



Minutes of the Licensing Sub-Committee

28 November 2019

-: Present :-

Councillors Doggett, Ellery and Kavanagh

12. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

13. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

At the request of the Respondent and with the agreement of the Chairman item 5 was deferred to the Licensing Sub Committee on 5 December 2019.

14. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Members considered a report that sought a review of a Torbay Council Dual Hackney Carriage and Private Hire Drivers' Licence. The Licensing Officer advised Members that Mr Piewiszko had failed to meet specific requirements as set out in the current Hackney Carriage and Private Hire Licensing Policy 2018 to 2022, by allowing his DVLA driving licence to expire and continuing to drive passengers for over a five month period.

At the hearing, Mr Piewiszko set out the circumstances to this advising Members that he hadn't received the reminder letter from DVLA and that failure to renew his DVLA licence was a genuine mistake on his part.

Decision:

That Mr Piewiszko be formally warned in writing and that this warning shall remain in situ for a period of 12 months and that should any further issues of concern arise within that 12 month period which requires Mr Piewiszko to appear again before a Licensing Committee, Members of that Committee shall be made aware of this written warning; and

That Mr Piewiszko read and familiarises himself with the contents of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy, as issued to him and that he keeps a copy of the said Policy in the licensed vehicle at all times when on duty as a licensed driver for future reference; and

That Mr Piewiszko's Drivers Licence suspension be lifted with immediate effect and his licence and plate be returned to him forthwith.

Reasons for the Decision:

Having carefully considered all of the written and oral representations, Members resolved that Mr Piewiszko should receive a formal written warning in this instance, having been satisfied on all the evidence before them, that this was a genuine mistake by him and that once it was known to him that his driving licence had elapsed, Mr Piewiszko acted immediately to remedy this.

Members were further satisfied that Mr Piewiszko had shown genuine remorse for this oversight and that he had not driven as a licensed driver since his immediate suspension.

Members further noted that there has never been any issues of concern with regards to Mr Piewiszko in the 13 years he has been a driver licensed by Torbay Council and the excellent oral character reference put forward by the owner of the company he works for who took it upon himself to attend the hearing in support of Mr Piewiszko.

In concluding, Members were reassured that the circumstances in which Mr Piewiszko appeared before them was out of character for him and therefore resolved a formal written warning was appropriate and proportionate in this instance.

15. Exclusion of the Press and Public

Prior to consideration of the item in Minute 16, the Chair decided that it was in the best interests of the public for the press to hear this item.

16. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Members considered a report that sought a review of a Torbay Council Dual Hackney Carriage and Private Hire Drivers' Licence. The Licensing Officer informed Members that the review followed receipt of a number of penalty points received for two separate offences over a 4 day period and a failure by Mr Dooley to report these latest endorsements to the Licensing Authority, as required by Torbay Council's current Hackney Carriage and Private Hire Licensing Policy 2018-2022.

At the hearing, Mr Dooley set out the circumstances to his conviction and explained that the endorsements were received at a time when he was going through very difficult personal circumstances.

Decision:

That Mr Dooley's Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence be suspended with immediate effect for a period of three months. During

that period of suspension, Mr Dooley must successfully complete a RoSPA (Royal Society for the Prevention of Accidents) Advanced Driving Test, as approved by the Driver Vehicle & Licensing Agency and provide evidence of its successful completion to the Council's Licensing Department.

The final date to which the test must be successfully completed is midnight on the 28th February 2020. Failure to successfully complete the test by the set date will result in Mr Dooley's Dual Hackney Carriage and Private Hire Drivers Licence being revoked with immediate effect; and

That Mr Dooley re-reads and familiarises himself with the contents of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy, as issued to him and that he keeps a copy of the said Policy in any licensed vehicle when on duty as a licensed driver for future reference.

Reasons for the Decision:

Having carefully considered all of the written and oral representations, Members resolved to suspend Mr Dooley's driver's licence for a period of 3 months with immediate effect, as they could not be satisfied at this time that he remains a fit and proper person to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence.

Members noted that Mr Dooley had committed two separate speeding offences on 11 March 2019 and 15 March 2019, receiving a total of 7 points on his DVLA licence, taking his current total to 13 penalty points. Mr Dooley failed to notify Torbay Council of both offences. Members heard that where a licensed driver receives more than 9 penalty points on their DVLA licence that are current at any given time, that that driver will be required to appear before a Licensing Sub-Committee, meaning that Mr Dooley should rightly have been before a Licensing Sub-Committee back in March 2019. The offences from March 2019 were discovered by routine checks of the DVLA driving records of all licensed drivers by a Council Officer in the Licensing Department and had these offences not been discovered by that Officer, it is likely that Mr Dooley offences would not have come to light.

Members heard from Mr Dooley who explained that none of the penalty points had been picked up whilst he was working as a licensed driver and that he had no previous offences or issues with the Licensing Authority. Mr Dooley informed Members of the mitigating circumstances surrounding the two offences in March 2019, and Members took this into account when reaching their decision.

When Mr Dooley was asked why he hadn't notified Torbay Council about the penalty points following the hearing at Newton Abbot Magistrates Court on 16 October 2019, Mr Dooley submitted that he was waiting for written confirmation. Members found this response to be disingenuous, as Mr Dooley would have been made aware of the outcome of these offences when he appeared before the Court on the 16 October 2019 and it was at this stage, that he should have notified the Council.

Members also heard that Mr Dooley had completed a Drivers Awareness Course following a driving offence in July 2017 and that the Licensing Authority had been made aware of this offence. It was of concern to Members that despite undertaking this course, Mr Dooley found himself before them and that it was reasonable for them to have expected a higher standard of care of a driver licensed by Torbay Council.

When reaching their decision, Members considered Mr Dooley's mitigating circumstances and noted that the two speeding offences in March 2019 were within a four day period and that no further such offences have been committed since. However Members could find no reasonable justification for the delay in contacting the Council to make them aware of these offences.

Members also noted and took in to consideration Mr Dooley previous good record with the Council, aside from the offence in July 2017 and that he recognised the potential risk of being in an emotional state and therefore chose not to work on the days where this risk was present. Members resolved that the incidents in March 2019 were based on personal circumstances at that time and with the successful completion of the RoSPA (Royal Society for the Prevention of Accidents) Advanced Driving Test, they were satisfied that Mr Dooley would become a fit and proper person again to be a driver licensed by Torbay Council.

In concluding, Members determined that Mr Dooley's Drivers Licence be suspended with immediate effect to ensure public safety and without the completion of the RoSPA (Royal Society for the Prevention of Accidents) Advanced Driving Test, Members believed that Mr Dooley remained a real risk as his personal circumstances put forward by him as mitigation, were yet to be concluded and that he had not changed his behaviour following his attendance on a drivers awareness course in 2017.

Chairman/woman