

Present

Councillor Mrs I Sanderson (in the Chair)

Councillor D Hugill

Councillor J Noone

LAHP.12 **EXCLUSION OF PUBLIC AND PRESS**

The Panel considered whether to exclude the press and public under Section 100A(4) of the Local Government Act 1972 during consideration of the item of business at minute no LAHP.13 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. The Panel was satisfied that the public interest outweighed the exemption of disclosing the information and agreed to consider this matter in public.

LAHP.13 **CONDUCT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER**

All Wards

The subject of the decision:

The Panel considered whether a hackney carriage and private hire driver licence holder ("Mr B") was a fit and proper person to continue to hold a hackney carriage and private hire driver licence.

Alternative options considered:

The Panel considered all of the options outlined in paragraph 7.1 of the Executive Director's report.

The Panel concluded that a sanction less severe than a complete revocation would adequately serve the interests of the public but it was not satisfied that a warning would adequately address the concerns raised.

The reason for the decision:

The Panel considered evidence of an allegation that on 18 January 2016 Mr B had verbally abused a Civil Enforcement Officer employed by Scarborough Borough Council.

The Panel considered the report of the Executive Director, the Civil Enforcement Officer's statement, the written submissions of Mr B being presented to the Panel on the day of the hearing including a letter from Mr B received on 18 March 2016 and a character reference dated 3 March 2016, having due regard to the Council's Vehicle and Driver Licensing Policy and the relevant legislation. The Panel reached the following conclusions:

- The Panel found that Mr B's representations were for the most part in accordance with the Civil Enforcement Officer's statement of events.
- The Panel concluded Mr B was inconsistent in his written representations and his oral submissions on the level and frequency of offensive language used. The Panel noted that in Mr B's letter received on 18 March 2016 Mr B denied using the offensive language in the manner described by the Civil Enforcement Officer. However Mr B admitted using the offensive language in his oral submissions during the hearing.
- The Panel was satisfied that the Civil Enforcement Officer had no reason to provide false details of the incident to the Panel and noted the consistency of his evidence. The Panel concluded the Officer's account of the incident was accurate.
- The Panel concluded that on the balance of probabilities Mr B had been verbally abusive to the Civil Enforcement Officer using offensive and upsetting remarks in an aggressive manner. The Panel also noted Mr B had admitted ripping up a parking ticket and throwing it in the face of the Civil Enforcement Officer. The Panel was satisfied that Mr B had breached his licence conditions and the Council's Code of Conduct by failing to behave in a civil and orderly manner.
- The Panel was concerned by Mr B's conduct at the time of the incident and his failure to offer an unprompted apology for his behaviour.
- Mr B's financial circumstances was not considered relevant for the purpose of the Panel's decision. However the Panel concluded that Mr B's personal circumstances may have been a contributing factor to his behaviour at the time of the incident.
- The Panel acknowledged that Mr B has not been subject to a large number of complaints about his conduct since becoming a licensed driver. When considering Mr B's previous conduct the Panel took into account the character reference dated 3rd March 2016 and provided by Mr B at the hearing. However the Panel also considered a sanction imposed by the Licensing and Appeals Hearings Panel in June 2014.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence, the Panel was concerned by Mr B's conduct at the time of the incident and Mr B's apparent disregard for the standard of conduct required by licensed drivers as set out in the Council's Vehicle and Driver Licensing Policy. Accordingly, the Panel decided to impose a three week suspension of Mr B's hackney carriage and private hire driver's licence in accordance with section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976. The Panel concluded that this sanction best served the interests of the public to ensure that Mr B did not repeat this action in the future.

LAHP.14 **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.15 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.15 **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 ("Mr J"). The procedure to be followed was appended to the agenda.

Alternative options considered:

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

The reason for the decision:

The Panel considered the Executive Director's report, Mr J's application for a hackney carriage and private hire driver licence, the Disclosure and Barring Service enhanced criminal record check for Mr J, oral representations from Mr J, the Council's Vehicle and Driver Licensing Policy, the Local Government Regulation Taxi and Private Hire Vehicle Criminal Convictions Policy and the relevant legislation.

The Panel reached the following conclusions:

- The Panel concluded that Mr J had incorrectly declared on his application that he had never been convicted of an offence. The Panel accepted Mr J's explanation that he had done this under his own assumption that his previous convictions would be considered "spent" for the purposes of the application. Mr J accepted he did not take steps to clarify the requirements of the disclosure section of the application form and had as a result failed to disclose his previous convictions as required. The Panel concluded that Mr J's false declaration on the application form was made out of neglect and was not a deliberate attempt to deceive.
- The Panel considered the Disclosure and Barring Service enhanced criminal record check for Mr J and was satisfied that the offences relating to dishonesty and violence were relevant for the purposes of determining an application for a hackney carriage and private hire driver licence. The Panel concluded the convictions against Mr J took place many years in the past. However, the number, frequency and type of convictions gave the Panel concern about Mr J's fitness and propriety to hold a licence.

- When invited to make oral representations Mr J only made reference to his false declaration on the application form. Mr J's only other oral submission was in response to a question by the Panel about his character at which time Mr J gave details of the incident resulting in one of the convictions. Mr J made no further written or oral submissions in relation to his application.
- The onus is on the applicant to demonstrate that he is a fit and proper person to hold a hackney carriage and private hire driver licence. The Panel concluded that Mr J did not provide sufficient evidence in support of his application to demonstrate that he is a fit and proper person to hold a licence.

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 Mr J was a fit and proper person to hold a hackney carriage and private hire driver licence and the application was refused.

The Panel noted that it would welcome a future application from Mr J provided as part of the application he could provide sufficient evidence to demonstrate he is a fit and proper person to hold a hackney carriage and private hire driver licence.

The meeting closed at 11.15 am

Chairman of the Panel