

# Licensing & Regulatory Panel

Minutes of the meeting held on Thursday 12 February 2015, at the Town Hall, Royal Leamington Spa at 2.45 pm.

**Present:** Councillors De-Lara-Bond, Doody, and Wilkinson.

(The start of the meeting was delayed due to the late arrival of Councillor De-Lara-Bond)

**Also Present:** Caroline Gutteridge (Council's Solicitor), Graham Leach (Democratic Services Manager & Deputy Monitoring Officer), and Rachael Russell (Licensing Enforcement Officer).

## 1. **Appointment of Chairman**

**Resolved** that Councillor Doody be appointed as Chairman for the hearing.

## 2. **Declarations of Interest**

There were no declarations of interest.

## 3. **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 items by reason of the likely disclosure of exempt information within the paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

## 4. **Renewal Application from a Hackney Carriage / Private Hire Driver with undeclared conviction**

The Panel considered a report from Community Protection which asked it to consider whether the driver was a fit and proper person to hold a hackney carriage/private hire drivers licence.

**Resolved** that the Panel assessed that the convictions together with the failure to comply with a condition of the licence mean that the Panel cannot be satisfied that the applicant is a fit and proper person to hold a taxi licence and therefore there is reasonable cause to refuse to renew the licence.

The applicant was advised that he has a right of appeal to the Magistrates Court within 21 days of written notification of the decision.

At 3.15 pm all parties were invited back into the room, at which time the Council's solicitor read out the Panel's decision.

5. **Hackney Carriage / Private Hire Driver who has failed to produce their DBS upon renewal of their licence**

The Panel considered a report from Community Protection which asked it to consider if any formal action should be required against the driver because he had failed to provide a Disclosure & Barring Service (DBS) certificate, to enable his licence to be renewed, despite multiple requests from officers.

The previous application process allowed a driver to renew a licence whilst they awaited their DBS certificate. The DBS certificate was posted by DBS to the applicant and a copy was no longer sent to the body applying for the certificate. This procedural change at DBS occurred in April 2013.

As these certificates were no longer directly provided to the Council, officers had to contact the relicensed drivers for them to provide their DBS certificate.

In December 2014 the Council agreed to take a tough line with drivers who fail, have failed or refused to provide their DBS upon renewal since the Disclosure & Barring Service changed their procedure.

Officers were able to track the DBS process and were aware of the date on which the DBS certificate was dispatched to the applicant. From this date officers would begin contacting the driver to provide this certificate to them.

Failing to provide a copy of the DBS certificate prevented the Council from assessing if the applicant remained a fit and proper person to hold a licence and therefore exposed the general public to risk and could raise issues with safeguarding responsibilities.

The Police should notify the Licensing Authority if a driver was arrested for a recordable offence. However not all offences were notifiable and it was possible that the Police might not be aware that an individual was a licensed driver. Applicants were required to declare convictions and cautions on the renewal form and were further required to notify the District Council of convictions or cautions within 7 days. Whilst these provisions should provide some protection the DBS certificate remained essential: It corroborated the information provided by the applicant and it could provide information from police records that might not amount to a conviction but was relevant when considering whether a person was fit and proper to hold a taxi licence.

The Officers would track the progress of Disclosure and Barring Service and the specific DBS application through a secure online tracking service. Once the tracking service showed that the DBS has been dispatched, officers contacted the driver to provide a copy of the certificate when they received it.

The driver was not present at the meeting, but following the publication of the agenda he had informed the Council that he was currently in Afghanistan but he did intend to return to the UK in the future.

**Resolved** that Public safety is the overriding concern and in the circumstances the Panel believe that the driver's licence should be suspended for a period of 2 months (until 12 April 2015) to enable a satisfactory DBS certificate to be provided. The Panel delegate authority to the Regulatory Manager, in consultation with Legal Services and the Chair

of the Licensing and Regulatory Committee to lift the suspension if a satisfactory DBS certificate is provided before 12 April 2015. The Panel also delegate authority for the Regulatory Manager, in consultation with Legal Services and the Chair of the Licensing and Regulatory Committee to further extend the suspension until a satisfactory DBS is provided.

The driver will be notified, in writing of the decision and their right of appeal to the Magistrates within 21 days of the date of this decision but the suspension will continue to have effect.

6. **Application from a Hackney Carriage / Private Hire Driver from a Person with undeclared conviction**

**Resolved** that the application is deferred because the applicant had had to leave the meeting before their item could be determined due to personal circumstances. This is accepted by the Panel because of the delayed start to the meeting

(The meeting ended at 3.20 pm)