



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

**6 February 2014**

**-: Present :-**

Councillors Bent, Brooksbank and Pentney

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

Councillor Pentney was elected as Chairwoman for the meeting.

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

Prior to consideration of the item in Minute 53 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended.)

### **53. Taxi Driver Report**

Members considered an exempt 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 Environmental Health Manager (Commercial), a Police Officer from Devon and Cornwall Constabulary and the Respondent.

Decision:

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

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved to revoke the Respondent's Driver's Licence, as they could not be satisfied that he 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 vulnerable person known to them to get into a vehicle with the Respondent alone. An unequivocal and unanimous answer to this question, was 'no'.

This answer was formed considering their duty to protect the public, in the knowledge that a licensed driver is in a position of trust and on the evidence before them; the Respondent had conducted himself in a manner that was inappropriate, unacceptable and fell well below the standard expected by them of a driver licensed by Torbay Council.

Whilst Members had regard to the seriousness of the allegations, they balanced this against the evidence submitted by the Police, in that previous allegations had been made by the alleged victim to a third party, which were dissimilar to those allegations before them, and the fact that when investigated by the Police they were believed not to have happened and as such, no crimes were created.

Notwithstanding this regard, Members primarily came to their decision based on the fact that the Respondent had by his own admission watched pornography on a portable DVD player, whilst on duty in his taxi and outside a school. Of further concern, the purpose of the Respondent's presence was, as contracted between the company he worked for and a local authority, to provide regular transport to a lone vulnerable female who the Respondent said, may have seen what he was watching when she approached his vehicle. When questioned by Members, the Respondent accepted that such conduct was inappropriate.

In addition, two days after the allegations were made, the Police when arresting the Respondent and in the process of searching his taxi, discovered a Portable DVD player with what the Respondent admitted as having a 'naughty DVD' in it.

Members considered whether to suspend the driver's licence but unanimously resolved that due to such a serious error of judgement made by the Respondent, in watching pornography outside a school in the circumstances in which he was there for and having no regard that such material could have been seen by others, including children meant that the only appropriate outcome was an outright revocation.

In coming to the decision to revoke the Respondent's driver's licence, Members resolved that it should be with immediate effect, as it is in the interest of the public to do so. Members' reasoning for this determination is due to the perceived risk which they believe the Respondent poses, following his serious error of judgement in these circumstances.

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Chairman/woman