Notice was given to the driver. Therefore the suspension runs from 17th April to 15th May inclusive. The Sub-Committee noted that they did not intend the suspension to be a bar to the respondent renewing their licence, which falls due in May 2018.

The Sub-Committee draws the attention of the respondent to the fact that Swale Penalty Points remain on the Hackney Carriage/Private Hire Dual Driver's Licence for a period of 3 years. A person aggrieved by the decision of the Sub-Committee to suspend a licence has 21 days to appeal the decision to the Magistrates Court.