

Present

Councillor M A Barningham (in the Chair)

Councillor D M Blades

Councillor Mrs J Watson

LAHP.17 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.18 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.18 SUITABILITY OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER

The subject of the decision:

The Director of Law and Governance (Monitoring Officer) asked the Panel to consider whether the licence holder ("D") was a fit and proper person to continue to hold a hackney carriage and private hire driver licence.

Alternative options considered:

The Panel considered the options in paragraph 6.1 of the officer's report but, having concluded that D was not a fit and proper person to hold a hackney carriage and private hire driver licence, the only suitable option was to revoke D's licence with immediate effect.

The Panel was not satisfied that any of the alternative options, including issuing a warning or a suspension, would adequately serve the interests of the public and address the safety concerns raised.

The reason for the decision:

The Panel considered:

the officer's report;
the written and oral representations of D;
the Council's Hackney Carriage and Private Hire Licensing Policy; and
the relevant legislation.

The Panel noted that, on 1st September 2017, D was convicted of driving in excess of 70 miles per hour on a dual carriageway. D was disqualified from holding a DVLA driving licence for a period of four months.

The Panel noted that, according to paragraph 8.10 of the Council's Guidelines Relating to Applicant Suitability and the Relevance of Criminal Convictions (Annex A of the Council's Hackney Carriage and Private Hire Licensing Policy), "applicants who have been disqualified from driving will not normally be granted a licence unless they have held a licence for at least 12 months following the expiry of the period of disqualification without receiving any further penalty points". The Panel also noted paragraph 1.7, which indicates that "these guidelines will apply equally to existing drivers as they do to new applicants in determining suitability. Therefore, if a new applicant would be refused on the basis of their individual circumstances, a revocation would be an appropriate sanction for an existing driver under the exact same circumstances".

The Panel was satisfied that there was a general expectation that, in accordance with the Council's policy, D's licence would be revoked and no licence would be granted before January 2019. However, the Panel noted that, in accordance with paragraph 1.1 of the Council's Guidelines Relating to Applicant Suitability and the Relevance of Criminal Convictions, "each case will be considered on its individual merits and, where the circumstances demand, the committee or officer may depart from the guidelines". The Panel was therefore asked to consider whether or not the specific circumstances of D's case would justify a departure from the general policy.

The Panel considered an email from North Yorkshire Police's Disclosure Officer which provided additional details of the offence. D confirmed to the Panel that the details in the email accurately described the incident in question. The Disclosure Officer confirmed that D was recorded as travelling at a 122mph on a dual carriageway on 19th March 2017.

Although the Panel acknowledged that the incident occurred in D's private vehicle (as opposed to a licensed vehicle), the Panel was extremely concerned by D's driving speed and his apparent disregard for public safety at the time of the incident.

The Panel considered the contents of D's email dated 5th October 2017. The Panel was concerned that D appeared to be attempting to excuse his excess speed by insisting that "the roads were dead and the weather had been great that day". The Panel acknowledged that a reduction in speed may be appropriate depending on the road and weather conditions. However, the Panel was satisfied that 70mph is the maximum speed limit for the conditions described by D and there was no justification for exceeding this speed.

D informed the Panel that he was driving a new car at the time of the incident and he confirmed that it was a fast model. The Panel noted that the reason given by D for exceeding the speed limit was that he "wanted to get home". The Panel was satisfied that D will often want to get to a certain location and this would not justify driving at excess speed. The Panel acknowledged that D had a clean driving licence for eight years prior to the incident but the Panel concluded on the balance of probabilities that D was not unfamiliar with driving in excess of statutory speed limits. Furthermore, the Panel concluded that, despite his apologies, D had demonstrated a lack of appreciation for the seriousness of the incident.

The Panel noted that, in accordance with paragraph 4.16 of the Council's policy, licensed drivers are expected to comply with all licence conditions and to drive with care and due consideration for other road users and pedestrians. Any failure to comply may raise doubts as to the driver's status as a fit and proper person. The Panel was satisfied that, on 19th March 2017, D had failed to drive with care and due consideration for other road users and pedestrians.

The Panel noted that, in accordance with D's licence conditions, he is required to disclose to the licensing authority in writing details of the sentence or fine imposed on him/her within seven days of any conviction. The Panel noted that D's mother had informed the Council that he had been convicted but no written confirmation was received from D until 6th September 2017 (seven days after the conviction). D's written notification did not include any details of the offence and these were not provided until some time later once D was prompted to do so by the Principal Licensing Officer. D informed the Panel that he had overlooked the requirements of the policy. The Panel concluded that D's understanding of the policy requirements and his licence conditions was below the acceptable level. The Panel was concerned by D's apparent oversight but it did not find that any formal action would be required in order to alleviate any isolated concerns in this regard.

The Panel noted that D had made reference to the financial hardship that would be caused by the revocation of his licence. However, the Panel concluded that it was required to consider the impact of D's character on other road users and members of the public and it was not entitled to take into account irrelevant factors such as D's financial circumstances.

Members considered all of the options outlined in paragraph 6.1 of the officer's report.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence, the Panel was extremely concerned by D's conduct during the incident on 19th March 2017. The Panel was also concerned about D's apparent disregard for public safety, his subsequent lack of appreciation for the seriousness of the incident and the lack of understanding of his licence conditions and policy requirements. The Panel concluded that D was not a fit and proper person to hold a hackney carriage and private hire driver licence. The Panel noted that it would not be lawful for D to drive any vehicle while he is disqualified from holding a DVLA driving licence and therefore it concluded that he cannot be permitted to drive licensed vehicles in any event.

The Panel was not satisfied that any sanction less than revocation would be sufficient. The Panel therefore resolved to revoke D's licence for 'any reasonable cause' in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

In accordance with section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, the Panel decided to give immediate effect to the decision in the interests of public safety.

The meeting closed at 12.20 pm

Chairman of the Panel