

REGULATORY COMMITTEE

Minutes of the meeting held on Monday 10 January 2011 at Town Hall, Royal Leamington Spa at 2.30pm.

PRESENT: Councillor Pratt (Chairman); Councillors Copping, Mrs Falp, Mrs Gallagher, Mrs Goode, Illingworth, Mrs McFarland and Weed.

An apology for absence was received from Councillor Vincett.

Councillor Copping substituted for Councillor Harris and Councillor Mrs McFarland substituted for Councillor Gill.

The Chairman explained to the Committee and the members of the public present, that in accordance with the Committees' decision on 6 May 2009, the meeting would be recorded.

29. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

30. **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 two 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.

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

The Committee considered a report from Community Protection with regard to an application being received from a person with declared and undeclared convictions.

In June 2010 DR applied for a hackney carriage/private hire driver's licence. In October 2010 DR's CRB disclosure was received by officers at WDC (Warwick District Council), which showed an offence that had not previously been declared. A copy of DR's CRB was circulated at the meeting.

DR's solicitor addressed the Committee and answered questions from the members explaining that DR did not notice the undeclared conviction on his CRB form because it was with another conviction and had been an oversight, with all the other convictions had been declared on the application form. He also explained the circumstances behind DR receiving the points on his licence and convictions.

DR, his solicitor, Licensing Services Manager and the Licensing Enforcement officer left the room whilst the Committee deliberated in

private. They were then asked to return to hear the decision of the Committee.

Having considered the report, the representations of DR, all the information before them including DR's CRB, the references provided by him and the Councils Policy Document and Guidance Relating to the Relevance of Convictions and Cautions the Committee were satisfied that he was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that the application be allowed to proceed.

All parties were advised that they had 21 days from the notification of this decision to appeal to the Magistrates Court.

(Councillor Mrs Gallagher left the meeting at the conclusion of this item)

32. **DRIVER LICENSED BY WDC WITH AN UNDECLARED DRIVING LICENCE SUSPENSION**

The Committee considered a report from Community Protection with regard to a licensed hackney carriage/private hire driver who failed to notify WDC of a DVLA licence suspension.

In November 2010 JSV applied for a renewal of his hackney carriage/private hire drivers licence and declared on his application form that in May 2010 he had been suspended for 6 months for 'totting up'. JSV did not inform WDC at the time of receiving the suspension but after being requested to by officer's he had since sent a letter to WDC explaining his reasons for not declaring his suspension. A copy of JSV's CRB was circulated at the meeting.

JSV addressed the Committee and answered questions from the members explaining that he believed he was a fit and proper person to drive, confirming to the Committee that he had submitted a letter to Warwick District Council which set out why he had not been able to drive. He told the Committee that he had been diagnosed with Tuberculosis meaning he was unable to walk and was in a lot of pain.

JSV went on to tell the Committee about his offences which had lead to him being suspended from driving for six months and confirming that he had written to Warwick District Council to inform them of this the day after he had attended Court and that he had kept a copy of this letter. He also explained that he had difficulty in filling out the form as he was unsure which convictions needed to be recorded and could not remember the dates.

The Licensing Services Manager confirmed to the Committee that it was unusual for a licensed hackney carriage/private hire driver to be involved in such a large number of incidents.

JSV told the Committee that the allegations made against him were not correct and that he did not mean to withhold any information on the application form.

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

The Committee considered the report, the representation of JSV, all the information before them including JSV's CRB and the Councils Policy Document and Guidance Relating to the Relevance of Convictions and Cautions.

The Committee had a number of concerns surrounding the disqualification of JSV's Licence and his subsequent application for the renewal of his hackney carriage/private hire driver's licence. Firstly the Committee had real concerns about whether JSV was safe to drive around members of the public in light of the accumulation of 12 points for driving offences and the subsequent disqualification of his licence. The Committee expects the drivers licensed by WDC to be consistency good and safe drivers as those paying for transport services rely on their driver to get them to their destination safely. Further hackney carriage/private hire drivers are professional drivers and should be fully aware of all road traffic legislation.

The Committee also had serious concerns regarding the omissions in JSV's application form and in particular that he had failed to disclose his previous convictions in the convictions section of the application form and crucially that he failed to disclose his recent medical condition that had prevented him from working for a period of six to seven months. Further, it has been brought to the Committees attention that JSV accepted a caution on the 6 July 2004 for using threatening and abusive and insulting words or behaviour with intention to cause fear or provocation of violence under section 4 (1)(a) of the public order act 1986.

The over-riding consideration of the members of the Committee is to protect the travelling members of the public and having considered these matters together with the allegations reported to Committee on the 23rd December 2009 the Committee had applied the question of whether they would allow their daughter, son, granddaughter or grandson, spouse, mother or father or any person they care for or any vulnerable person they know to get into a vehicle with this person alone and it is the Committees view that they would not.

Therefore the Committee was not satisfied that JSV was a fit and proper person to hold a hackney carriage/private hire drivers licence.

RESOLVED that JSV's application to renew be refused.

All parties were advised of the decision and that they had 21 days from the notification of this decision to appeal to the Magistrates Court.

33. **EXISTING LICENSED DRIVER WHO HAS HAD HIS HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE SUSPENDED**

This item was deferred until the next meeting of the Regulatory Committee because Community Protection were awaiting the result of an ongoing police investigation.

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

This item was deferred until the next meeting of the Regulatory Committee because the applicant's solicitor was not available for the meeting.

(The meeting finished at 4.50pm)