

Blackpool Council

15 March 2021

To: Councillors Mrs Callow JP, Collett, Critchley, Farrell, Hunter, Hutton, D Scott, R Scott and Wilshaw

The above members are requested to attend the:

PUBLIC PROTECTION SUB-COMMITTEE

Tuesday, 23 March 2021 at 6.00 pm
Via Zoom meeting

A G E N D A

ADMISSION OF THE PUBLIC TO COMMITTEE MEETINGS

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The Head of Democratic Governance has marked with an asterisk (*) those items where the Committee may need to consider whether the public should be excluded from the meeting as the items are likely to disclose exempt information.

The nature of the exempt information is shown in brackets after the item.

This information is provided for the purpose of this meeting only and must be securely destroyed immediately after the meeting.

1 DECLARATIONS OF INTEREST

Members are asked to declare any interests in the items under consideration and in doing so state:

(1) the type of interest concerned either a

- (a) personal interest
- (b) prejudicial interest
- (c) disclosable pecuniary interest (DPI)

and

(2) the nature of the interest concerned

If any member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

2 MINUTES OF THE LAST MEETING HELD ON 23 FEBRUARY 2021 (Pages 1 - 4)

To agree the minutes of the last meeting held on 23 February 2021 as a true and correct record.

3 ALLOCATION OF STREET COLLECTION PERMITS 2021-2022 (Pages 5 - 8)

To review the decision of the Sub-Committee in November 2020 to suspend applications for Street Collection permits in line with Coronavirus restrictions at that time and to consider the allocation of Street Collection permits for 2021-2022.

*** 4 USE OF DELEGATED POWERS SINCE THE LAST MEETING** (Pages 9 - 14)

To receive a verbal update on the use of Delegated Powers by the Trading Standards and Licensing Manager since the last meeting of the Sub-Committee.

(This item contains personal information regarding applicants and licence holders which is exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972)

5 DATE OF NEXT MEETING

To note the date of the next meeting as 27 April 2021.

Other information:

For queries regarding this agenda please contact Sarah Chadwick, Democratic Governance Adviser, Tel: (01253) 477153, e-mail sarah.chadwick@blackpool.gov.uk

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MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 23 FEBRUARY 2021

Present:

Councillor Hutton (in the Chair)

Councillors

Mrs Callow JP
Collett

Critchley
Farrell

Hunter
D Scott

R Scott
Wilshaw

In Attendance:

Lennox Beattie, Executive and Regulatory Support Manager
Sarah Chadwick, Democratic Governance Advisor
Sharon Davies, Senior Solicitor

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 EXCLUSION OF PRESS AND PUBLIC

Resolved: That under Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of Agenda Item Three, Horse Drawn Hackney Carriage Driver, and Agenda Item Four, Private Hire Driver.

3 MINUTES OF THE LAST MEETING HELD ON 19 JANUARY 2021

Resolved: That the minutes of the meeting held on 19 January 2021 be approved and signed by the Chair as a correct record.

4 HORSE DRAWN HACKNEY CARRIAGE DRIVER

The Public Protection Sub-Committee considered a Horse Drawn Hackney Carriage Driver Licence applicant, DKS, who had been convicted of offences or who had otherwise given reasons for concern.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case to the Sub-Committee. He informed Members that DKS was an existing Horse Drawn Hackney Carriage Driver who had applied to renew their licence in September 2020. On 9 February 2021 the Licensing Service received the results of a DVLA check for DKS which showed 6 penalty points from July 2019 for using a vehicle whilst uninsured. Mr Ratcliffe reported that DKS failed to disclose this conviction on their latest application form. Referring to the Council's Horse Drawn Hackney Carriage Driver convictions policy he recommended that, although the Sub-Committee may consider it an isolated offence, as it had occurred within the last three years a minimum of a strict warning should be given.

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In response, DKS explained that the incident occurred when they borrowed the vehicle of a seriously ill family member which they had mistakenly understood to be insured at that time. DKS informed Members that due to the long-term illness and subsequent passing of this family member it had been a stressful period which resulted in an oversight in failing to disclose the conviction on their application form.

The Sub-Committee considered the information submitted by all parties and agreed that a strict warning letter should be issued.

