

Minutes of the Licensing Sub-Committee

18 February 2021

-: Present :-

Councillor Ellery (Chairman)

Councillors Kavanagh and Barbara Lewis

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

Prior to the start of the hearing and noting the absence of Mr Lawrence-Ball, Mr Rackley was asked by the Chairperson to telephone Mr Lawrence-Ball to confirm if he would be attending the hearing, having informed Members of his telephone call the day before with Mr Lawrence-Ball, where he had said he would be attending. Mr Lawrence-Ball did not answer the call and Mr Rackley left a message. Having been satisfied that Mr Lawrence-Ball was aware the hearing date and time, the Sub-Committee unanimously resolved to continue the hearing and would base their determination on the written information provided and the written and oral evidence received at the original hearing, on 14 January 2021. At the Chairpersons further request, Mr Rackley attempted again to contact Mr Lawrence-Ball prior to the Sub-Committee's deliberation, in order to give him a chance to put across his point of view and respond to questions but no response was received.

Further to the meeting of the Licensing Sub-Committee on 14 January 2021, Members reconvened and considered the report and additional medical evidence, which had been requested at the original hearing, on a review of a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence. The Licensing Officer advised Members that Mr Lawrence-Ball had failed to meet specific requirements as set out in the Hackney Carriage and Private Hire Licensing Policy 2018, by failing to declare relevant motoring offences.

At the original hearing, Mr Lawrence-Ball set out the circumstances which led to the 1 speeding offence and 1 motoring offence during a 2 year period which left him with 9 penalty points and the reasons for him omitting to declare the convictions to the Licensing Authority.

Decision

That Mr Lawrence-Ball's Torbay Council issued Dual Hackney Carriage and Private Hire Drivers' Licence be suspended with immediate effect, in accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976,

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 Lawrence-Ball's Dual Hackney Carriage and Private Hire 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 Lawrence-Ball alone. An unequivocal and unanimous answer by Members to this question, was 'no'.

Members determined that the failure to declare the speeding and motoring offences, whilst of great concern, had occurred during difficult and emotional times; and it was likely during this period, that Mr Lawrence-Ball may not have been in a fit and proper state, due to personal bereavements and the likelihood of this being compounded by his history of mental health, having disclosed this at the initial meeting on the 14 January 2021.

However, in the absence of Mr Lawrence-Ball presence at the meeting to provide evidence and assurances to the contrary, and noting their primary objective which is one of public safety, Members could not be satisfied on the evidence before them that Mr Lawrence-Ball remained a fit and proper person to hold a Drivers' licence. In addition, Members determined that the submitted GP letter dated 3 February 2021 was inconclusive on the current circumstance of Mr Lawrence-Ball's mental health, as it appeared that he had not spoken to the GP personally, despite the purpose of the adjournment being orally advocated to Mr Lawrence-Ball; and that the letter was based on historical events, with the most recent being in 2018.

In respect of failing to report the offences to the Licensing Authority, as required by the Policy, Members acknowledged that Mr Lawrence-Ball had notified the Operator of the offences but this in their opinion, showed a lack of professional awareness by Mr Lawrence-Ball to familiarise himself with the requirements of the Policy which is reasonably expect by them, of a driver licensed by Torbay Council. This coupled with him driving without due care and attention which by his own admission, led to the incidents occurring, was also of great concern to Members, when considering public safety.

In concluding, Members gave careful consideration to revoking Mr Lawrence-Ball's Drivers' licence but determined on the evidence before them, a suspension was appropriate and proportionate and that this suspension should be with immediate effect, given also the uncertainties before them and to ensure public safety.