

Present

Councillor Mrs I Sanderson (in the Chair)

Councillor

K G Hardisty

Councillor

R Kirk

LAHP.19 **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.20 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.20 **CONDUCT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER**

The subject of the decision:

The Panel considered whether any action needed to be taken against a hackney carriage and private hire driver licence holder ("Mr B").

Alternative options considered:

The Panel considered all of the options outlined in paragraph 7.1 of the Executive Director's report but having concluded that Mr B was not a fit and proper person to hold a hackney carriage and private hire driver licence the only suitable option was to revoke the licence with immediate effect.

The Panel was not satisfied that anything less than immediate revocation including issuing a warning or suspension would adequately serve the interests of the public and address the concerns raised.

The reason for the decision:

The Panel considered evidence of an allegation that Mr B had discussed inappropriate subject matter, made inappropriate remarks and used offensive language in the presence of children whilst undertaking a school run contract.

The Panel considered the summary of the accounts of six children describing their experiences obtained by North Yorkshire Police during the investigation of the allegations. The accounts were taken by Police Officers and the children had a parent or guardian present during the interview.

The Panel noted North Yorkshire Police concluded the matter was not one for criminal investigation although if substantiated the allegations may raise concerns as to an individual's suitability to act as a hackney carriage and private hire driver.

The Panel considered the record of discussion on 4th May 2016 which was produced as part of the Executive Director's report. The Panel noted at the hearing Mr B confirmed the record was a true account of the discussion.

The Panel considered the report of the Executive Director, the written and oral submissions made by and on behalf of Mr B and had due regard to the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel heard submissions from Mr B and his employer that Mr B had been "stitched up" by his previous employer. The Panel was satisfied that the source of the allegation was irrelevant as the Police had carried out independent enquiries with the children concerned. The Panel did not accept that any of the children had been persuaded to falsify the remarks alleged. The Panel noted that each of the children's accounts was distinct and unrehearsed. The Panel was satisfied that the accounts of the children did not appear to be of a malicious nature and the Panel noted that Mr B accepted this point in his discussion with officers on the 4th May 2016.

The Panel was satisfied none of the children would have any reason to lie and it appeared through the children's accounts and Mr B's own representations that the children liked Mr B. The Panel also concluded the children would be unlikely to lie in such a stressful situation as being interviewed by a Police Officer with a parent/guardian present. The Panel was therefore satisfied that Mr B's previous employer could not have had any significant influence on the accounts obtained by the Police.

The Panel was satisfied that four out of six accounts of the children made reference to inappropriate discussions. The other two accounts made no such reference.

The Panel noted that the sexually explicit remarks Child 2, 3 and 4 quoted as being made by Mr B were directed at school age girls. Child 6's account made reference to Mr B having made inappropriate comments about women. The Panel was satisfied the accounts were consistent in subject matter. The Panel noted that in the record of discussion Mr B admitted to saying these types of sexual remarks amongst his friends.

The Panel concluded the graphic sexual remarks quoted by Child 2 and 4 were more likely to come from older more experienced adults than school children who are more likely to use direct terms in relation to sexual activity. The Panel was satisfied that Mr B had made sexually explicit remarks the same as or similar to those described in the children's accounts.

The Panel noted from the contents of the record of discussion Mr B was asked whether any of his comments could have been regarded as inappropriate by the children passengers to which Mr B replied "no". Mr B stated that he did say that a woman had "a nice backside" but claimed it was nothing inappropriate and later said he discussed a person's legs with one child passenger. The Panel concluded that this type of subject matter was not appropriate in the presence of children or in a business setting such as a licensed driver and passenger. The Panel was satisfied that Mr B was not aware that discussing a person's body parts in a sexual manner was inappropriate in the presence of children or while carrying out his duties as licensed driver.

The Panel noted from the contents of the record of discussion Mr B had described his relationship with a particular child passenger ("X") as "mates". Mr B said he would ask X how he was getting on with his girlfriend and they would "have a bit of banter" usually about football but never anything inappropriate. Mr B made oral representations at the hearing about his relationship with X. Mr B told the Panel that he and X would discuss

X's relationship with X's girlfriend and Mr B would discuss his relationship with Mr B's girlfriend. In the discussion with officers on 4th May 2016 Mr B also admitted that on occasion Mr B would have adult conversations with X which might include discussing a person's body parts. The Panel was satisfied that Mr B had a relationship with X which Mr B regarded as a friendship. The Panel was satisfied that Mr B's friendship with X allowed the discussions to become inappropriate in the context of the school run.

The Panel considered the contents of the written character references and the oral representations of Mr B's current employer. The Panel was satisfied that Mr B had good working relationships with elderly passengers in particular and received compliments from his customers. The Panel also noted that there had not been any complaints made about Mr B to the Council prior to this hearing.

The Panel did note one of the character references provided by a friend and customer of Mr B referred to Mr B not being "a saint as when he is with the lads i.e. his own age group [he] does have a very funny sense of humour" but she had not "heard it within earshot of children". The Panel was satisfied this was in keeping with Mr B's own account in his discussion with officers.

The Panel accepts that Mr B has a good history and reputation with his employer and customers. The Panel was satisfied that Mr B had not used inappropriate language or discussed inappropriate subject matter in the presence of all of his passengers. However, the Panel was satisfied that the allegations reported were of a serious enough nature to justify actions being taken against Mr B's licence.

The Panel concluded that Mr B had used inappropriate language and engaged in discussions of an inappropriate subject matter in the presence of children whilst undertaking his duty as a licensed driver. The Panel was particularly concerned that not only were the children exposed to inappropriate subject matter and language but also that those children may have concluded in their own minds that this is normal and appropriate conduct of an adult.

The Panel was satisfied that Mr B had made sexually explicit comments about school age girls and therefore the Panel was concerned about the risks to public safety. The Panel concluded that a person hearing such comments being made about them, either directly or through another person, may reasonably fear for their safety. The Panel was satisfied that there was reasonable cause to revoke Mr B's licence with immediate effect in the interests of public safety.

THE DECISION:

Taking account of the above and having given appropriate weight to the evidence, the Panel concluded that Mr B was not a fit and proper person to hold a hackney carriage and private hire driver licence. The Panel was not satisfied that any sanction less than immediate revocation would be sufficient to enable Mr B to regain his fitness and propriety.

The meeting closed at 2.05 pm

Chairman of the Panel