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LICENSING SUB-COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Friday, 30 September 2016 from 10.40 am - 12.20 pm.

PRESENT: Councillors Lesley Ingham (Chairman), Cameron Beart and Paul Fleming.

OFFICERS PRESENT: Mohammad Bauluck, Robin Harris and Kellie MacKenzie.

ALSO IN ATTENDANCE: Councillors Tina Booth and Alan Horton.

905 FIRE EVACUATION PROCEDURE

The Chairman ensured that those present were aware of the emergency evacuation procedure.

906 NOTIFICATION OF CHAIRMAN AND OUTLINE OF PROCEDURE

The Chairman welcomed everyone to the meeting and outlined the procedure that would be followed.

907 DECLARATIONS OF INTEREST

No interests were declared.

PART B MINUTES FOR INFORMATION

908 EXCLUSION OF THE PRESS AND PUBLIC

Resolved:

(1) That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1, 2, and 7 of Part 1 of Schedule 12A of the Act:

1. Information relating to any individual.

2. Information which is likely to reveal the identity of an individual.

7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.

909 REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Licensing Officer advised that just prior to the meeting he had spoken to the Hackney Carriage operator that Respondent A had been working for, and they had advised that Respondent A was no longer working as a Hackney Carriage and Private Hire driver, but as a driver for a takeaway company. The Licensing Sub-Committee agreed to consider the case in the absence of Respondent A.

The Licensing Officer introduced the report which sought to consider whether Respondent A, who had accumulated a total of 12 penalty points on their Swale Driving Badge was a fit and proper person to hold a Taxi Driver's badge. The Licensing Officer explained that a licensed driver was entitled to have up to 11 points, and as soon as they reached 12 or more points, the driver would be brought to the Licensing Sub-Committee for a review of their licence.

The Licensing Officer reported that Respondent A had accumulated 12 penalty points for non-compliance with the dress code. He further reported that Respondent A had failed to declare 3 penalty points for exceeding the statutory speed limit on a public road. The Licensing Officer explained that Respondent A would have automatically received 6 points on their Swale Driver's badge for this offence.

Members of the Sub-Committee adjourned to make their decision at 10.49am. Members of the Sub-Committee, the Senior Lawyer and Democratic Services Officer returned to make their decision at 11.27am, when the meeting was reconvened.

The decision, as set out at Appendix 1a to these minutes was announced.

Resolved: That Respondent A's Hackney Carriage Driver's Licence be suspended for a period of one month.

910 EXCLUSION OF THE PRESS AND PUBLIC

Resolved:

(1) That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act:

- 1. Information relating to any individual.***
- 2. Information which is likely to reveal the identity of an individual.***

911 REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Licensing Officer introduced the report which sought to consider whether Respondent B, who had accumulated a total of 22 penalty points on their Swale Driving Badge, was a fit and proper person to hold a Taxi Driver's badge. The Licensing Officer explained that a licensed driver was entitled to have up to 11 penalty points, and as soon as they reached 12 or more points, the driver would be brought to the Licensing Sub-Committee for a review of their licence.

The Licensing Officer detailed the incidents at which Respondent B had accumulated penalty points:

- 6 points for not displaying driver's badge;
- 6 points for breach of the dress code;
- 4 points for not displaying the internal licence plate; and
- 6 points for smoking in a licensed vehicle.

In response to a question from Respondent B's representative, the Licensing Officer confirmed that it was the responsibility of the driver to ensure that internal licence plates were fixed permanently to the inside and outside of the vehicle. This was to ensure the safety of customers.

The Chairman asked Respondent A to present his case and Members asked questions. Respondent A outlined the circumstances of each of the occasions penalty points had been awarded.

There was some discussion about the internal licence plate and Respondent B's representative stated that they believed it had been stolen. He added that within the London taxi vehicles when the sun visa was pulled down even the customers could not see the internal licence plate, so that may explain why Respondent B had not realised it was not there.

In response to a question from the Licensing Officer, Respondent B stated that they were aware of the importance of wearing their driver's badge and also being dressed correctly.

Members of the Sub-Committee adjourned to make their decision at 11.55am. Members of the Sub-Committee, the Senior Lawyer and Democratic Services Officer returned at 12.18pm, when the meeting was re-convened.

The decision, as set out at Appendix 1b to these minutes was announced.

Resolved: That Respondent B's Hackney Carriage Driver's Licence not be suspended and a formal warning be given.

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel

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Licensing Sub-Committee 10.30am on 30 September 2016

Case No1/2016

Decision: The Licensing Sub-Committee was asked to determine whether this respondent was a fit and proper person to hold a Hackney Carriage/Private Hire Dual Driver's Licence against the background of having accumulated 12 penalty points on the Council's Hackney Carriage and Private Hire Policy. The respondent had also failed to disclose 3 DVLA penalty points to the authority.

The licensing Sub-Committee decided to suspend the respondent's driver's licence for a period of 1 month starting from the date 21 days from the date of notification of this decision.

The Licensing Sub-Committee noted that had points been awarded for the failure to disclose the DVLA penalty points this respondent would have a total of 18 or 24 points and that as the respondent had failed to attend the Sub-Committee they had offered no defence, explanation or mitigation to these matters.

However, the Sub-committee noted in the respondent's favour that 6 penalty points would have expired next month and that the DVLA points were for a minor traffic offence.

In all the circumstances the 1 month suspension was the proportionate action to take against the driver's licence.

The respondent has a right of appeal against this decision by way of complaint to the Magistrates Court within 21 days of the date of notification of this decision.

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Licensing Sub-Committee 10.30am 30 September 2016

Case No2/2016 (11.30am)

Decision: The Licensing Sub-Committee was asked to determine whether this respondent was a fit and proper person to hold a Hackney Carriage/Private Hire Dual Driver's Licence against the background of having accumulated 22 penalty points on the Council's Hackney Carriage and Private Hire Policy.

The licensing Sub-Committee decided to give a formal warning to the respondent driver. The Licensing Sub-Committee noted that for accumulating 22 points the outcome would normally be a suspension of the Licence.

The Licensing Sub-Committee noted that the respondent driver accepted completely the issues raised at the Hearing and particularly advised that he would have behaved differently if the same circumstances presented themselves again.

The Licensing Sub-Committee also noted the remarks made in support of the driver by the proprietor and this assisted them in reaching the conclusion that the driver remains a fit and proper person to hold a Hackney Carriage and Private Hire Dual Driver's Licence.

The Licensing Sub-Committee did not accept the remarks made by the proprietor in respect of the Licensing Officer. In the view of the Sub-Committee the Licensing Officer was right to strictly uphold the Council's Licensing Policy.

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