

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

### **LICENSING SUB-COMMITTEE**

Thursday, 16th March, 2017, 10.00 am

**Councillors:** Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

**Officers in attendance:** John Dowding (Senior Public Protection Officer), Ruby Smith (Apprentice Business Support) and Carrie-Ann Evans (Senior Legal Adviser - Bath & North East Somerset Council)

#### **95 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

#### **96 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **97 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **99 MINUTES OF THE MEETING OF 16TH FEBRUARY 2017**

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

#### **100 LICENSING PROCEDURE**

The Chair drew attention to the procedure to be followed for agenda items 8 and 9.

#### **101 EXCLUSION OF THE PUBLIC**

The 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 meeting for the next two items 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.

#### **102 CONSIDERATION OF CONVICTION OBTAINED DURING TERM OF LICENCE - MR M F**

Mr M F confirmed that he understood the procedure to be followed for this hearing.

The Senior Public Protection Officer summarised the report and provided Members with a copy of a DBS certificate in respect of Mr M F and a copy of a statement

submitted by him. The hearing was adjourned to allow Members time to study these documents.

After the adjournment Mr M F stated his case and was questioned by Members. Mr M F introduced a witness, who made a statement on his behalf and was questioned by Members.

Mr MF did not wish to make a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr M F continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, but that he should be given a warning that he must comply strictly with the conditions of his licence in future.

### Reasons

Members have had to determine what action, if any, to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence who has received a caution and a conviction 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 written statement and the representations of his witness and balanced these against the information contained in the Disclosure and Barring Service report.

Accordingly Members had to decide whether or not 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 noted that Mr M F had been licensed as a Hackney Carriage/Private Hire Driver since 2009 and that he had received a police caution in 2010 and a conviction for two offences in 2014. It would seem that neither matter on his record had been declared by Mr M F in accordance with the conditions of his licence although his account was that he had provided his DBS Certificate to Licensing in 2013 which would have revealed the caution on his record. He accepted however, that he had failed to declare his conviction from 2014 and that had only come to light as a result of the triennial DBS checks.

Members noted that Mr M F had received his most recent conviction within the last 3 years and that it was therefore caught by the policy however, they could depart from that policy having regard to the full facts of the case. Members had regard to the fact that the caution and conviction related to his former wife and that he went through a difficult time culminating in a divorce. As a result of the conviction he had undertaken a course regarding relationships which he had found beneficial. Mr M F assured members that he had taken control of his life now. Members noted that Mr M F had held a BANES driver's licence since 2009 and the Council had not received any complaints regarding his conduct whilst working in his capacity as BANES licensed taxi driver. Members noted the comments of Mr M F's witness that he is reliable and that the witness could offer the use of his property as a postal address for the licensee. Members thought this was a good idea.

Accordingly Members resolved that Mr M F continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence however they issued Mr M F with a warning as to his future conduct and that he must take the conditions and administrative responsibilities of his licence seriously.

**103 APPLICATION FOR A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR M G M**

Mr M G M informed the Sub-Committee that he was still waiting for his medical certificate and requested that the hearing of his application be deferred until he had received it.

**RESOLVED** that the hearing of Mr M G M's application should be deferred until he has received the medical certificate.

Mr M G M was advised that if he fails to attend on the new date, the hearing may proceed in his absence.

Reasons

Members were due to determine an application for a combined Hackney Carriage/Private Hire Driver's licence where a medical condition had been disclosed.

The Council received a request from the applicant on 15<sup>th</sup> March 2016 for the Licensing Sub-Committee's consideration of the application to be deferred pending receipt of a report from his Mental Health Consultant. The applicant renewed this request in person before the Licensing Sub-Committee today.

In all the circumstances the Licensing Sub-Committee considered Mr M G M's request to be reasonable and therefore resolved to defer the determination of the application to a date to be notified. The Licensing Sub-Committee informed Mr M G M that if he fails to attend the next hearing then the matter may proceed in his absence.

The meeting ended at 10.55 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**