



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

**1 March 2018**

**-: Present :-**

Councillors Doggett, Thomas (J) and Stocks

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

Councillor Thomas was elected as Chairman for the meeting.

### **82. Apologies**

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Stocks instead of Councillor Pentney.

### **83. Minutes**

The Minutes of the meetings of the Sub-Committee held on 23 November 2017, 21 December 2017 and 25 January 2018 were confirmed as a correct record and signed by the Chairman.

### **84. Urgent items**

The Committee considered the items in Minute 85 and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

### **85. Torbay Court Hotel, Steartfield Road, Paignton**

The Senior Solicitor and Deputy Monitoring Officer informed Members that at a Review Hearing held on 9 November 2018, Torbay Court Hotel Premises Licence was amended to include additional conditions in relation to the Prevention of Public Nuisance. An appeal of that decision was subsequently made to the Magistrate's Court by the Premises Licence Holder; however following negotiations between all parties, the Premise Licence Holder withdrew their appeal and before Members today is a Consent Order for approval.

Resolved:

On hearing the facts, Members resolved to agree the Consent Order but wanted it noted that whilst the conditions set out in the Consent Order were approved, it is only by compliance of those conditions by the Premises Licence Holder that the Licensing Objectives will be promoted.

Should issues arise as a result of this approval, Members would welcome a further Review of the Premises Licence.

#### **86. Review of a Torbay Council Drivers' Licence**

Members considered a report that sought a review a Torbay Council Drivers' Licence. The Principal Licensing Officer advised Members that the review follows receipt of a number penalty points received by Mr Ryan and a failure by Mr Ryan to report the latest endorsement to the Licensing Authority, as required by Torbay Council's current Hackney Carriage (Taxi) & Private Hire Policy.

At the Hearing, Mr Ryan set out the circumstances to the conviction and explained that whilst he was aware of his conviction, he was unaware that he had received the penalty points.

#### **Decision**

That Mr Ryan's 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 the written and oral Representations, Members resolved to revoke Mr Ryan's driver's licence having unanimously voted that in their opinion, he did not 'remain a fit and proper person' to hold a Torbay Council Driver's Licence.

In coming to that decision, Members applied the test set out in Appendix A, Section 1.2 at page 26 of Torbay Council's current Hackney Carriage and Private Hire Licensing Policy.

In addition, Members noted with great concern that the further incident and failure to notify the Licensing Authority of the additional conviction and associated penalty points had occurred despite Mr Ryan's driver's licence being previously suspended with specific requirements for him undertake The Royal Society for the Prevention of Accidents (RoSPA) Advance Driving Test and to read and familiarise himself with the Licensing Authority's current Hackney Carriage and Private Hire Licensing Policy.

Whilst Members considered the recent incident on its merits, it was reasonably expected by them that Mr Ryan's should have been aware of his requirements to notify the Licensing Authority of any convictions and were very disappointed that he had again failed to do so.

In cementing their decision, Members could not be satisfied that a driver who currently had 11 penalty points on their licence, with the most recent points being added for what in their opinion was a further failure by Mr Ryan to pay due care

and attention to road signs, which by his own admission that he did not see, ultimately resulting in the speeding conviction. A conviction which Mr Ryan received only 10 months after completing the RoSPA Advanced Driving Test, causing Members to question Mr Ryan's safety and competency as a professional Licensed Driver.

Members noted Mr Ryan's submission in respect of the financial consequences he would suffer if he lost his Drivers' Licence, but were very clear that such a consideration was not a material fact; but instead their primary consideration was one of public safety.

Members further concluded that Mr Ryan's Drivers' Licence should be revoked with immediate effect on the basis that Mr Ryan was a professional driver, who currently has 11 penalty points on his driver's licence and had on a second occasion, been convicted for failing to pay due care and attention to road signs. This coupled with his failure to notify the Licensing Authority of the further conviction, in their opinion, placed Mr Ryan as a high risk to members of the public and other road users.

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Chairman/woman