

Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 9.30 am on Monday, 2nd March, 2020 at Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

Present

Councillor R Kirk (in the Chair)

Councillor N A Knapton

Councillor A Wake

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 Conduct of Hackney Carriage and Private Hire Driver

All Wards

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 outlined in paragraph 6.1 of the Director's report. The Panel concluded that D was a fit and proper person to continue to hold a hackney carriage and private hire driver's licence subject to being issued with a written warning and therefore it was not necessary to revoke or suspend D's licence.

The reason for the decision:

The Panel considered the Director'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, in 2001, D was the subject of an investigation into an allegation of overloading a licensed vehicle. D subsequently admitted carrying an excess number of passengers and received a written warning as a result.

The Panel also noted that, in December 2013, North Yorkshire Police issued D with a Community Resolution Order following allegations that he made threatening comments on Facebook about foreign people setting up taxi firms and putting him out of business. D also received a written warning from the Council in relation to the same matter.

The Panel noted that, on 18 December 2019, Hambleton District Council's Licensing Team received some information from Hambleton and Richmondshire Pupil Referral Service (via North Yorkshire County Council) in relation to concerns over some comments allegedly made by a driver who was later identified as D.

The Panel noted that the report of the Pupil Referral Service stated that a 14 year-old male student indicated that D had used inappropriate language of a sexual nature in response to a taxi booking enquiry from a female passenger. The report stated that the 14 year-old male student was amused by D's comment and that this was not the first time that D had made comments similar to this.

The Panel noted that, on 19 December 2019, D attended the Council offices to give his account of the alleged incident. D denied that the incident occurred and he insisted that he had never had a conversation of that nature in the presence of passengers. D acknowledged that conversations of this nature would be totally unacceptable.

The Panel noted that, in December 2019, the Local Authority Designated Officer (LADO) at North Yorkshire Safeguarding Unit consulted with the Pupil Referral Service and a social worker in relation to the alleged incident and this was reported back to the Licensing Team. The social worker stated that the 14 year-old male student described the incident to her directly and confirmed that D had used inappropriate language of a sexual nature in response to a taxi booking enquiry from D's ex-girlfriend.

The Panel noted that the Pupil Referral Service had sought to make further enquiries with the male student in January 2020. However, at that time, he was refusing to answer any further questions in relation to the incident.

The Panel considered an email sent by the male student's mother ("M") on 10 February 2020 to the Licensing Team. The Panel noted that M expressed her concerns over the accuracy of the information provided to the Council in respect of D and indicated that her son was not present at the time of the incident and that he had not heard anything. The Panel noted M indicated that she had known D for 19 years and that she had found him to be professional and friendly.

The Panel also considered the case notes of the social worker and confirmation of the account provided by the Pupil Referral Service both of which were sent to the Licensing Team in February 2020. The Panel noted that the account provided by the Pupil Referral Service and the case notes of the social worker were consistent with the original information provided to the Council.

The Panel noted that it is entitled to rely on any evidential material, even if it is hearsay. In doing so, the Panel considered the source, nature and inherent probability of the evidence in order to assess its credibility. The Panel was satisfied that the Pupil Referral Service and the social worker are reliable sources and there were no reasonable grounds to doubt the accuracy of their reports.

The Panel was satisfied that the passenger had not intended to cause trouble for D as he found the incident amusing and did not believe that the driver had done anything wrong. The Panel noted that D believed that he had a good relationship with the passenger. On that basis, the Panel concluded that there were no grounds to doubt the accuracy of the accounts provided by the male passenger to the Pupil Referral Service and the social worker.

The Panel concluded that the alleged incident did occur and that the use of sexually suggestive language with a passenger was in contravention with the Council's Policy.

The Panel noted that the passenger involved in the alleged incident had not raised any concerns regarding D's conduct in respect of this incident and, reportedly, had found the exchange amusing. Similarly, the female caller was said to have laughed at D's comments and there was no suggestion that the incident had caused her any direct offence.

The Panel also noted that D had provided character references from two customers. The Panel concluded that D would have positive experiences with some customers. However, the Panel was concerned that his behaviour on this occasion was not appropriate.

The Panel concluded that a written warning issued by the Council's Principal Licensing Officer in relation to D's conduct and the Council's Policy requirements would be appropriate under the circumstances. The Panel was satisfied that the incident was unlikely to be repeated and that D would understand that any future concerns in this regard would raise serious doubts as to his suitability to act as a hackney carriage and private hire driver.

The decision:

Taking account of the above and having given appropriate weight to the evidence the Panel reached the following conclusions:-

The Panel was satisfied that the applicant was a fit and proper person to continue to hold a hackney carriage and private hire driver licence subject to a written warning being issued by the Council's Principal Licensing Officer in relation to appropriate conduct and Policy requirements.

The meeting closed at 10.15 am

Chairman of the Panel