

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 16th August, 2018, 10.00 am

Councillors: Les Kew (Chair), Rob Appleyard and Deirdre Horstmann

Officers in attendance: Carrie-Ann Evans (Deputy Team Leader (Barrister)) and John Dowding (Senior Public Protection Officer)

13 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised those present of the procedure.

14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

15 DECLARATIONS OF INTEREST

There were none.

16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

17 MINUTES OF PREVIOUS MEETING

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

18 EXCLUSION OF THE PUBLIC

The Sub-Committee having been satisfied that the public interest would be better served by not disclosing relevant information, **RESOLVED** in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public should be excluded from the remainder of the meeting and that the reporting of the following items of business 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."

19 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for agenda items 8-13.

20 CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER - 1600763TAXI

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report.

Members noted that the licensee had not responded to letters sent in January and June 2018 to his last known address as part of the three-yearly Enhanced Disclosure and Barring Service check and that no communication had been received from him up to the date of the meeting. Therefore it was not possible to establish that the licensee remained a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence. He had also failed to comply with the reasonable requests of a delegated officer.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Preliminary Issue

The licensee did not attend and the committee had no explanation as to why he had not attended. Members were satisfied that notice of the hearing and report pack had been sent to the licensee at his last known address. Members were satisfied that the licensee had been sent letters in January and June informing him of the requirements of the DBS Check and warning him that failure to comply would result in a referral to the committee. The Senior Public Protection Officer confirmed that he had received no contact from the licensee in relation to the DBS Check or committee hearing. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences and referral to Licensing Sub-Committee.

Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 by the Taxi Licensing team informing him that the DBS check was due and that he needed to make an appointment for that purpose by 31 March 2018. No response was received from the licensee.

- iii. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 enclosing a copy of the letter dated January 2018 and noting that he had not made contact to arrange the necessary DBS Check. He was asked to contact the Taxi Licensing office within 7 days of the date of the letter to avoid formal action. He was made aware that there would be no further reminders and failure to make contact would result in a referral to the Licensing Sub-Committee.
- iv. The licensee had failed to make contact with the Taxi Licensing team following the above-mentioned letters.
- v. The Licensee had failed to attend the LSC hearing today and there was no information regarding his non-attendance.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continues to be a fit and proper person to hold a licence and in the light of the circumstances and reasons indicated above and in the absence of a satisfactory DBS check Members could no longer be satisfied that the licensee continued to be fit and proper.

Accordingly members resolved to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

21 **CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/00987/TAXI**

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report.

Members noted that a letter had been sent to the licensee in January 2018 as part of the three-yearly Enhanced Disclosure and Barring Service check. The licensee attended the licensing office on 28th March 2018 and completed the necessary DBS forms. At this time it was explained to the licensee that the DBS form would be sent to him and that he was then required to present it at the licensing office. The licensee signed a document confirming that he had understood that he must present the DBS certificate at the licensing office and was made fully aware of the implications of failing to do so. The DBS tracking service confirmed that a valid DBS certificate was sent to the licensee on 20th April 2018. A reminder letter was sent to the licensee on 12 June 2018. At the date of the meeting no reply had been received from the licensee and no DBS certification had been produced.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Preliminary issue

The licensee did not attend and the committee had no explanation as to why he had not attended. Members were satisfied that notice of the hearing and reports pack had been sent to the licensee at his last known address. Members were satisfied that the licensee knew that it was his responsibility to provide the DBS Certificate to the Taxi Licensing team having confirmed in writing the same on 28 March 2018 and that he been reminded by letter in June of the requirements of the DBS Check and warning him that failure to comply would result in a referral to the Committee. The Senior Public Protection Officer confirmed that he had received no contact from the licensee to provide his DBS certificate or in relation to committee hearing. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences and referral to LSC.

Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 by the Taxi Licensing team informing him that the DBS check was due.
- iii. On 28 March 2018 the licensee attended the Taxi Licensing team's office and completed the necessary DBS forms. The licensee signed a BANES DBS Check document to record his understanding that:
 - a. it was his responsibility to produce the DBS certificate to the Taxi Licensing team's office at the earliest opportunity; and
 - b. that failure to do so would result in his licence being referred to the LSC and that his licence might be suspended or revoked; and
 - c. if, at the time of the LSC meeting more than 2 months had elapsed since the original certificate was produced then his licence might be suspended until a new DBS certificate had been obtained at his expense.
- iv. The DBS Tracking service web portal confirmed that a valid DBS certificate was sent to the licensee on 20 April 2018.

- v. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 reminding him that it was his responsibility to provide a copy of the DBS certificate. He was given 7 days from receipt of the letter to provide a copy of the certificate. He was warned that a failure to do so would result in a referral of his licence to the LSC to consider suspension or revocation of his licence.
- vi. The licensee has failed to make contact with the Taxi Licensing team following the above-mentioned letter.
- vii. The licensee has failed to attend the LSC hearing today and there was no information regarding his non-attendance.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continues to be a fit and proper person to hold a licence and in the light of the circumstances and reasons indicated above and in the absence of a satisfactory DBS check Members could no longer be satisfied that the licensee continued to be fit and proper.

Accordingly members resolved to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

22 **CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/01060/TAXI**

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in her absence.

The Senior Public Protection Officer presented the report.

Members noted that the licensee had not responded to letters sent in January and June 2018 to her last known address as part of the three-yearly Enhanced Disclosure and Barring Service check and that no communication had been received from her up to the date of the meeting. Therefore it was not possible to establish that the licensee remained a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence. She had also failed to comply with the reasonable requests of a delegated officer.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of her Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Preliminary issue

The licensee did not attend and the committee had no explanation as to why she had not attended. Members were satisfied that notice of the hearing and reports pack had been sent to the licensee at her last known address. Members were satisfied that the licensee had been sent letters in January and June informing her of the requirements of the DBS Check and warning her that failure to comply would result in a referral to the Committee. The Senior Public Protection Officer confirmed that he had received no contact from the licensee in relation to the DBS Check or committee hearing. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences and referral to LSC.

Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to her last known address in January 2018 by the Taxi Licensing team informing her that the DBS check was due and that she needed to make an appointment for that purpose by 31 March 2018. No response was received from the licensee.
- iii. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 enclosing a copy of the letter dated January 2018 and noting that she had not made contact to arrange the necessary DBS Check. She was asked to contact the Taxi Licensing office within 7 days of the date of the letter to avoid formal action. She was made aware that there would be no further reminders and failure to make contact would result in a referral to the Licensing Sub-Committee.
- iv. The licensee had failed to make contact with the Taxi Licensing team following the above-mentioned letters.
- v. The licensee had failed to attend the LSC hearing today and there was no information regarding her non-attendance.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continued to be a fit and proper person to hold a licence and in the light of the circumstances and reasons indicated above and in the absence of the DBS Certificate Members could not be satisfied that the licensee continued to be fit and proper.

Accordingly members resolved to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

23 CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/00890/TAXI

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report.

Members noted that the licensee had not responded to letters sent in January and June 2018 to his last known address as part of the three-yearly Enhanced Disclosure and Barring Service check and that no communication had been received from him up to the date of the meeting. A copy of the agenda report for today's hearing sent to him had been returned marked "not known at this address". Therefore it was not possible to establish that the licensee remained a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence. He had also failed to comply with the reasonable requests of a delegated officer.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Preliminary issue

The licensee did not attend but the Senior Public Protection Officer had received the letter containing notice of hearing and reports pack returned and marked "not known at this address please amend your records". Members were satisfied that the licensee had been sent letters in January and June informing him of the requirements of the DBS Check and warning him that failure to comply would result in a referral to the Committee and the Senior Public Protection Officer indicated that these had not been returned saying "not known at this address" as far as he was aware. The Senior Public Protection Officer confirmed that he had received no contact from the licensee in relation to the DBS Check. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences of failing to comply with the requirement of a DBS check and it being his responsibility under the conditions of his licence to notify the licensing office of any change of address.

Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 by the Taxi Licensing team informing him that the DBS check was due and that he needed to make an appointment for that purpose by 31 March 2018. No response was received from the licensee and as far as the Senior Public Protection Officer was aware this letter had not been returned by the postal service as undeliverable.
- iii. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 enclosing a copy of the letter dated January 2018 and noting that he had not made contact to arrange the necessary DBS Check. He was asked to contact the Taxi Licensing office within 7 days of the date of the letter to avoid formal action. He was made aware that there would be no further reminders and failure to make contact would result in a referral to the Licensing Sub-Committee. As far as the Senior public Protection Officer was aware this letter had not been returned by the postal service as undeliverable.
- iv. The licensee had failed to make contact with the Taxi Licensing team following the above-mentioned letters.
- v. The licensee had failed to attend the LSC hearing today and the notice of hearing and reports pack had been returned marked "not known at this address, please amend your records" however, this was sent to the last known address on the Licensing teams' records and it is the licensee's responsibility under the conditions of his licence to notify the licensing team of any change of address for the purposes of important correspondence relating to his licence.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continued to be a fit and proper person to hold a licence and in the light of the circumstances and reasons and the absence of the DBS Certificate Members could not be satisfied that the licensee continued to be fit and proper.

Accordingly members resolve to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

24 CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/01064/TAXI

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report.

Members noted that the licensee had not responded to letters sent in January and June 2018 to his last known address as part of the three-yearly Enhanced Disclosure and Barring Service check and that no communication had been received from him up to the date of the meeting. Therefore it was not possible to establish that the licensee remained a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence. He had also failed to comply with the reasonable requests of a delegated officer.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Preliminary issue

The licensee did not attend and the committee had no explanation as to why he had not attended. Members were satisfied that notice of the hearing and reports pack had been sent to the licensee at his last known address. Members were satisfied that the licensee had been sent letters in January and June informing him of the requirements of the DBS Check and warning him that failure to comply would result in a referral to the Committee. The Senior Public Protection Officer confirmed that he had received no contact from the licensee in relation to the DBS Check or committee hearing. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences and referral to Licensing Sub-Committee.

Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 by the Taxi Licensing team informing him that the DBS check was due and that he needed to make an appointment for that purpose by 31 March 2018. No response was received from the licensee.

- iii. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 enclosing a copy of the letter dated January 2018 and noting that he had not made contact to arrange the necessary DBS Check. He was asked to contact the Taxi Licensing office within 7 days of the date of the letter to avoid formal action. He was made aware that there would be no further reminders and failure to make contact would result in a referral to the Licensing Sub-Committee.
- iv. The licensee has failed to make contact with the Taxi Licensing team following the above-mentioned letters.
- v. The licensee has failed to attend the LSC hearing today and there was no information regarding his non-attendance.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continued to be a fit and proper person to hold a licence and in the light of the circumstances and reasons indicated above and the absence of the DBS Certificate Members could not be satisfied that the licensee continued to be fit and proper.

Accordingly members resolve to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

24 **CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/01064/TAXI**

The licensee did not attend the hearing or communicate any explanation for non-attendance. The Sub-Committee decided to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report.

Members noted that the licensee had not responded to letters sent in January and June 2018 to his last known address as part of the three-yearly Enhanced Barring and Disclosure check and that no communication had been received from him up to the date of the meeting. Therefore it was not possible to establish that the licensee remained a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence. He had also breached a licence condition by failure to comply with the reasonable requests of a delegated officer.

Following an adjournment the Sub-Committee **RESOLVED** to revoke the licensee's Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The licensee did not attend and the committee had no explanation as to why he had not attended. Members were satisfied that notice of the hearing and reports pack had been sent to the licensee at his last known address. Members were satisfied that the licensee had been sent letters in January and June informing him of the requirements of the DBS Check and warning him that failure to comply would result in a referral to the Committee. The Senior Public Protection Officer confirmed that he had received no contact from the licensee in relation to the DBS Check or committee hearing. Having considered this information and weighed it in the balance, Members were satisfied that it was in the interests of public protection to proceed to determine this matter, the licensee having been given adequate warning of the potential consequences and referral to Licensing Sub-Committee. Members took into account the contents of the report before them together with annexes. The licensee had not made any representations in writing and had not attended the hearing in person to make oral representations.

