

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 1st March, 2016, 10.00 am

Councillors: Paul Myers (Chair), Mark Shelford and Caroline Roberts

Officers in attendance: John Dowding (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

133 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

134 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

135 DECLARATIONS OF INTEREST

There were none.

136 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

137 MINUTES: 16 FEBRUARY 2012

These were approved as a correct record and signed by the Chair.

138 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for agenda item 8.

139 EXCLUSION OF THE PUBLIC

RESOLVED, the Committee having been satisfied that the public interest would be better served by not disclosing relevant information, that in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972 the public shall be excluded from the meeting for the following item of business and the reporting of the meeting be prevented under Section 100A(5A). 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.

140 CONSIDERATION OF COMPLAINTS RECEIVED - MR DF

This hearing had been deferred from 16th February 2016.

Mr DF confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report.

The Principal Solicitor advised Mr DF that two recordings would be played to the Sub-Committee. The first was taken by a child passenger in Mr DF's vehicle in November 2015 and the second was of an interview he had with B&NES Public Protection Officers on 23rd December 2015. Mr DF said that he found the first recording extremely embarrassing and would prefer not to listen to it. However, he heard the opening of it and confirmed that it was his voice and that the recording was genuine. Mr DF left the room while the rest of the recording was played.

Mr DM returned to the room. A transcript of the recording of his interview with Public Protection Officers was provided to Members and the recording was played.

Mr DF stated his case and was questioned by Members. Mr DF passed his mobile phone to Members, to show them abusive and threatening comments received from child passengers on his Instagram account. Mr DF made a closing statement.

Following an adjournment it was **RESOLVED** that Mr DF remained a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence, but that he should be given a strong warning as to his future conduct.

Reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage / Private Hire Driver's Licence having received a complaint against him during the course 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 took account of the licensee's oral representations, his recorded interview and balanced these against the complaints on his record and the circumstances of the incident giving rise to the current complaint.

Accordingly Members had to decide whether the licensee continued to be a fit and proper person to hold a licence taking into account all the circumstances including his driving history and character. Members further noted that case law states the economic wellbeing of the licensee is irrelevant and that the protection of the public was of the utmost importance.

The licensee was first licensed in 2010 following a Sub-Committee hearing and in August 2011 had been warned as to his conduct. On 27 November 2015 the licensing office was notified that the licensee was under investigation by South Gloucestershire Council regarding his conduct towards a child with special education needs during a school run to Chepstow from which he had subsequently been suspended. Members listened to the audio recording made by the child during that journey and noted the tone and language used.

The licensee acknowledged he had made the offensive remarks and said that he had been provoked over a 3-month period both verbally and via social media. He stated that he had raised the lack of a chaperone on the journeys and the provocation he was subjected to with the school and the taxi operator, but his concerns had not been addressed. The licensee stated he was not proud of his behaviour, but he was a victim of circumstances that were beyond his control.

Members find that the licensee had been under prolonged provocation and noted that the language and tone of the social media was such that had amounted to intimidation and bullying of the licensee. Whilst Members find the conduct of the licensee fell short of that expected of a licensed driver, they noted there were a number of attempts by the driver to raise his concerns with his employer and the school, although these had not been addressed. In all the circumstances Members considered he remained a fit and proper person to hold a licence, but gave him a strong warning as to his future conduct.

The meeting ended at Time Not Specified

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services