



Minutes of the Licensing Sub-Committee

5 December 2019

-: Present :-

Councillors Ellery, Doggett and John Thomas

17. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

18. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillors John Thomas and Doggett instead of Councillors David Thomas and Mills.

19. 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 the review followed receipt of a number of penalty points by Mr Cree and a failure by Mr Cree to report these endorsements to the Licensing Authority, as required by Torbay Council's current Hackney Carriage and Private Hire Licensing Policy.

At the Hearing, Mr Cree set out the circumstances to the convictions and explained that whilst he was aware of the convictions, he had no good reason for not notifying the Licensing Authority.

Decision:

That Mr Cree's Dual Torbay Council Driver's Licence be revoked in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and that this revocation shall have immediate effect in accordance with Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for Decision:

Having carefully considered all of the written and oral representations, Members resolved to revoke Mr Cree's drivers licence with immediate effect as they could not be satisfied that he is a fit and proper person to hold a Torbay Council Dual Hackney Carriage and Private Hire Drivers Licence.

Members noted that Mr Cree had committed three separate speeding offences within a 12 day period in February and March 2019, receiving a total of 9 penalty points on his DVLA licence. Mr Cree failed to notify Torbay Council of any of the offences. Members heard that where a licensed driver has 9 penalty points on their DVLA licence at any given time, that the driver will be required to appear before a Licensing Sub Committee, meaning that Mr Cree should rightly have been before a Licensing Sub-Committee back in March 2019. The offences from February 2019 and 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 Cree's offences would not have come to light when they did.

Members heard from Mr Cree 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 during his 10 years as a licensed driver. Mr Cree explained that whilst he held the drivers licence, he hadn't been working as a taxi driver for two and a half years.

When Mr Cree was asked why he didn't notify Torbay Council of the offences in order to comply with the terms of the Licensing Policy, Mr Cree replied "Out of sight, out of mind – I have another job and I wasn't thinking about taxiing". Members found this response to be flippant and of great concern, as notwithstanding alternative employment, Mr Cree has chosen to keep his driver's licence and to say that matters were 'out of sight and therefore out of mind', fell below the standard of care they could reasonably expect of a driver licensed by Torbay Council.

Mr Cree showed no remorse for the offences and was not forthcoming in apologising for his conduct which in Members opinion, failed to reassure them that Mr Cree would not repeat such offences and therefore could place the public at risk.

On the evidence before them and the lack of persuasive mitigating circumstances surrounding the offences, Members could not be satisfied that suspending Mr Cree's drivers licence and determining that he should undertake a drivers awareness course would ensure that subsequently Mr Cree would become a fit and proper person to hold a Torbay Council drivers licence.

In determining that the revocation should be with immediate effect, Members noted the absence of persuasive mitigating circumstances surrounding the offences, the number of offences in a very short period, the flippant comment in respect of 'out of sight and out of mind', and the apparent lack of remorse and determined that it was appropriate in the interest of public safety to do so.