



Minutes of the Licensing Sub-Committee

24 March 2016

-: Present :-

Councillors Brooks, Doggett and Manning

41. Election of Chairman/woman

Councillor Manning was elected as Chairman for the meeting.

42. Minutes

The Minutes of the meeting of the Sub-Committees held on 17 September 2015, 22 October 2015, 10 December 2015 and 18 February 2016 were confirmed as a correct record and signed by the Chairman.

43. Review of Torbay Council Driver's Licence

Members considered a report concerning a Torbay Council Licensed Driver and whether she remained a 'fit and proper person' to hold a Torbay Council Driver's Licence. At the hearing Members of the Licensing Sub-Committee heard submissions from the Senior Licensing Officer and the Respondent, Mrs Nicola Lyness.

Decision:

- (i) that Mrs Nicola Lyness' Torbay Council driver's licence be suspended for a period of three months, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provision Act 1976, and that this suspension shall be with immediate effect, in accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, as it appeared to Members on hearing the evidence before them that it is appropriate to do so in the interests of public safety; and
- (ii) during the period of suspension, Mrs Lyness be required to undertake and provide written evidence to the Licensing Authority of successfully completing a Driver Standard Agency Taxi Assessment Test (DSATAT), as set out at page 11, paragraph 5.10 and 5.11 of the Licensing Authority's Hackney Carriage (Taxi) and Private Hire Policy, May 2013. Failure to successfully complete the course within the said time, will result in revocation of any existing driver's licence held by Mrs Lyness and that she be prohibited from applying for a new drivers licence until such time that written evidence is provided to the Licensing Authority of the DSATAT course being successfully completed by her.

Reason for Decision

Having carefully considered all the written and oral Representations, Members resolved to suspend Mrs Lyness' Driver's Licence, as they could not be satisfied that she remained a 'fit and proper person' to hold such a licence.

In coming to that decision, Members considered having been charged with the responsibility to determine the driver's licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care or any other vulnerable person known to them to get into the vehicle with Mrs Lyness alone. An unequivocal and unanimous answer to this question by Members', was no.

In determining that Mrs Lyness does not remain a 'fit and proper person' to be a driver licensed by Torbay Council, Members had due regard to their duty to protect the public and on the evidence before them, Mrs Lyness had conducted herself in a manner that was unacceptable and fell below the standard expected by them of a driver licensed by Torbay Council.

In noting Mrs Lyness's submissions and demeanor at the hearing, it appeared to Members that Mrs Lyness did not, as a licensed driver which carries a higher expectation of competency, accept the seriousness of the offences and showed little, if any remorse. Members were also concerned at the number and nature of the licensing endorsements gathered by her over a two year period and in particular, that two incidents were committed on the same day during April 2014 and that on some occasions, the offences were committed whilst she was transporting a passenger. This ultimately resulted in a driving disqualification being imposed by Bodmin Magistrates' Court on the 10th February 2016.

Members gave careful consideration to the revocation of Mrs Lyness driver's licence but resolved that having a period of suspension to reflect on the seriousness of her driving misdemeanours and the successful completion of the DSATAT, that their concerns would be alleviated.

44. Review of Torbay Council Driver's Licence

Members considered a report concerning a Torbay Council Licensed Driver and whether he remained a 'fit and proper person' to hold a Torbay Council Driver's Licence. At the hearing Members of the Licensing Sub-Committee heard submissions from the Senior Licensing Officer and the Respondent, Mr Michael Dewick.

Decision:

That Mr Michael Dewick be issued with a formal warning in respect of his conduct which amounted to a conviction for an offence under the Crime and Disorder Act 1998 Section 31(1)(b) for racially/religiously aggravated intentional harassment/alarm/distress.

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved that a formal warning was appropriate and proportionate in the circumstances before them.

In coming to that decision, Members had regard to the seriousness of the offence, which occurred whilst he was on duty and in the earshot of other taxi drivers and members of the public and resolved that it fell below the standard reasonably expected by them of a driver licensed by Torbay Council. However, Members weighed this against the apparent submissions of remorse and the excellent record held by the Licensing Authority, in that there had been no cause for concern or complaints made in respect of Mr Dewick during the significant time he had been licensed by the Authority.

Chairman/woman