

REGULATORY COMMITTEE

Minutes of the meeting held on Monday 27 July 2009 at Town Hall, Royal Leamington Spa at 2.00pm.

PRESENT: Councillors Mrs Mellor (Chairman); Councillors Barrott, Mrs Gallagher, Mrs Goode, Mrs Higgins, Harris, Illingworth, Vincett and Wilkinson.

(Councillor Councillor Barrott substituted for Councillor Crowther, Mrs Higgins substituted for Councillor Mrs Grainger and Councillor Wilkinson substituted for Councillor Mrs Knight)

An apology for absence was received from Councillor Mrs Falp.

The Emergency Procedure was read out by the Committee Services Officer.

12. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

13. **MINUTES**

The minutes of the meeting held on 24 June 2009 were confirmed as a correct record and signed by the Chairman.

14. **PUBLIC AND PRESS**

RESOLVED that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following three items by reason of the likely disclosure of exempt information within paragraph 1 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

15. **LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER WITH UNDECLARED CONVICTION**

The Committee considered a report from Community Protection on a licensed hackney carriage/private hire driver with an undeclared conviction, and the Committee were asked to consider whether HS was a fit and proper person to continue to hold hackney carriage/private hire driver licence.

HS renewed his hackney carriage/private hire driver's licence in March 2008 and March 2009 and on both occasions, he only declared his conviction for a breach of HMO Housing Act.

HS appeared before the Council's Regulatory Committee on 26 February 2008 with regard to the conviction where a warning regarding his future conduct was issued.

REGULATORY COMMITTEE MINUTES (Continued)

HS's three yearly Criminal Records Bureau (CRB) disclosure was received in April 2009 showing a caution by Warwickshire Police for battery on the 9 July 2007. This pre-dates both HS's renewal applications mentioned earlier.

Officers interviewed HS regarding the non-disclosure on 30 April 2009. He said that he had just forgotten about it when he made his renewals.

At the meeting, the Licensing Services Manager circulated information with regard to other issues which had arisen since the publication of the agenda.

This report should have been considered at the previous meeting of the Committee held on 24 June 2009, but HS's solicitor was unable to attend therefore it had been deferred to this meeting. However at the meeting on 24 June, because of the seriousness of the issue, the Committee had agreed that the report must be considered at the next meeting and if HS and/or his solicitor were able to attend, it would be heard in their absence.

HS attended the meeting and answered questions from the Committee. He also circulated a letter of explanation detailing the circumstances surrounding the issues which were being considered by the Committee.

HS and the Licensing Services Manager left the room whilst the Committee deliberated in private. They were then asked to return to hear the decision of the Committee.

The Committee had to make its decision based on the information contained within the officers report and the information presented before it today, including an additional letter of explanation from HS.

HS's failure to notify the Council in writing that he had accepted a caution for battery as required by the Council's policy and his failure to declare the caution on his renewal forms for a hackney carriage/private hire drivers licence dated 1 March 2008 and 13 March 2009, concerned the Committee.

Having heard from HS, the Committee was not convinced by his explanation as to why the caution for battery had not been declared on his renewal form, and felt this raised concerns regarding his honesty and whether or not he was a fit and proper person to hold a hackney carriage/private hire drivers licence.

The Committee had taken into account the previous warning given to HS in relation to the HIMO offence and feel that a further written warning would not address the concerns held by the Committee.

Having taken into account the fact that any sanction imposed by the Committee would affect HS's livelihood, the Committee felt that the appropriate and proportionate sanction in this case would be a suspension of HS's licence. The Committee suspend the licence for a period of 3 months.

RESOLVED that HS's hackney carriage/private hire drivers licence be suspended for 3 months.

REGULATORY COMMITTEE MINUTES (Continued)

HS was advised that he had 21 days from notification of decision to appeal to magistrates' court.

(Councillor Harris left the meeting at the conclusion of this item)

16. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS

The Committee considered a report from Community Protection regarding an application for a hackney carriage/private hire driver's licence from a person with convictions, and the Committee were asked to consider whether SC was a fit and proper to be granted a hackney carriage/private hire licence.