Resolved: That a strict warning letter be issued in respect of the incident that in the event of future issues the licence may be suspended or revoked, and any future non-disclosure of convictions may result in prosecution.

5 PRIVATE HIRE DRIVER LICENCE

The Sub-Committee considered a licence holder, MSC, who had been convicted of offences or who had otherwise given reasons for concern.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case to the Sub-Committee. He informed Members that MSC was an existing Private Hire Driver's licence holder who had previously appeared before the Sub-Committee in March 2009 in relation to a breach of smoking regulations and two traffic offences, and was issued a warning letter in relation to future conduct at that time.

Members were advised that since the warning letter was issued, MSC had been issued 18 points on their driving licence over a period of eight years for six separate speeding offences and currently had nine "live" points on their licence. Mr Ratcliffe further reported that MSC had failed to notify the Licensing Service of their three most recent traffic offences. He concluded that MSC's driving record since first being licensed in February 2008 was below the standard expected of a licensed driver and recommended the minimum of a suspension.

In response, MSC expressed their regret and stated that since the three most recent offences, which had accumulated nine penalty points over a twelve month period, they had driven more cautiously due to a fear of potentially losing their licence and hence their livelihood. MSC advised the Sub-Committee that the offences were accrued when driving at night whilst the roads were quieter and when no passengers were in their vehicle. When Mr Ratcliffe questioned why none of the three recent offences had been reported to the Licensing Service, MSC stated that this was an oversight.

The Sub-Committee indicated their concerns at the number of offences committed and the failure of the licence holder to report the convictions to the Licensing Service. In addition, as the offences had been accumulated over a number of years and continued to be accrued after attendance at a speed awareness course, Members were not satisfied that the licence holder's standard of driving would improve in the future.

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The Sub-Committee carefully considered the information provided by both parties. The number of convictions accrued and failure to notify the Licensing Service was considered extremely serious which fell well below the standards expected from a licensed driver. Whilst the remorse of the driver was noted, Members considered revoking the licence but decided it would not be proportionate and so agreed to impose a six week suspension.

Resolved: To suspend MSC's Private Hire Driver Licence for a period of six weeks and that a severe warning be issued that future non-disclosure of convictions would result in prosecution.

6 DATE OF NEXT MEETING

The date of the next meeting was confirmed as 23 March 2021.

Chairman

(The meeting ended 7.02 pm)

Any queries regarding these minutes, please contact:
Sarah Chadwick Democratic Governance Adviser
Tel: (01253) 477153
E-mail: sarah.chadwick@blackpool.gov.uk

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of meeting:	23 March 2021

ALLOCATION OF STREET COLLECTION PERMITS 2021-2022

1.0 Purpose of the report:

- 1.1 To review the decision of the Sub-Committee in November 2020 to suspend applications for Street Collection permits in line with Coronavirus restrictions at that time.
- 1.2 To consider the allocation of Street Collection Permits for 2021-2022.

2.0 Recommendation(s):

- 2.1 To restart the issuing of permits for Street Collections to be undertaken from 12 April 2021, or no earlier than the date the Government allows the reopening of non-essential retail, outdoor attractions and outdoor hospitality. In the case of further significant delays to the easing of Coronavirus restrictions a report will be brought back the Sub-Committee for consideration at its April meeting.
- 2.2 To delegate the Trading Standards and Licensing Manager authority to issue suitable applicants with permits for 2021-2022.
- 2.3 To authorise the grant of a permit under the Street Collection regulations to cover the public collections made via the collection booths during the period of the 2021 Illuminations and to permit the sale to the public a brochure on the evening of the Switch On of the 2021 Illuminations.

