

Democratic Services

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Date: 28 March 2011

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**To: All Members of the Licensing (Taxis, Street Trading and Miscellaneous)
Sub-Committee**

Councillor Tim Ball
Councillor Malcolm Lees
Councillor Carol Paradise

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee: Tuesday, 5th April, 2011

You are invited to attend a meeting of the **Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee**, to be held on **Tuesday, 5th April, 2011 at 10.00 am** in the **Council Chamber - Guildhall, Bath.**

Briefing

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.30am.

The agenda is set out overleaf.

Yours sincerely

Enfys Hughes
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Enfys Hughes who is available by telephoning Bath 01225 394410 or by calling at the Riverside Offices Keynsham (during normal office hours).
2. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Enfys Hughes as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

3. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
4. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee - Tuesday, 5th April, 2011

at 10.00 am in the Council Chamber - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair(person) will refer to the emergency evacuation procedure as set out under Note 6 for each case.

2. APOLOGIES FOR ABSENCE

To inform the meeting of any apologies and substitutions for the meeting.

3. DECLARATIONS OF INTEREST

Members who have an interest to declare are asked to:

- a) State the item number in which they have the interest.
- b) State the nature of the interest.
- c) State whether the interest is personal, or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

5. MINUTES - TUESDAY 1ST MARCH 2011 (Pages 5 - 12)

To be confirmed as a correct record and signed by the Chair(person).

6. LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING (Pages 13 - 14)

The Chair will explain the procedure for this part of the meeting.

7. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended”.

8. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR M A W (Pages 15 - 26)

The Committee Administrator for this meeting is Enfys Hughes who can be contacted on 01225 394410.

BATH AND NORTH EAST SOMERSET

LICENSING (TAXIS, STREET TRADING AND MISCELLANEOUS) SUB-COMMITTEE

Tuesday, 1st March, 2011

Present:- Councillors Tim Ball (Chair), Malcolm Lees and Carol Paradise

Also in attendance: John Dowding (Senior Licensing Officer), Shaine Lewis (Senior Legal Adviser) and Mark Durnford (Democratic Services Officer)

77 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the emergency evacuation procedure as set out on the Agenda.

78 APOLOGIES FOR ABSENCE

There were none.

79 DECLARATIONS OF INTEREST

There were none.

80 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

There was none.

81 MINUTES - TUESDAY 7TH DECEMBER 2010

The Sub-Committee **RESOLVED** that the minutes of the meeting on Tuesday 7th December 2010 be confirmed as a correct record and signed by the Chair(person).

Due to an administrative error the minutes of the meeting on Tuesday 2nd November 2010 were attached to the agenda and the Sub-Committee requested an amendment to them.

Minute number 64 – CONSIDERATION OF INFORMATION RECEIVED REGARDING LICENSEE - MR L G T

Fifth paragraph – to read “ He informed Members that he had no written confirmation that the more serious charge had been dropped and had to attend Bath Magistrates Court for trial in December 2010 in respect of the other charge.” Delete “earlier”.

82 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING PROCEDURE

The Sub-Committee **RESOLVED** that the procedure for this part of the meeting be noted.

83 EXCLUSION OF THE PUBLIC

The Sub-Committee **RESOLVED** "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

84 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR F B

The Sub-Committee considered the report which sought determination of an application for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant was present. He confirmed he had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed some previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr F B. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr F B put his case and was questioned and then made a closing statement.

Following an adjournment, the Sub-Committee **RESOLVED** that a hackney carriage/private hire driver's licence in respect of Mr F B be refused.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members listened carefully to the applicant's representations, took account of his references, Criminal Records check and statement. Members noted that Mr F B's conviction in 2010 was for an offence of assault occasioning actual bodily harm. This conviction arose from an incident of road rage of which they took a dim view. Having considered the nature and seriousness of the matter, including the fact that Mr F B

got out of his vehicle, struck another motorist, was currently serving his community sentence and his conviction fell squarely within the Council's Policy, Members concluded that Mr F B's application should be refused. Members considered they had heard nothing to satisfy them that their family, friends or loved ones would be safe in a vehicle driven by Mr F B or that the policy should be dis-applied. Members therefore did not find Mr F B a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver Licence.

