

Minutes of the meeting of the LICENSING AND APPEALS HEARINGS PANEL held at 9.30 am on Thursday, 30th June, 2016 at HDC Meeting Room, Civic Centre, Stone Cross, Northallerton

Present

Councillor Mrs I Sanderson (in the Chair)

Councillor K G Hardisty

Councillor R Kirk

LAHP.1 **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 nos LAHP.22 and LAHP.23 on the grounds that they 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.2 **CONDUCT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER**

All Wards

The subject of the decision:

The Executive Director asked the Panel to consider whether to take any action against a hackney carriage and private hire driver licence held by the licensee ("Mr H").

Alternative options considered:

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

The Panel was satisfied that in order to serve the public interest it was not necessary to suspend or revoke Mr H's licence but it would not be appropriate to take no action at all in light of the concerns raised.

The reason for the decision:

The Panel considered the officer's report, Mr H's oral representations, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel heard evidence in relation to complaints made to the Council regarding Mr H's driving manner. The Panel heard evidence that on 8th September 2015 a taxi operator claimed to have terminated Mr H's contract of employment on the basis of complaints received regarding Mr H's driving manner. Mr H informed the Panel that he was not aware of any complaints at that time and that no contract of employment had existed but the arrangement had terminated for different reasons. The Panel accepted Mr H's assertion that there was no formal employment but it was satisfied that the arrangement between Mr H and the operator was sufficient to be regarded as such for the purposes of the hearing. In light of the conflicting versions of events provided by the two parties, the Panel was satisfied that, on its own, the information provided by the operator was not necessarily an accurate indication of Mr H's driving manner.

The Panel considered two further complaints made by two taxi drivers on 21st March 2016 regarding Mr H's driving manner. The complaints referred to Mr H's driving speed and dangerous manoeuvres. Mr H informed the Panel that he did not believe he had been driving too fast, nor did he think he had carried out any dangerous manoeuvres. The Panel was satisfied on a balance of probabilities that the frequency and consistency of the three reports was sufficient to raise concerns about Mr H's driving manner.

The Panel also considered evidence in respect of an incident on 1st May 2016 where Mr H's car had collided with the wall of a bridge. The Panel considered the incident report form and Mr H's oral and written submissions in respect of the accident. Mr H accepted that he had misjudged the turning and the Panel concluded on a balance of probabilities that, on this occasion, Mr H had been driving too fast for the conditions resulting in an accident.

The Panel noted that the Council was not in receipt of any direct complaints from members of the public in respect of Mr H.

THE DECISION:

Taking account of the above and having attached appropriate weight to the evidence, the Panel concluded that Mr H should undertake and pass a DVSA practical assessment within three months as approved by the Council's Principal Licensing Officer. The Panel also decided to issue a formal written warning.

The Panel was satisfied that these actions would enable Mr H to retain his status as a fit and proper person to hold a hackney carriage and private hire driver's licence but it noted that any future concerns relating to Mr H's driving manner would need to be addressed accordingly.

LAHP.3 **CONDUCT OF HACKNEY CARRIAGE DRIVER**

All Wards

The subject of the decision:

The Executive Director asked the Panel to consider whether to take any action against a hackney carriage driver licence held by the licensee ("Mr A").

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 the officer's report, the written and oral submissions of the parties, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel considered evidence that Mr A accepted a caution from the police for being in possession of a Class A controlled drug.

Mr A informed the Panel that he had found two plastic bags containing white powder in his licensed vehicle on 6th June 2016. Mr A insisted that the bags of powder did not belong to him and he did not know what the contents were. However, Mr A informed the Panel that he did suspect the bags may contain illegal substances and tasted the powder whilst standing in the taxi operator's office. Mr A informed the Panel that officers of Cleveland Police arrested Mr A shortly afterwards.

The Panel was satisfied that before a caution can be administered officers of Cleveland Police would need to have been satisfied not only that the offence could in their opinion be proved beyond reasonable doubt but also that Mr A accepted guilt.

The Panel concluded that a licensed driver can be reasonably expected to ensure that any suspicious substances found in a licensed vehicle are alerted to the police as soon as possible.

The Panel considered Mr A's previous good character and noted that there had been no complaints or reported incidents against him in eight to nine years as a licensed driver.

The Panel concluded on the balance of probabilities that there was no evidence to suggest this type of behaviour was habitual and that appropriate steps could be taken to ensure that it is not likely to be repeated in future. The Panel was very concerned about the seriousness of the offence.

THE DECISION:

Taking account of the above and having attached appropriate weight to the evidence, the Panel decided to impose a four week suspension of Mr A's hackney carriage driver's licence in accordance with section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976. The Panel also required Mr A to undertake a drug awareness course within three months as approved by the Council's Principal Licensing Officer. The Panel concluded that this sanction best served the interests of the public to ensure that Mr A did not repeat this action in the future.

The meeting closed at 12.15 pm

Chairman of the Panel