

NORTH DEVON COUNCIL

Minutes of a meeting of the LICENSING SUB-COMMITTEE A of the LICENSING COMMITTEE held at the Civic Centre, Barnstaple on Tuesday 30th September 2014 at 10.00 a.m.

PRESENT: Members:

Councillor Tucker (Chairman)

Councillors Biederman and Webb.

Councillor Haywood attended the meeting as a Substitute Member.

Officers:

Head of Contentious Law, Regulatory Services Officer (PF) and Senior Member Services Officer (BT).

(a) APOLOGIES FOR ABSENCE

There were no apologies for absence received.

(b) DECLARATIONS OF INTEREST

There were no declarations of interest announced.

(c) EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED:

- (i) That, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involved the likely the disclosure of exempt information as defined by Paragraph 3 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to the financial or business affairs of any particular person (including the authority holding that information).
- (ii) That all documents and reports relating to the item be confirmed as "Not for Publication".

(d) DISCIPLINARY HEARING OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENSED DRIVER (REFERENCE MRDP)

The Chairman introduced himself, Members of the Sub-Committee and Officers present to the driver and his representative before outlining the nature of the hearing.

The driver's legal representative and the driver introduced themselves to the Sub-Committee.

The Head of Contentious Law summarised the procedure to be followed at the hearing. He advised that it was not a statutory procedure; therefore the Sub-Committee could agree to vary it during the hearing.

The Regulatory Services Officer advised the Sub-Committee that two witnesses that had submitted witness statements (as detailed in appendices nine and ten of the report) were unable to attend the hearing as one was away and the other was unable to take time off work.

RESOLVED that the Sub-Committee proceed in the absence of the two witnesses which were unable to attend the hearing.

The Regulatory Services Officer advised the Sub-Committee that he would wish to call two witnesses who had submitted witness statements (as detailed in appendices seven and eight) to present evidence at the hearing.

RESOLVED that permission be granted for the Regulatory Services Officer to call the two witnesses that had submitted witness statements (as detailed in appendices seven and eight) to present evidence at the hearing.

The Regulatory Services Officer outlined a report (circulated previously) regarding a disciplinary hearing of a Hackney Carriage and Private Hire Licensed Driver (reference MRDP). He advised that the driver had recently renewed his driver's licence and it now expired on 8th September 2015. In relation to paragraph 1.5 of the report, the Regulatory Services Officer confirmed that the licence referred to was cancelled and replaced with another vehicle.

Members of the Sub-Committee and the driver's legal representative questioned the Regulatory Services Officer.

The first witness addressed the hearing and summarised the main points contained within the witness statement as detailed in appendix seven of the report.

Members of the Sub-Committee and the driver's legal representative questioned the witness.

The second witness addressed the hearing and summarised the main points contained within the witness statement as detailed in appendix eight of the report.

Members of the Sub-Committee and the driver's legal representative questioned the witness.

RESOLVED that the meeting be adjourned to enable a comfort break.

Following a question from the Regulatory Services Officer, the Sub-Committee confirmed that it had read the witness statements as detailed in appendices nine and ten and therefore did not require the statements to be read at the meeting in the absence of the witnesses.

The driver's legal representative addressed the hearing on behalf of the driver. He summarised his client's witness statement as to his position relating to the allegations made, together with exhibit documents, which had been circulated previously to the Sub-Committee. He advised that his client had successfully completed the NVQ Level 2 in Road Passenger Vehicle Driving (Taxi and Private Hire) in August 2014 which he had applied to attend in March 2014. He referred to his client's statement made in relation to each incident that had been reported. He made submissions in relation to the statements made by the witnesses that had attended the hearing and the other incidents.

The Chairman referred to the witness statement and stated that the allegations had been made by members of the public and not by the Council.

In response to the comment made by the Chairman, the driver's legal representative accepted this to be the case and that the reference in the witness statement was incorrect.

Members of the Sub-Committee questioned the driver's legal representative and the driver in relation to the incidents, the witness statement and the submissions made.

The Regulatory Services Officer summed up.

The driver's legal representative summed up.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Legal representative and Committee Clerk in order to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chairman requested that the Senior Member Services Officer read the proposed decision, which was voted upon and agreed.

Having considered evidence of alleged incidents numbers one to four, on the balance of probabilities the Sub-Committee was satisfied that there had been a series of poor driving incidents and aggressive behaviour by the driver.

The Sub-Committee gave particular weight to incident number 2 where it believed the witness was put in danger by the driving of the hackney carriage and private hire driver whose standard fell below the standard expected of any driver particularly a professional licensed taxi driver and also the aggressive nature by the driver in relation to the witness's telephone call.

As the driver only owned one taxi and was the sole driver, the Sub-Committee did not believe mistaken identity had taken place in relation to incidents numbers two and three.

In relation to incident number four, the Sub-Committee was particularly concerned that the driver accepted that he had behaved aggressively, lost his cool and found it necessary to apologise to the complainant.

The Council had a duty of care to ensure the public could travel safely in hackney carriage licensed vehicles and were protected from poor driving and aggressive behaviour both of which the Sub-Committee felt had been demonstrated by the driver.

RESOLVED that the hackney carriage and private hire driver licence (reference MRDP) be suspended for a minimum of 2 months and thereafter until such time as the driver had satisfactorily completed and passed the enhanced drivers course known as The Driver and Vehicle Standards Agency Hackney Carriage and Private Hire Assessment Test.

Chairman

The meeting ended at 12.55 p.m.

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Licensing Committee.