

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Tuesday, 3rd December, 2013, 10.00 am

**Councillors:** Manda Rigby (Chair), Anthony Clarke and Ian Gilchrist

**Officers in attendance:**

#### **56 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **57 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Gabriel Batt sent his apologies, Councillor Anthony Clarke was his substitute. Councillor Roger Symonds sent his apologies, Councillor Ian Gilchrist was his substitute.

#### **58 DECLARATIONS OF INTEREST**

Councillor Ian Gilchrist declared an interest in item 12, Minute Number 67 - Mr PLT as a member of a local speedwatch patrol but it was not a pecuniary interest and he remained in the meeting.

#### **59 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **60 MINUTES - 1ST OCTOBER AND 15TH OCTOBER 2013**

**RESOLVED** that the minutes of the 1st October 2013 and 15th October 2013 be confirmed as a correct record and be signed by the Chair(person).

#### **61 EXCLUSION OF THE PUBLIC**

**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 item(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended."

#### **62 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVER APPLICATION**

**RESOLVED** that the procedure for this part of the meeting be noted.

#### **63 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR L G E-N**

The Sub-Committee considered the report which sought determination of an application by Mr LGEN for the grant of a combined hackney carriage/private hire driver's licence

Mr LGEN was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken which had revealed previous convictions. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr LGEN. The applicant and Licensing Officer withdrew from the meeting while Members took some time to consider these documents.

Mr LGEN put his case and was questioned. Then he made a closing statement.

Following an adjournment it was

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

#### Reasons for decision

Members have had to determine an application for a combined licence to drive hackney carriages and private hire vehicles. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy. Members had to consider whether the applicant was a fit and proper person and asked themselves whether they would allow their son, daughter, spouse, partner of any one they cared about to travel alone in a vehicle driven by the applicant.

In making a determination Members took account of the applicant's oral representations, written reference, statement and balanced these against the information provided by the Disclosure and Barring Service which showed the applicant had a number of previous convictions. Members found the applicant presented himself honestly and had accepted he had made mistakes in his youth but that he had put his behaviour behind him. Members considered that as the offences were historic and fell outside of the Council's policy the applicant was a fit and proper person to hold a combined PHV/Hackney carriage licence.

#### **64 CONSIDERATION OF CAUTION OBTAINED:- MR P D**

The Sub-Committee deliberated on the report which sought consideration of a caution obtained by Mr PD during the term of his hackney carriage/private hire driver's licence. The caution had not been disclosed to the Licensing section as required by the standard conditions.

Mr PD was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that on renewal of the licence, part of the process was a Disclosure and Barring Service check which had revealed a caution. He circulated the Disclosure and Barring Service check and personal

statement. Mr PD and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr PD put his case and was questioned. The Licensing Officer noted that there had been no complaints from members of the public in respect of Mr PD. Then Mr PD made a closing statement.

Following an adjournment it was

**RESOLVED** that 4 penalty points be issued on the hackney carriage/private hire driver's licence of Mr PD.

#### Reasons for decision

Members have had to determine whether to take any action against the licensee having obtained a caution during the duration of his licence, which he had failed to declare in accordance with the standard conditions attached to his combined hackney carriage and private hire driver's licence.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy. In the circumstances Members resolved to endorse his licence with 4 penalty points, warned as to his future conduct and reminded him of his obligation to declare any such matters in accordance with the terms of his licence.

## **65 CONSIDERATION OF CAUTION OBTAINED:- MR R K**

The Sub-Committee deliberated on the report which sought consideration of a caution obtained by Mr RK during the term of his hackney carriage/private hire driver's licence.

Mr RK was present with his friend Mr BH, Chair of Bath Taxis Association. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that Mr RK had informed the Licensing section that he had been cautioned. The Licensing Officer circulated a letter and the caution and informed Members that he had not received any complaints from members of the public in respect of Mr RK. The Licensee, his friend and the Licensing Officer withdrew from the meeting while Members took some time to consider these documents.

Mr RK put his case and was questioned, Mr BH also spoke, then Mr RK made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr RK be issued with a warning as to his future conduct as a hackney carriage/private hire driver.

#### Reasons for decision

Members have had to determine whether to take any action against the licensee having obtained a caution during the duration of his licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy. Members heard that the licensee had buckled under a stressful situation which led him to make serious errors of judgement. Whilst taking a very dim view of the offences Members found it admirable that he was the one who alerted the police to his offending and therefore gave him full credit for making a full and frank confession and reparation. In the circumstances Members therefore resolved to warn him as to his future conduct.

