

**GENERAL LICENSING COMMITTEE
21ST AUGUST 2012**

PRESENT – Councillor Nutt (in the Chair) Councillors L. Haszeldine, B. Jones, D. Jones, Lawton, Lee, Newall, Stenson, and J. Vasey. (9)

APOLOGIES – Councillors C.L.B. Hughes, J. Lyonette, Thistlethwaite and L. Vasey . (4)

L11. DECLARATIONS OF INTEREST – No declarations of interest were made at the meeting.

L12. MINUTES – Submitted – The Minutes (previously circulated) of the meeting of this Licensing Committee held on 26th June 2012.

RESOLVED – That the Minutes be approved.

L13. RESPONSE TO THE LAW COMMISSION CONSULTATION ON REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES – The Director of Place submitted a report (previously circulated) inviting Members of the Committee to approve a response to the Law Commission’s Consultation on Reforming the law relating to taxi and private hire services.

The Licensing Manager reported that in July 2011, the Law Commission agreed to undertake an independent law reform project in respect of the legislation relating to hackney carriages and private hire vehicles, their drivers and Operators. The terms of reference were the need to update and simplify the law and consider the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency. A consultation paper has now been published on their provisional proposals. The Consultation commenced on 10 May 2012 and runs until 10 September 2012. The Commission has stressed that these proposals are provisional; to form the basis of a discussion on consultation and the final report is likely to differ substantially from the provisional proposals. The submitted report outlined those main changes in the consultation document.

The main issue for the Licensing Authority is an apparent determination to keep a two tier system (hackney carriages and private hire services) rather than take the opportunity to simplify the entire legislation with a one tier service providing both public and private hire. A draft response was attached to the submitted report as Appendix A for Members consideration.

RESOLVED – That Members endorse the response appended to the submitted report.

L14. EXCLUSION OF THE PUBLIC – RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1, 7 and 14 of Part I of Schedule 12A to the Act.

L15. DETERMINATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE APPLICATIONS AND REVIEWS OF DRIVER LICENCES (EXCLUSION PARAGRAPH NOS 1 AND 7) – The Director of Place submitted a report (previously circulated) inviting Members to consider two applications for Private Hire Driver Licences, the review of a Hackney Carriage Driver Licence following the commission of motoring offences,

the review of a joint Hackney Carriage and Private Hire Driver Licence following a suspension on medical grounds and the review of a Hackney Carriage Driver Licence following a complaint about conduct.

(1) **Ref. No. 17/12** – An application for a Private Hire Driver Licence following failure to declare a conviction on the application form. The offence occurred when the applicant was a licensed Private Hire Driver (in 2010) but was not declared to the Council at that time and nor was it declared on the most recent application in 2012. It was only brought to their attention when the recent application was made and an enhanced Criminal Record Bureau check was carried out. The applicant addressed the meeting and responded to Members' questions in relation to the incident and to why she felt she was a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members considered that the Council's Policy in respect of offences of dishonesty states that an application will normally be refused until at least three years has passed since the date of conviction. Members could find no reason to depart from the Policy.

RESOLVED – That the application be refused.

(2) **Ref. No. 18/12** – An application for a Private Hire Driver Licence in light of a number of convictions/offences revealed on the application form and subsequent Criminal Record Bureau check

The applicant addressed the meeting and responded to Members' questions in relation to the incident and to why he felt he was a fit and proper person to hold a Private Hire Driver Licence.

Members discussed the applicant's history of convictions, offences of violence and the most recent conviction of common assault as a result of domestic violence occurring in 2010. In reaching their decision, Members took into account the Council's Policy which states that the Council deems incidents of domestic violence to be very serious and in respect of offences of violence, states that an application will normally be refused until at least three years has passed since the date of conviction. Members could find no reason to depart from the Policy.

RESOLVED – That the application be refused.

(3) **Ref. No. 19/12** – A review of a Hackney Carriage Driver Licence in light of a recent driving conviction for using a Hackney Carriage without insurance and a previous conviction for speeding. The Driver addressed the meeting and responded to Members' questions in relation to the incident and to why he felt he was a fit and proper person to hold a Hackney Carriage Driver Licence.

Members discussed the Driver's convictions and expressed concern at his failure to renew his insurance and continuing to undertake fare paying passengers while uninsured.

RESOLVED – That the licence be retained and the Driver be issued with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received he would be referred immediately to the Licensing Committee.

(4) **Ref. No. 20/12** – A review of a Hackney Carriage and Private Hire Driver Licence in light of a complaint from a member of the public alleging that the Driver had ‘nodded off’ whilst carrying passengers.

After discussion with the Licensing Manager on 3 August 2012, the Chair agreed to suspend the licence with immediate effect. The Chair had made this decision under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 after he concluded that the licence holder could no longer satisfy this Council that they were a fit and proper person to hold this driver licence on the following grounds:- *The loss of consciousness at the wheel of a licensed vehicle whilst carrying a passenger. This has brought into question his medical fitness to drive.* The suspension was also made in accordance with the provisions of Section 52 of the Road Safety Act 2006 on the grounds of public safety.

The Licensing Manager informed Members that the Driver had provided a letter from his GP but expressed concerns that the GP had not responded directly to the Council, and as discussion ensued it became apparent that further clarification of his medical condition was required.

RESOLVED – (a) That the original suspension be confirmed, pending additional medical evidence from his General Practitioner that his medical condition is under control and that he is not suffering side effects from his medication such as drowsiness; and

(b) That once evidence is received the Committee delegate Authority to the Licensing Manager to remove the suspension, if satisfied that the Licence Holder is medically fit to Group II standards subject to the production of an annual medical.

(5) **Ref. No. 21/12** – A review of a Hackney Carriage Driver Licence in light of a complaint from a member of the public in respect on an alleged incident that occurred between the driver and a passenger.

The Driver addressed the meeting and responded to Members’ questions in relation to the incident and to why he felt he was a fit and proper person to hold a Hackney Carriage Driver Licence.

Members discussed the matter very thoroughly, considered the Driver’s account of events and read the statement provided by the Police from the complainant. In reaching their decision, Members expressed concern that given the many discrepancies between the complainant and the Licence Holder's accounts, Members believed it would be unsafe to take any action unless fresh persuasive information came to light in the future.

RESOLVED – That no further action be taken against the Driver.

(Notes:-

- i. Councillor L. Haszeldine left the meeting and was not present for consideration of applications from L15 (3) onwards.
- ii. Councillor B. Jones left the meeting and was not present for consideration of application L15 (4).
- iii. Councillor Stenson left the meeting and was not present for consideration of application L15 (5)).