3.0 Reasons for recommendation(s):

- 3.1 The Sub-Committee are required to consider applications for the forthcoming year and consider whether they wish to deal with future applications themselves or delegate powers to grant suitable applications to the Trading Standards and Licensing Manager.
- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes
- 3.3 Other alternative options to be considered:
- The Sub-Committee has the power to grant or refuse the applications.
- 4.0 Council Priority:**
- 4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool."
- 5.0 Background Information**
- 5.1 Street Collections are regulated under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
- 5.2 At the meeting of the Public Protection Sub Committee in November 2020 it was agreed to suspend the issuing of street collection permits while Blackpool remained under Coronavirus restrictions. In anticipation of the easing of restrictions with the proposed reopening of non-essential retail, outdoor attractions and outdoor hospitality no earlier than 12 April, a number of charitable organisations will wish to restart collections as quickly as possible.
- Due to the current suspension on permit applications the Licensing Service has no existing applications for Street Collections in the forthcoming year that require consideration, so the granting of any future applications is recommended to be delegated to the Trading Standards and Licensing Manager. Should there be any doubts in respect of the suitability of any future application this will be referred back to the Sub-Committee for determination.
- 5.3 Does the information submitted include any exempt information? No
- 6.0 Legal considerations:**
- 6.1 None.
- 7.0 Human Resources considerations:**
- 7.1 None.
- 8.0 Equalities considerations:**
- 8.1 None.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 Consultation will be undertaken with the BID team or Visit Blackpool depending on where the collection is due to take place.

13.0 Background papers:

13.1 None.

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of Meeting	23 March 2021

USE OF DELEGATION OF POWERS - REVOCATION OF PRIVATE HIRE DRIVER'S LICENCE

1.0 Purpose of the report:

- 1.1 To highlight to the Sub-Committee the use of delegated powers to revoke a Private Hire Driver's Licence following consultation with the Chairman.

2.0 Recommendation(s):

- 2.1 To note the use of delegated powers by the Trading Standards and Licensing Manager in the period since the last Sub-Committee meeting on 23 February 2021 contained at section 5.8.

3.0 Reasons for recommendation(s):

- 3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

None, for information only.

4.0 Council Priority:

- 4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool"

5.0 Background Information

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:
- (a) That he has since the grant of the licence:
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or
 - (b) Any other reasonable cause.
- 5.2 In August 2017, the Sub-Committee agreed changes to the delegation of powers as recent case law had confirmed that a Council cannot use the suspension of a Hackney Carriage or Private Hire driver's licence as holding operation pending further investigation. The Court held that if a Council were to suspend a licence "it must do so by way of a substantive decision on the fitness of the driver to hold the licence, after giving the driver a proper opportunity to state his case, not merely as a means by which to maintain a position pending the final outcome of the criminal proceedings."
- 5.3 It was agreed that due to changes in the officer structure that the power be allocated to the Trading Standards and Licensing Manager.
- 5.4 It was agreed therefore that the procedure work as follows:
- 5.5 That in the event of a serious concern being raised regarding the fitness of a driver to hold a Hackney Carriage or Private Hire Drivers' Licence the Trading Standards and Licensing Manager be tasked in the first instance with investigating the issue. The concern could take the form of convictions, police information or complaints from the public.
- 5.6 The driver be invited to a formal interview to discuss the area of concern with the Trading Standards and Licensing Manager and either the Chairman or Vice-Chairman of the Public Protection Sub-Committee. Consideration will then be given as to which of the following three courses of action is necessary and proportionate:
- i) That the issue is serious enough to require the revocation of the licence with immediate effect.
 - ii) That while there is a case to answer the issue is not urgent and can therefore be referred for consideration by the next meeting of the Public Protection Sub-Committee or a special meeting of that Sub-Committee.
 - iii) That no action be taken at present, this does not preclude further investigation of the issue.

5.7 Where the Trading Standards and Licensing Manager acts to revoke a licence, they will bring a report to the next Public Protection Sub-Committee.

5.8 On 2 January 2021, a Private Hire driver had been involved in conduct that was deemed to fall well short of the standards expected of a licensed driver.

The Sub-Committee is asked to note the decision taken using delegated powers on 9 March 2021 to revoke with immediate effect, the Private Hire driver's licence, in respect of the following case:

D.P.S (existing Private Hire driver).

5.9 Details of offences or matters causing concern and any supporting documents are attached at Appendix 4(a).

A verbal update on this case will be provided at the meeting and action taken.

5.10 Does the information submitted include any exempt information? Yes

5.11 List of Appendices

Appendix 4(a): Notice of Revocation (not for publication)

6.0 Legal considerations:

6.1 None.

7.0 Human Resources considerations:

7.1 None.

8.0 Equalities considerations:

8.1 None.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 None.

13.0 Background papers:

13.1 None.