

## **Minutes of the Licensing Sub-Committee**

**3 December 2020**

**-: Present :-**

Councillors Barnby, Ellery and Kennedy

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### **3. Election of Chairman/woman**

Councillor Ellery was elected as Chairman for the meeting.

### **4. 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 Driver's Licence. The Licensing Officer advised Members that Mr Calderbank had failed to meet specific requirements as set out in the Hackney Carriage and Private Hire Licensing Policy 2018, following a conviction of common assault and beating of an emergency worker.

At the hearing, Mr Calderbank set out the circumstances which led to him being convicted of common assault and beating of an emergency worker and responded to questions from Members.

#### **Decision**

That Mr Calderbank be formally warned in writing and that this warning shall remain in situ for a period of 18 months and that should any further issues of concern arise within that 18 month period which requires Mr Calderbank to appear again before a Licensing Committee, Members of that Committee shall be made aware of this written warning.

#### **Reasons for Decision**

In coming to that decision, Members carefully considered having been charged with the responsibility to determine Mr Calderbank's drivers' 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 a vehicle with the Respondent alone. The majority answer by Members to this question, was 'yes'.

Members take a dim view of any assault, especially those on emergency services personnel when carrying out their duties and gave serious consideration to suspending Mr Calderbank's drivers' licence. However, in this instance, Members noted the circumstances surrounding the incident itself which led to this assault

taking place, the genuine remorse demonstrated by Mr Calderbank, the lapse in time between the offence and subsequent conviction and that during this period, Mr Calderbank had continued to operate as licenced driver without any other complaints or incidents of concern.

Taking all of the above into consideration, Members resolved to depart from Torbay Council's Hackney Carriage and Private Hire Policy believing it to be reasonable and proportionate, in this instance but determined that the warning should remain in situ for 18 months to act as a reminder to Mr Calderbank of future conduct and reflect the seriousness of how Members view assaults on emergency services personnel.

#### **5. Exclusion of the Press and Public**

At the meeting Members resolved that the Hearing should be held in public as they did not consider the item involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

#### **6. Consideration of the fit and proper status of an applicant to hold a dual Hackney Carriage and Private Hire Drivers' Licence**

Members considered a report on an application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence. The Licensing Officer advised Members that Mr Chaku had failed to meet specific requirements as set out in the Hackney Carriage and Private Hire Licensing Policy 2018, by failing to declare relevant convictions.

At the hearing, Mr Chaku set out the circumstances which led to the convictions and him omitting to declare the convictions on his application form to become a holder of a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence.

#### **Decision**

That Mr Chaku's application for a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence be refused, on the grounds that he is not considered to be a 'fit and proper' person to hold such a licence.

#### **Reasons for Decision**

In coming to that decision, Members carefully considered having been charged with the responsibility to determine Mr Chaku's drivers' 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 a vehicle with Mr Chaku alone. An unequivocal and unanimous answer by Members to this question, was 'no'.

Members determined that the application question in relation to convictions to be clear and were concerned that Mr Chaku was not forthcoming in his response to

this question, resulting in his convictions only becoming known upon the submission of his advanced Disclosure and Barring Services disclosure. This, Members believed to be a deliberate attempt by Mr Chaku, to mislead the Licensing Authority.

Having heard of the Officers feedback to the Principal Licensing Officer regarding their concern of Mr Chaku's aggressive conduct towards them on the 9<sup>th</sup> October 2020 when undertaking the knowledge test which is required as part of his application, Members noted it to mirror the accounts given by Torbay Council's Food Officers during their investigation in March 2018. On hearing Mr Chaku's account of the events, Members found no reason to disbelieve the Officers account and this furthered their concerns to Mr Chaku's suitability to become a driver licensed by Torbay Council.

On the evidence before them, Members could not be satisfied that Mr Chaku had the right temperament to deal with what at times, could be challenging situations with some passengers, in a calm, controlled and professional manner, given his reaction to historic incidents involving Officers and more recently, that which occurred on the 9<sup>th</sup> October 2020.

In concluding, Members had careful regard to the convictions criteria set out in Torbay Council's Hackney Carriage and Private Hire Policy and resolved in this instance, that there was no justified reason to depart from the Policy. This, coupled with the concerns referred to above, resulted in what Members determined to be a proportionate and appropriate decision, in refusing Mr Chaku's application, at this time.

## **7. Adjournment**

At this juncture the meeting of the Licensing Sub-Committee adjourned until 11.25 a.m. (See separate agenda and minutes for further details.)

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Chairman/woman