85 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR A T C

The Sub-Committee considered the report which sought determination of an application for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant was present. He confirmed he had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed some previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr A T C. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr A T C put his case and was questioned and then made a closing statement.

Following an adjournment, the Sub-Committee **RESOLVED** that a hackney carriage/private hire driver's licence in respect of Mr A T C be refused.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members listened carefully to the applicant's representations, took account of his reference, Criminal Record check and his statement. Members noted that Mr A T C had been convicted of two incidences of assault and had a caution for possessing cannabis. Members further noted that this offending behaviour was all within the preceding ten years, the last assault of which fell squarely within the Council's policy. Having considered the nature and seriousness of Mr A T C's offending Members concluded in all the circumstances that the application should be refused as they had heard nothing to satisfy them that members of their family, friends or loved ones would be safe in a vehicle driven by Mr A T C or that the policy should be dis-applied. Members therefore did not find Mr A T C a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver Licence.

86 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MISS K D

The Sub-Committee considered the report which sought determination of an application for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant and her mother were present. She confirmed she had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that at a meeting of the Housing & Public Protection Committee held on the 27 July 2000 a policy on Hackney Carriage and Private Hire Licensing Standards was adopted.

The policy states that all applicants must have held a full driving licence for a minimum of three years and be a minimum age of 21.

As part of the Licence application process Miss K D was required to produce her DVLA driving licence. A check of this licence revealed that Miss K D had not held a full driving licence for three years at the time of submitting the application.

Miss K D obtained a full entitlement to drive a motor car on the 10th April 2008 and will fulfil the criteria required by Bath & North East Somerset Council on the 10th April 2011.

Miss K D currently has no endorsements on her DVLA driving licence.

Miss K D was born on 10 August 1990 and is currently 20 years old. Miss K D will be 21 on 10th August 2011.

Miss K D put her case and was questioned and then made a closing statement.

Following an adjournment, the Sub-Committee **RESOLVED** that a hackney carriage/private hire driver's licence in respect of Miss K D be granted, subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members listened carefully to applicant's representations and took account of her references. Members noted that Miss K D's application fell squarely within the council's policy as she will not have attained the age of 21 until August 2011 and had not held a driving licence for the minimum period of three years. However, given the nature of the work she would be undertaking and the way she had presented her application Members dis-applied the policy and found her to be a fit and proper person to hold a combined Hackney Carriage/ Private Hire Driver's Licence.

87 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR M G H

The Sub-Committee considered the report which sought determination of an application for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant was present and was accompanied by a referee. He confirmed he had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed some previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr M G H. The applicant, referee and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr M G H put his case and was questioned and then made a closing statement.

Following an adjournment, the Sub-Committee **RESOLVED** that a hackney carriage/private hire driver's licence in respect of Mr M G H be granted, subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members listened carefully to the applicant's representations, took into account a Criminal Record check, the representation from his referee and his statement. Members noted that Mr M G H had a lengthy history of criminality, however, they considered that he presented very well, showed considerable remorse for his past behaviour and were satisfied that his criminal behaviour was now firmly in the past. Given his convictions fell outside of council policy they found him a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

88 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR P D H

The Sub-Committee considered the report which sought determination of an application for the grant of a combined Hackney Carriage/Private Hire Driver's Licence.

The applicant was present. He confirmed he had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed some previous convictions. He circulated the Criminal Records Bureau check,

personal statement and references in respect of Mr P D H. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr P D H put his case and was questioned and then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr P D H be granted, subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members listened carefully to the applicant's representations, took account of his references, Criminal Record check and his statement. Members noted that Mr P D H's offending behaviour was spread over the last 40 years with the last convictions being for drunk and disorderly and assault on a police officer which fell squarely within the Council's policy. Having considered the nature and seriousness of Mr P D H's offending Members concluded in all the circumstances that Mr P D H presented himself very well and were satisfied that his behaviour was in the past. Members therefore dis-applied the policy and found Mr P D H a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver Licence.

89 CONSIDERATION OF REVOCATION OF PRIVATE HIRE OPERATORS LICENCE:- MR D J S

The Sub-Committee considered the report which sought the revocation of a Private Hire Operators Licence.

