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MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 21 JULY 2015

Present:

Councillor Hutton (in the Chair)

Councillors

Cox	Mitchell	Robertson BEM
Owen	L Taylor	

In Attendance:

Lennox Beattie, Executive and Regulatory Support Manager
Sharon Davies, Head of Licensing Service
Chris Williams, Democratic Services Adviser

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 MINUTES OF THE MEETING HELD ON 16TH JUNE 2015

Resolved: That the minutes of the meeting held on 16th June 2015 be signed by the Chairman as a correct record.

3 APPLICATION TO LICENSE A CINDERELLA HORSE-DRAWN HACKNEY CARRIAGE

The Sub-Committee considered an application to licence a Cinderella Horse-Drawn Hackney Carriage. During consideration of the application, Members conducted a visual inspection of the Carriage.

Mr Savage, the applicant, was in attendance at the meeting and spoke in support of the application.

Resolved: The Sub-Committee noted that the application to licence a Modified Cinderella Horse-Drawn Hackney Carriage be granted subject to a satisfactory inspection by the Council's Carriage Inspector.

4 APPLICATION TO LICENCE A MODIFIED HORSE-DRAWN HACKNEY CARRIAGE

The Sub-Committee considered an application to licence a modified Horse-Drawn Hackney Carriage. During consideration of the application, Members conducted a visual inspection of the Carriage.

Ms Cooper, the applicant, was in attendance at the meeting and spoke in support of the application.

Resolved: The Sub-Committee noted that the application to licence a Modified Cinderella Horse-Drawn Hackney Carriage be granted subject to a satisfactory inspection by the

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Council's Carriage Inspector.

5 HORSE-DRAWN HACKNEY CARRIAGE DRIVERS LICENCES

The Sub-Committee was informed of applications from two existing Horse-Drawn Hackney Carriage drivers that had given sufficient cause for concern as to be referred to the Sub-Committee for consideration.

Members discussed the referrals as follows:

(i) MJL – Existing Horse-Drawn Hackney Carriage Driver

Mr Marshall, Licensing Health and Safety Enforcement Manager, and Mr Verity, Public Protection Officer, who were in attendance during consideration of this case presented it on behalf of the Authority. Mr Ratcliffe, Licensing Officer, was also in attendance.

The Sub-Committee had agreed to defer the case from the previous meeting to allow MJL to attend and make a representation.

MJL was in attendance at the meeting and made representations to the Sub-Committee.

The Sub-Committee was reminded of the serious defects to the Horse-Drawn Hackney Carriage that had resulted in an immediate prohibition notice being issued as it had been deemed unfit to be on the road. Photographs showing the condition of the vehicle were circulated to Members. The Sub-Committee noted the officer's report that comments had been made by the driver stating that no action had been taken by the owner following the driver reporting the problems with the Carriage to him.

During consideration of the case, Members again expressed concerns at the serious defects and general state of disrepair of the Carriage that would have been clearly visible to the driver and highlighted the risks to public safety from the defects. The Sub-Committee noted that MJL had approached the proprietor regarding the Carriage defects but no remedial work had since been carried out. MJL added that shutting the defective door forcefully had become the only temporary solution to the problem.

The Sub-Committee carefully considered all of the evidence and questioned whether the Driver could have done more given that he was aware of the faults with the Carriage for some time. Members also noted that the Driver had a good track record of over 20 years as a Driver.

Resolved: That the Horse-Drawn Hackney Carriage Driver's Licence be suspended for a period of six weeks on the grounds that he had allowed a Hackney Carriage he had operated to be used in a condition that presented a serious risk to public safety.

NOTE: MOTION MOVED, SECONDED, VOTED UPON AND LOST

During consideration of the above item, the following motion was moved, seconded, voted upon and lost:

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'That the Horse-Drawn Hackney Carriage Driver should receive a warning letter in relation to his conduct in allowing a Hackney Carriage he had operated to be used in a condition that presented a serious risk to public safety..'

Background papers: Exempt

(ii) DP – Existing Horse-Drawn Hackney Carriage Driver

Mr Marshall and Mr Ratcliffe, Licensing Officer presented the case on behalf of the Authority.

DP was in attendance at the meeting and requested the Sub-Committee defer his case as he claimed not to have received advance notification.

After careful consideration, the Sub-Committee agreed that on balance there was a chance that the Driver had not received adequate notification of the hearing.

Resolved: To defer consideration of the case to its next meeting on 1st September 2015 to allow the Driver time to seek legal advice.

