

Present

Councillor M A Barningham (in the Chair)

Councillor P Bardon

Councillor K G Hardisty

LAHP.9 **EXCLUSION OF THE PUBLIC AND PRESS**

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the item of business at minute no LAHP.10 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

LAHP.10 **APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE**

All Wards

The subject of the decision:

The Panel was asked to consider whether to grant or refuse an application for a hackney carriage and private hire driver licence submitted by the applicant.

Alternative options considered:

The Panel considered the options outlined in the Director's report and it was not satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire driver's licence. Therefore, the application was refused.

The reason for the decision:

The Panel considered the Executive Director's report, the application for a hackney carriage and private hire driver licence, the Disclosure and Barring Service enhanced criminal record check for the applicant, the applicant's oral representations and written submissions, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel acknowledged that there was an error in the officer's report which referred to applicant's conviction as a caution. The Panel considered the conviction in line with the true position (i.e. that the applicant received a conviction as opposed to a caution) and applied the Council's Policy accordingly. In any event the Panel was satisfied that, as cautions are treated in the same way as convictions for the purposes of determining an applicant's suitability, the applicant was not prejudiced by the error in the report.

The Panel considered the applicant's conviction on 10th March 2017 under Section 35 of the Wireless Telegraphy Act 2006. The applicant maintained that the company for which he worked was responsible for complying with the requirements of the Wireless Telegraph Act 2006 and therefore he, as an individual, should not have been convicted. The Panel noted paragraph 1.4 of Annex E of the Council's policy which prevents the licensing authority from reviewing the merits of the conviction. The Panel concluded that the applicant's conviction demonstrated a failure to comply with regulatory requirements.

The Panel considered the applicant's driving offences from 2015 and the subsequent six month disqualification of his DVLA driving licence. The applicant maintained that two speeding offences had been committed by third parties using vehicles registered in his name. The applicant also insisted that the six penalty points imposed following his failure to give details of the drivers at the time of the speeding offences occurred as a result of him being out of the country. The Panel again noted paragraph 1.4 of Annex E of the Council's policy which prevents the licensing authority from reviewing the merits of the conviction. The Panel also acknowledged paragraph 8.10 of Annex E of the Council's policy which indicates that any applicant who has been disqualified from driving would not normally be granted a licence within twelve months. The Panel acknowledged that this twelve month period had now elapsed. However, the Panel remained concerned about the applicant's apparent inability to comply with road traffic legislation.

The Panel considered the applicant's failure to disclose his private hire driver licence previously held with Bradford City Council until October 2015 when it was revoked following his DVLA licence disqualification. In an email dated 7th July 2017 the applicant indicated that he had misunderstood the question on the form and that he was under significant personal stress at the time of completing his application. During the hearing, the applicant informed the Panel that he may have rushed the application form but he insisted that he did not intend to mislead the Council. The Panel was satisfied that the applicant was given another opportunity to disclose the relevant details when he was invited to amend his application in 5th July 2017. The Panel noted that, on this date, the applicant disclosed details of his motoring convictions but again omitted to make reference to his licence history with Bradford City Council and his conviction under the Wireless Telegraphy Act 2006.

The Panel was concerned that the applicant had actively selected an inaccurate statement on the application form to give the impression that he had never been convicted of any offence. The Panel acknowledged that the applicant eventually disclosed his motoring convictions but only did so at the request of officers. The Panel remained concerned that the applicant failed to disclose his conviction under the Wireless Telegraphy Act 2006. The applicant informed the Panel that he was under the misconception that the conviction would not appear on his DBS disclosure. The Panel was satisfied that, according to the applicant, the judge had made comments about who was being prosecuted and that this should have confirmed to the applicant that he was being convicted as an individual. The Panel concluded on the balance of probabilities that the applicant's mistaken belief was the reason why he failed to disclose the 2017 offence.

The Panel noted that during the application process the applicant had claimed that his speeding offences were committed by third parties, his other motoring convictions came as a result of him being overseas, the company for which he worked was responsible for compliance with legislation pertaining to radio frequencies, his application was rushed, his personal stress levels were high and that he misunderstood the application form on more than one occasion. The Panel was not satisfied that third

parties and unfortunate circumstances could reasonably explain all of the applicant's inaccuracies and omissions. The Panel was therefore satisfied that the applicant had knowingly or recklessly made one or more false declarations on his application form. Accordingly, the Panel was not satisfied that the applicant met the standards expected by the Council in relation to honesty and integrity.

The Panel noted that the applicant had been subject to enforcement action from the DVLA, Ofcom and Bradford City Council prior to making his application with Hambleton District Council. The Panel was satisfied that the applicant had demonstrated a propensity to contravene regulatory requirements and standards.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence the Panel reached the following conclusions:-

The Panel was not satisfied that the applicant was a fit and proper person to hold a hackney carriage and private hire driver licence and the application was refused.

The meeting closed at 11.35 am

Chairman of the Panel