The licence holder, Mr D J S was not present.

The Licensing Officer presented the report and stated that Mr D J S had contacted him by telephone to request a deferral of the hearing as he was unwell.

Following an adjournment, the Sub-Committee **RESOLVED** to refuse the request to defer the hearing and revoked the Private Hire Operators Licence of Mr D J S.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976, and the Council's Policy.

Members noted that Mr D J S had failed to attend but had in fact contacted the office the day before the hearing requesting a deferral because he was feeling unwell. However, Members had no medical evidence before them to corroborate this and were satisfied in light of his previous failures to attend such hearings and his failure to take the opportunity offered to him at an earlier stage to make written

representations that Mr D J S had voluntarily absented himself. Members therefore determined to proceed in Mr D J S's absence.

Having considered the matter on the papers Members find Mr D J S unfit to hold a Private Hire Operators Licence in light of his criminal convictions and failure to comply with the terms of his Licence. The convictions, which should have been disclosed to the authority within seven days, were for conveying fare paying passengers in an unlicensed private hire vehicle and driving a motor vehicle with excess alcohol, for which he received a disqualification from driving for a period of 28 months. Members therefore took a serious view of his conduct and failings and therefore revoked the licence.

The meeting ended at 12.15 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Agenda Item 6

Licensing (Taxis, Street Trading & Miscellaneous) Sub Committee Hackney Carriage (taxi) and Private Hire Drivers Hearing Procedure

1. The Chair will introduce Members of the Sub-Committee, introduce the Officers present, explain the procedure to be followed and ensure those present understand that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Sub-Committee.
3. The Applicant is asked to leave the room while the Sub-Committee consider the CRB check, references and statement.
4. The Applicant (or his/her representative) addresses the Sub-Committee.
5. The Applicant may be asked questions about the matter by the Sub-Committee.
6. The Applicant (or his/her representative) may call witnesses in support of their case and each witness may also be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to make any comments. If the Officers makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. The Sub-Committee withdraw to private session to consider their decision. The Sub-Committee may reconvene to resolve any points of uncertainty on matters already raised. The Sub-Committee will be accompanied for advice only by the Legal Advisor and Committee Administrator.
10. The Sub-Committee will return to the meeting room and the Chair will announce the Sub-Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.
11. Where the Sub-Committee attach conditions to the licence the Sub-Committee will detail those conditions.

PLEASE NOTE:

- Where the Sub-Committee considers it necessary the procedure may be varied.
- In circumstances where any party fails to attend the Sub-Committee will consider whether to proceed in that party's absence or defer to the next meeting on notice to all parties that the matter may proceed in a parties absence on the next occasion. In deciding whether to proceed all notices and representations will be considered.
- Only in **exceptional circumstances** will the Sub-Committee take into account any additional late documentary or other information produced by an existing

party in support of their application/representation. This will be at the discretion of the Chair and with the agreement of all the other parties. No new representations will be allowed at the hearing.

- The Sub-Committee will disregard any information or representation given by a party they consider not to be relevant to an Application.
- The hearing will take the form of a discussion and the Sub-Committee will allow all parties to ask questions of other parties present. However, formal cross examination will be discouraged although supplementary questions may be asked for clarification purposes.
- If any person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing in order that reasonable adjustments can be made.
- Parties will be allowed an equal maximum period of time to make representations. Although time limits will be at the discretion of the Chair, in the interests of costs and efficiency, this will not normally exceed **twenty minutes** and will include both case presentation and summing up. The time limit will not include the time taken for questions.

N.B.

1. Where there is more than one party making relevant representations the time allocated will be split between those parties and it is therefore recommended parties arrive early to discuss the application with other interested parties.
 2. Where several parties make the same or similar representations one representative should be appointed to make the representations.
 3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and refuse to allow that person to return, or only allow them to return subject to certain conditions. Any person so excluded will however be entitled to submit to the Sub-Committee any information which they would have been entitled to give orally had they not been required to leave.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion, but on occasion may find it necessary to exclude members of the press and public based upon the legal framework given in the Local Government Act 1972 Schedule 12 (a). On these occasions decisions based on the above framework will be given.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 8

Document is Restricted