Background papers: Exempt

6 PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCES

The Sub-Committee was informed of an existing Hackney Carriage driver and an existing Hackney Carriage and Private Hire vehicle driver that had given sufficient cause for concern as to be referred to the Sub-Committee for consideration.

Members discussed the applications and referrals as follows:

(i) AJY – Existing Hackney Carriage and Private Hire Driver

AJY was not in attendance at the meeting due to family commitments and had requested a deferral of his case to the next meeting of the Sub-Committee.

Mr Marshall was in attendance during consideration of this case and presented it on behalf of the Authority. Mr Verity, Public Protection Officer was also in attendance and provided information to the Sub-Committee.

Mr Marshall advised the Sub-Committee of his view that based on the inappropriate nature of the driver's conduct in relation to the incident, his failure to appear to make representations, the time that had elapsed since the incident and unsatisfactory disciplinary action taken by his employer at the time, there were compelling reasons that the case should be heard in his absence.

During consideration of the case, Members expressed concerns at the conduct and questionable judgement exercised by the Driver that had given rise to a difficult and sensitive situation, one which called into question his fitness to operate effectively as a

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Hackney Carriage and Private Hire Driver. The Sub-Committee noted the previous good conduct of the driver whilst it considered the action to be taken.

Resolved:

1. In view of the seriousness of the incident, that the case be heard in the Drivers absence.
2. That in respect of the case, no further action be taken save that a serious warning letter be issued to the Hackney Carriage and Private Hire Driver indicating that in the event of a further incident, the licence be revoked or suspended.
3. Following concerns at the manner in which the Driver was dealt with following the incident, the Sub-Committee instructed the Head of the Licensing Service to write to the company that the Driver worked for and insist that if any similar incidents occurred in the future, that they be brought before the Sub-Committee.

NOTE: MOTION MOVED, SECONDED, VOTED UPON AND LOST

During consideration of the above item, the following motion was moved, seconded, voted upon and lost:

‘That the Hackney Carriage and Private Hire Driver’s Licence be revoked.’

Background papers: Exempt

(ii) JL – Existing Hackney Carriage Driver

Mr Ratcliffe, Licensing Officer, presented the case on behalf of the Authority.

JL was in attendance at the meeting and made representations to the Sub-Committee.

The Sub-Committee noted that the driver had previously had his Hackney Carriage driver’s licence revoked.

Upon having his Driver’s Licence reinstated on 16th March 2012 and after previously appearing before the Sub-Committee on 5th April 2012 and being granted a new Hackney Carriage Driver’s Licence with a warning letter in relation to future conduct, The Members noted that JL had accrued nine further penalty points for traffic offences.

In response to questions about the frequency and nature of the traffic offences, the driver demonstrated remorse and advised that the offences had occurred whilst driving late at night and not whilst on duty or carrying passengers.

The Sub-Committee considered the history of driving related offences, the relatively high number and short duration between offences and the driver’s previous revocation. The Panel balanced the evidence with the fact that the driver had shown remorse in relation to the offences.

Resolved: That a severe warning letter be issued regarding future conduct and that the driver exercise extreme caution when driving to avoid a driving ban or additional penalty

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points.

Background papers: Exempt

7 DONKEY DRIVERS LICENCES

The Sub-Committee was informed of an application for a Donkey Driver's Licence that had given sufficient cause for concern as to be referred to the Sub-Committee for consideration.

Mr Marshall and Mr Verity presented the case on behalf of the Local Authority.

PJG was in attendance and made representations to the Sub-Committee.

Mr Verity advised that following an incident on 28th February 2015 in which an unlicensed male was left in charge of a number of donkeys, a child had fallen from one of the animals. In separate incidents on 11th April 2015 and again on 9th July 2015, PJG was found to be operating donkeys without a valid licence as it had ended on 9th April 2015.

PJG did not accept that the incident of 28th February 2015 had resulted in any injury to a child and advised that the person he left in charge temporarily was, in his view, competent. In addition, PJG claimed that confusion over the expiry date on his previous licence explained why he was found to be operating without a current licence on two separate occasions.

The Sub-Committee considered the number of incidents that had involved the driver and his poor judgement on each occasion. They also reflected on the fact that the Driver had been apologetic and had previously held a licence for over a year without incident.

Resolved: That the application for a Donkey Driver's licence be refused on the grounds that the applicant was not a fit and proper person due to his previous conduct being significantly below the standards expected of a licensed operative.

Background papers: Exempt

8 DATE OF NEXT MEETING

Members noted the date of the next meeting as Tuesday 1st September 2015.

Chairman

(The meeting ended 7.40 pm)

Any queries regarding these minutes, please contact:
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