

Minutes of the meeting of the LICENSING AND
APPEALS HEARINGS PANEL held at 2.00 pm
on Monday, 23rd June, 2014 at Main
Committee Room, Civic Centre, Stone Cross,
Northallerton

Present

Councillor P Bardon
G W Dadd

Councillor A Robinson

LAHP.1 **ELECTION OF CHAIRMAN**

THE DECISION:

That Councillor G W Dadd be elected Chairman for duration of the meeting.

(Councillor G W Dadd in the Chair)

LAHP.2 **LOCAL GOVERNMENT ACT**

THE DECISION:

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the items of business at minute no LAHP.3 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.3 **APPEAL AGAINST DISMISSAL**

A report of the Head of Service - Legal & Information was submitted asking the Panel to consider an appeal against dismissal.

REASONS FOR THE DECISION:

Having considered the evidence of the parties, both written and oral, and the Council's Disciplinary Policy the Panel made the following findings:-

The Panel noted that the appellant had admitted the breaches of the Council's Health and Safety Policy and Procedures, and that he had expressed his regret about the incidents and would not breach the health and safety policy again. The Panel also noted that the appellant had stated he was passionate about his job.

However, the Panel noted that the appellant was subject to a final written warning for breaches of the Council's health and safety policy, namely failing to deploy a reversing assistant when driving.

The Panel found that the appellant had breached the Council's health and safety policy on 13 March 2014 when he drove his vehicle at excess speed in the Council's depot. The appellant had been warned about his speeding, and about the requirement to comply with the Council's health and safety policy and relevant speed limits, on the morning of 14 March 2014.

Notwithstanding the warning, the Panel found that the appellant then committed a further 7 breaches of the Council's health and safety policy that same day, namely 7 incidents of driving in excess of the relevant speed limits on the public highway.

The Panel heard the appellant explain that the speeding incidents were not malicious, and that he was merely driving the way he had been taught by external instructors, namely to 'keep up with prevailing conditions'. The Panel did not accept that this meant the appellant was entitled to drive in excess of national speed limits, and found that the appellant knew this.

The appellant claimed that because he was not actually contractually employed as a driver he should not be liable to be dismissed. The Panel did not accept this reasoning and found that the appellant had been employed from time to time as a relief driver, and had been properly remunerated and trained for that role.

In the circumstances, the Panel decided that the Disciplinary Panel had properly found that these incidents were proven against the appellant. It further held that the Disciplinary Panel's decision to dismiss the appellant without notice for gross misconduct arising from the incidents was a reasonable one. The Panel saw no reason to interfere with that decision.

THE DECISION:

The decision to dismiss the appellant, therefore, was upheld and the appeal dismissed.

The meeting closed at 4.00 pm

Chairman of the Committee