SC applied for a hackney carriage/private hire driver's licence in May 2009 and he declared driving offences on his application form. When the CRB check was received, no other offences were revealed.

The Council's Policy Document and Guidance to the Relevance of Convictions and Cautions, Traffic Offences section stated that any driver with 9 points on their licence would have their application rejected by the Licensing Services Manager. This decision may be appealed to the Council's Regulatory Committee.

The Licensing Services Manager had rejected SC's application and SC had appealed the decision to the Committee.

SC and his solicitor Mr Brar, attended the meeting and answered questions from the Committee.

SC, Mr Brar and the Licensing Services Manager left the room whilst the Committee deliberated in private. They were then asked to return to hear the decision of the Committee.

The Committee had to make its decision based on the information contained within the officers report and the information presented before it today.

Having heard from SC, the Committee was satisfied by his explanation as to why he had received fixed penalties for the driving offences. The Committee felt that SC was a fit and proper person to apply for a Hackney Carriage/Private Hire Driver's Licence and that his application should be accepted.

However, the Committee were mindful that Hackney Carriage/Private Hire Driver's Licence holders had a great deal of responsibility as they were transporting the public on a frequent daily basis and that the safety of the public was paramount.

The Committee would expect any Hackney Carriage/Private Hire Driver to drive in a safe manner within the legal speed limits. The Committee would like to warn SC that if his application was successful and he was granted a licence, if further offences were committed he may be brought back before the Regulatory Committee and the current offences may be taken into account in deciding whether any action should be taken.

REGULATORY COMMITTEE MINUTES (Continued)

RESOLVED that the application from SC for a hackney carriage/private hire driver's licence be accepted.

17. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS

This item was withdrawn as the applicant was unable to attend the meeting.

(At the conclusion of this item the public and press were no longer excluded)

18. CHECKING OF DVLA LICENCES

At the commencement of this item, the Chairman informed the Committee that the meeting was now being recorded, as per the decision of the Committee on 6 May 2009. In future, all Regulatory Committee meetings would be recorded, except the part when the Committee went into confidential session to make their decision.

The Committee considered a report from Community Protection regarding suggested changes which added security to the checking of DVLA licences.

At present, the Licensing Team were unable to confirm the details shown on the DVLA licence which belonged to the drivers licensed as Hackney Carriage/Private Hire drivers. Most driving offences were not revealed on a Criminal Records Bureau (CRB) disclosure.

When a licence was due to be submitted to DVLA for offences to be added or had been revoked, duplicate licences were sometimes obtained. These could be used by drivers and did not show offences. In addition, if a licence was not returned within 6 months to the DVLA for fixed penalty additions, the licence was revoked, but the physical licence itself was still held by the driver.

It was possible to do a one off check directly with DVLA at a cost of £5.00. The driver must sign a mandate every 12 months for this system to operate. No facts and figures were released apart from the driver licence details.

Intelligent Data Systems (UK) Ltd. (IDS) provided a much enhanced system at a one off cost of £7.25 (excl. VAT). The driver needed only sign the mandate and pay once every three years, which matched the renewal period for Hackney Carriage/Private Hire driver licences. The company's secure website permitted the following information and more, to be shown to authorised council officers:

- Confirmation that the applicant held a valid driving licence
- Provided on line management reports confirming:
 - Driving licence number
 - Categories of vehicle the applicant was entitled to drive
 - Any current convictions / endorsements / previous bans
 - "At risk" drivers who had incurred 8 or more penalty points

REGULATORY COMMITTEE MINUTES (Continued)

- Delivery of reports in a web based format downloadable to MS applications such as MS Word, MS Excel to enable specific reports to be sorted and produced.

Not only would the system be a check to ensure all drivers licensed by Warwick District Council held the correct licence, but it would also generate user defined reports as to how many drivers in each category the Council licensed.

There were currently about 30 Councils enrolled with IDS. Recent information obtained by IDS for Councils from DVLA revealed that 1 in 120 drivers had 10 points + and 1 in 144 were disqualified, revoked or expired.

RESOLVED that the Intelligent Data Systems (UK) Ltd system be adopted.

(The meeting ended at 4.20pm)