
Meeting	Licensing and Regulatory Committee
Date	8 August 2023
Present	Councillors Melly (Chair), Kent, Rose, Wells, Cuthbertson, Hook, Knight, Mason, Smalley, Widdowson and Warters
In attendance	Matthew Boxall, Head of Public Protection Lesley Cooke, Licensing Manager David Cowley, Taxi Licensing Manager Frances Harrison, Head of Legal Services (remotely)
Apologies	Councillors Clarke, Kilbane, Ravilious and Nicholls

33. DECLARATIONS OF INTEREST (17:34)

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. None were declared.

34. MINUTES (17:35)

Resolved: That the minutes of the meeting held on 13 June 2023 be approved and then signed by the Chair as a correct record subject to the wording of the phrase 'The applicant did not have a connection with Gladstone Garage as it was a separate legal entity' in section two of the Application for a Private Hire Operators licence - Mohammed Iqbal, trading as York Cars (Private Hire) being updated to reflect what was said at the meeting.

ELECTION OF VICE CHAIR FOR THE MEETING (17:37)

Cllr Cuthbertson was appointed as Vice Chair for the meeting.

35. PUBLIC PARTICIPATION (17:38)

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme. Williams Swords had registered to speak on matters within the Committee's remit. He asked for an update on the ten unissued hackney carriage licences and asked what the council's policy was on tinted windows in private hire vehicles. He read out the DfT guidance on tinted windows in private hire vehicles. His comments were noted and the Chair undertook to contact him following the meeting.

36. LICENSING ACT 2003 & GAMBLING ACT 2005 SUB-COMMITTEE HEARINGS (17:42)

Members considered a report asking them to determine the format of licensing sub-committee hearings held by the City of York Council (the Council), as the licensing authority, when determining applications made under the Licensing Act 2003 (the 2003 Act) and Gambling Act 2005 (the 2005 Act) that had been opposed. The Council's current practice of holding remote of sub-committee hearings had been queried by some members of the Committee and it was important that Members agreed whether to hold sub-committee hearings remotely or in person in the future.

The Chair introduced the item and the Licensing Manager confirmed that holding the hearings in person or remotely were legal and that in future there may be case law on the matter. She noted that there had never been a Sub Committee Hearing under the Gambling Act 2005 (the 2005 Act) and that prior to the pandemic all hearings had been held in person and the return to in person hearings was now practice for at other councils in the region, including the East Riding of Yorkshire Council. She noted the comments from consultees.

The Licensing Manager detailed the four options available to Members:

Option 1 – Determine that Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will continue to be held remotely.

Option 2 – Determine that Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be held in person. Stipulating an implementation date for when this change will take effect.

Option 3 – Determine that format of Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be determined on a case-by-case basis depending on the nature of the application and the number of representations. That the Chair and Vice Chair of this Committee will agree a procedure to aid officers when determining the format of the meeting. Stipulating an implementation date for when this change will take effect.

Option 4 – Determine that format of Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be held in a hybrid format, with Members and officers attending in person at West Offices and the applicant and representors being given the option to participate in person or remotely. Stipulating an implementation date for when this change will take effect.

In response to Member questions, Licensing Manager explained that:

- Asking the applicant about their preference for a hearing being held in person or remotely could be unfair to representors in not giving them a choice for the format of the hearing.
- The police preferred remote hearings.
- The cost associated with in person hearings would be that a room would be needed.
- Concerning changing the format subject to representor(s) not being able to be online, there were timescales that needed to be adhered to and the council needed to advertise when and where the meeting would be held.

Following debate with a number of suggestions made regarding the format of hearings, Cllr Warters proposed option 2, to determine that Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be held in person. Stipulating an implementation date for when this change will take effect. This was seconded by Cllr Hook. Following a vote with six in favour, two against and one abstention it was:

Resolved: That, in accordance with option 2 Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be held in person.

Cllr Mason then proposed that the return to in person hearings would come into effect from 1 September 2003. This was seconded by Cllr Hook and following a unanimous vote it was.

Resolved: That, in accordance with option 2 Licensing Act 2003 and Gambling Act 2005 sub-committee hearings will be held in person with effect from 1 September 2023.

Reason: To make sure sub-committee hearings are held in accordance with the requirements of the Licensing Act 2003 and Gambling Act 2005, and their associated Regulations and Guidance.

37. MEMBER REQUEST FOR UPDATE UNDER URGENT BUSINESS (18:26)

A Member asked for an update on Drive private hire vehicles under urgent business. This was declined by the Chair as it did not meet the requirements of Urgent Business under the Local Government Act 1972. A further Member requested that a forward plan be included on future agendas.

Councillor Melly, Chair

[The meeting started at 5.30 pm and finished at 6.26 pm].