#### **66 CONSIDERATION OF CAUTION OBTAINED:- MR R M**

The Sub-Committee deliberated on the report which sought consideration of a caution obtained by Mr RM during the term of his hackney carriage/private hire driver's licence.

Mr RM was not present. The Licensing Officer stated that the licensee was not driving at the moment and had informed the Licensing section that he was on a funded course learning to drive larger vehicles which took place on Tuesdays.

Following an adjournment it was

**RESOLVED** that the case in respect of Mr RM be deferred until a meeting in January.

#### **67 CONSIDERATION OF CONVICTION OBTAINED:- MR P L T**

The Sub-Committee deliberated on the report which sought consideration of a conviction obtained by Mr PLT during the term of his hackney carriage/private hire driver's licence.

Mr PLT was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that Mr PLT had informed the Licensing section he had a conviction. He circulated a copy of the letters and the Licensee and Licensing Officer withdrew from the meeting while Members took some time to consider these documents. A Member noted that in his letter Mr PLT referred to another issue of speeding. The Legal Adviser stated that this should not be considered as it was a minor traffic offence and would not normally be put before the Sub-Committee on renewal.

Councillor Ian Gilchrist declared an interest as he was a Member of another local speedwatch patrol but stated that it was not pecuniary and he would remain in the meeting.

Mr PLT put his case setting out the circumstance of both offences. He stated with regard to the speeding matter he was off duty at the time and was fined £145 and given 3 points on his licence. He stated these were the first points he had received in 30 years. Mr PLT stated with regard to the theft he had found a wallet on the floor of a petrol station and had put it in his car. When subsequently waiting at traffic lights he noticed it contained £270 cash, credit cards and personal details. Rather than returning to the garage and handing it in, however, he chose to discard it

together with its content in a nearby lane. When asked why he had not handed it in, Mr PLT replied he did not know, stating only that he had cooperated with police in the area having been identified as its finder from the garage CCTV system. Mr PLT produced a leaflet relating to the Passenger Service Vehicle (PSV) Licensing process which he wanted Members to take account of. The Legal Adviser stated PSV Licensing was a separate process and that that process was irrelevant to the matter before them. Members were therefore directed to the law, guidance and policy on Taxi Licensing contained in their papers. Mr PLT made reference to a letter received from the Licensing Officer which he did not produce and drew Members attention to an additional previously undisclosed offence. The Legal Adviser stated that Members must consider whether Mr PLT continued to be a fit and proper person on the information contained in the papers and the Licensee's representations on those papers namely the conviction for theft by finding and speeding. Nevertheless Mr PLT went on to discuss this further conviction. The Legal Adviser advised Mr PLT that the Members had not hitherto been made aware of this conviction and stated that Members should disregard this as it had been dealt with previously and was not for consideration at this meeting. Mr PLT then made a closing statement.

Following an adjournment it was

**RESOLVED** that the hackney carriage/private hire driver's licence in respect of Mr PLT be suspended for a period of one month.

#### Reasons for decision

Members have had to determine what action to take against the licensee who had obtained a conviction for theft by finding whilst the holder of a combined hackney carriage and private hire driver's licence. During the hearing the licensee voluntarily disclosed an historic offence of possessing a firearm Members were careful to disregard this as the matter had been dealt with on a previous occasion.

In determining the matter Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, the Council's Policy, Human Rights Act 1998 and case law. Members noted that case law stated hearsay evidence is admissible, the merits of a conviction must not be reviewed or re-opened, the economic wellbeing of the applicant is irrelevant and when considering any action the protection of the public is of the utmost importance.

With regard to the theft Members heard that the licensee had found a gentleman's wallet on the ground at a filling station, he had taken it and discarded it out of his vehicle's window. Notwithstanding he had established it contained credit cards and £270. Members took a dim view of him not returning to the filling station to hand it in or handing it to the police. Members considered that taxi drivers carry many people in the course of their business, as was stated by the licensee in his representation, and noted the widespread practice of delivering unaccompanied property in taxis is indicative of the trust placed in licensed drivers. Members were unconvinced by the licensee's account and in the circumstances considered that his conduct called into question whether anyone getting into a taxi driven by him and losing property would ever see that property again. In reaching a determination Members considered a warning as to future conduct would be inappropriate in these circumstances but that revocation would be disproportionate. Accordingly, Members considered a period of suspension of the licence would be appropriate and that suspension for a period of 1

month would be proportionate and give the licensee an opportunity to reflect on his conduct.

Accordingly the licence was suspended for 1 month.

The meeting ended at 12.17 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**