Members noted:

- i. That the licensee's licence had been issued on 1 March 2016 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 by the Taxi Licensing team informing him that the DBS check was due and that he needed to make an appointment for that purposes by 31 March 2018. No response was received from the licensee.
- iii. The licensee was sent a further letter by the Taxi Licensing team on 12 June 2018 enclosing a copy of the letter dated January 2018 and noting that he had not made contact to arrange the necessary DBS Check. He was asked to contact the Taxi Licensing office within 7 days of the date of the letter to avoid formal action. He was made aware that there would be no further reminders and failure to make contact would result in a referral to the Licensing Sub-Committee.
- iv. The licensee has failed to make contact with the Taxi Licensing team following the above-mentioned letters.
- v. The licensee has failed to attend the LSC hearing today and there was no information regarding his non-attendance.

Applying their policy Members noted that the DBS Check is an important tool in determining whether or not a licensee continued to be a fit and proper person to hold a licence and in the light of the circumstances and reasons indicated above and the absence of the DBS Certificate Members could not be satisfied that the licensee continued to be fit and proper.

Accordingly members resolve to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

25 CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A

VALID DBS CERTIFICATE & FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER – 16/00286/TAXI

The licensee confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Members noted that the licensee had not responded to letters sent to him in January and July 2018 as part of the three-yearly Enhanced Disclosure and Barring Service check of licence holders. He had, however, sent an email to the Licensing office shortly before the hearing accepting responsibility for not replying to the letters through an oversight. The Senior Public Protection Officer advised the Sub-Committee that there had been no complaints against the licensee.

The licensee stated his case. He said that he had missed the letters and that this had been his fault. He stated that he had not yet been issued with a DBS certificate, because he had not been able to log into the DBS online system. The DBS had informed him that they did not hold a registration number for him. The Senior Public Protection Officer said that he was satisfied that the licensee was in the process of obtaining a DBS certificate. In response to a question from the Chair the licensee stated that the DBS, when issued, would not disclose any motoring offences, convictions or cautions. In his closing statement he reiterated that it had been entirely his fault that he failed to respond to the letters of January and June.

Following an adjournment the Sub-Committee **RESOLVED** that the licensee continued to be a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence, but gave him a formal warning about his conduct, as detailed below.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of his Disclosure and Barring Service Certificate and failed to comply with a reasonable request of an officer with delegated authority. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members took into account the contents of the report before them together with annexes and balanced these against the licensee's written submissions and oral representations.

The licensee took full responsibility for failing to deal with this correspondence but could not explain how he missed it. He indicated to members that he has a clean driving licence and police record with no cautions, convictions or driving offences. He also confirmed that he had his DBS subscription in place.

The Senior Public Protection Officer confirmed when asked by Members, that there had been no complaints against the licensee since he was first licensed in 2014.

Members noted that the DBS Check is an important tool in determining whether or not a licensee continues to be a fit and proper person to hold a licence however they

were satisfied based the information before them, including the licensee's oral representations and confirmation from the Senior Public Protection officer that there had been no complaints against the licensee, that on balance, he remained a fit and proper person to hold a licence. That said, the licensee had behaved in a way which was disappointing having not managed his affairs with sufficient professionalism and care; and having failed to comply with reasonable requests of a Senior Public Protection Officer and in the light of that, Members resolved to issue the licensee with a formal warning as to this conduct.

Members noted that the licensee must be subject to a satisfactory DBS check and should he fail to co-operate with the Senior Public Protection Officer in this regard it was highly likely that he would be brought back before the Committee. Members would likely take a very dim view of his further attendance before them in those circumstances or in relation to his conduct generally.

Accordingly members resolved to issue the licensee with a formal warning that this is not the conduct expected of a BANES licensed Hackney Carriage/Private Hire driver.

The meeting ended at 11.39 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services