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Blackpool Council

26 November 2021

To: Councillors Collett, Cox, Farrell, Hunter, Hutton, D Scott and Wilshaw

The above members are requested to attend the:

PUBLIC PROTECTION SUB-COMMITTEE

Tuesday, 7 December 2021 at 6.00 pm
in Council Chamber, Town Hall

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 2 NOVEMBER 2021 (Pages 1 - 4)

To agree the minutes of the last meeting held on 2 November 2021 as a true and correct record.

3 HACKNEY CARRIAGE VEHICLE LICENCES (Pages 5 - 10)

To consider an applicant who has been convicted of offenses or otherwise given reasons for concern.

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

4 HORSE DRAWN HACKNEY CARRIAGE DRIVERS LICENCES (Pages 11 - 24)

To consider a licence holder who has been convicted of offences or who has otherwise given reasons for concern.

(This item contains personal information regarding 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 USE OF DELEGATED POWERS SINCE THE LAST MEETING (Pages 25 - 32)

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).

6 DATE OF NEXT MEETING

To note the date of the next meeting as 18 January 2022.

Venue information:

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

Other information:

For queries regarding this agenda please contact John Greenbank, Democratic Governance Senior Adviser, Tel:(01253) 477229, e-mail john.greenbank@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at www.blackpool.gov.uk.

MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 2 NOVEMBER 2021

Present:

Councillor Hutton (in the Chair)

Councillors

Cox	Hunter	Wilshaw
Farrell	D Scott	

In Attendance:

Sarah Chadwick, Democratic Governance Senior Advisor
Sharon Davies, Senior Licensing Solicitor

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 EXCLUSION OF PRESS AND PUBLIC

The Public Protection Sub-Committee considered excluding the public and press from agenda item three as that item contained information which was exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

It considered that the public interest would not be served by allowing the information to be held in open session due to the sensitive information about individuals outlined.

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, Hackney Carriage and Private Hire Driver Licences.

3 MINUTES OF THE LAST MEETING HELD ON 5 OCTOBER 2021

Resolved: That the minutes of the meeting held on 5 October 2021 be approved and signed by the Chair as a correct record.

4 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

The Sub-Committee considered applicants who had been convicted of offences or who had otherwise given reasons for concern.

- i. M.A.K.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case to the Sub Committee and explained that M.A.K had applied for a new Private Hire driver licence, having previously been licensed from September 2012 until February 2016 when the Sub-Committee had revoked their licence following a conviction for drink driving. Members were advised that M.A.K. had not received any further convictions or driving offences since 2016 and Mr Ratcliffe therefore recommended that the licence should be granted with a strict warning as to future conduct.

**MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 2 NOVEMBER
2021**

Appearing before the Sub-Committee M.A.K. apologised for the incident and advised Members that they had recently been employed in the social care sector where duties included transporting vulnerable adults, during which time they had maintained a clean driving record. They explained that they wanted to return to the taxi trade due to the flexibility in working hours that it would provide and expressed their regret for the conviction.

The Sub-Committee considered the information provided and noted the applicant's remorse and the time that had elapsed since the incident. It concluded that M.A.K. was a fit and proper person to be licensed and therefore agreed to grant the application with a strict warning letter that in the event of future issues the licence may be suspended or revoked.

Resolved: To grant a new Private Hire driver licence to M.A.K. with a strict warning letter that in the event of any future misconduct the licence may be suspended or revoked.

ii. T.P.S.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, reported that T.P.S. had applied for a new Hackney Carriage driver licence having previously been licensed from September 1996 until May 2017 when their licence was suspended under delegated powers by the Licensing Manager following information received from Lancashire Constabulary that they had crashed into a parked vehicle. T.P.S. subsequently did not renew their Hackney Carriage driver licence and was disqualified from driving until June 2018 and convicted of driving without due care and attention and failing to provide a specimen for analysis. Mr Ratcliffe referred to the Hackney Carriage and Private Hire Convictions Policy which stated that at least five years should have elapsed after the restoration of a driving licence before an application should be granted and therefore recommended that the licence application should be refused.

Appearing before the Sub-Committee T.P.S. expressed their remorse and admitted they had consumed alcohol during the hours prior to the incident and accepted that their attitude and behaviour was unacceptable in refusing to offer a sample when requested by the Police. They explained that their actions had resulted in embarrassment and financial hardship and asked Members to consider that it was an isolated incident which had not occurred whilst driving a licensed vehicle and pointed to their otherwise good driving record.

The Sub-Committee carefully considered the information provided and noted the applicant's regret and previous good driving record but expressed concern over the serious nature of the offence of driving without due care and attention and the refusal to provide a sample. Members therefore agreed on balance not to depart from the Policy and refused the application.

Resolved: To refuse T.P.S.'s application for a new Hackney Carriage driver licence.

iii. W.B.D.

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2021**

Mr Ryan Ratcliffe, Licensing Enforcement Officer, advised the Sub Committee that W.B.D. had applied for a new Private Hire driver licence and the Disclosure and Barring Service check submitted as part of that application process had revealed a number of convictions relating to dishonesty offences between September 1997 and August 2003. W.B.D. had further aggravated their position by failing to declare all the convictions on their application form as required. Mr Ratcliffe acknowledged that the applicant had been conviction free for over 18 years but referred to the Hackney Carriage and Private Hire Convictions Policy which stated that a licence would not normally be granted if an applicant had more than one conviction for a dishonesty offence. He therefore urged the Sub-Committee to give careful consideration whether to depart from the Policy in determining the application.

In response, W.B.D. appeared before the Sub-Committee and explained that it had been an oversight not to declare all convictions on their application form due to their historical nature. A previous Basic Disclosure check undertaken by them to obtain their Personal Alcohol Licence had not listed spent convictions and they advised Members that they were therefore unaware that they would show on the enhanced Disclosure and Barring Service check required for their Private Hire driver application.

Members considered the information provided by both parties. They expressed concern at the failure to disclose all convictions and remarked that the applicant appeared to show a lack of remorse. The Sub-Committee concluded that W.B.D. was not a fit and proper person to be licensed and therefore agreed not to depart from the Policy and refused the application.

Resolved: To refuse W.B.D.'s application for a new Private Hire driver licence.

iv. H.M.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, reported that H.M. had applied for new Hackney Carriage and Private Hire driver badges and advised Members that H.M. had previously been licensed between December 2010 and September 2019. They had previously appeared before the Sub-Committee in October 2016 when a severe warning was issued for alleged threatening and abusive behaviour towards a customer and again in September 2019 when the Sub-Committee decided they were no longer a fit and proper person to be licensed and revoked H.M.'s licence following an altercation with a passenger for which H.M. received a Police caution for assault.

Mr Ratcliffe drew Members' attention to the Hackney Carriage and Private Hire Convictions Policy which stated that a licence would not normally be granted where the applicant had a conviction, including a caution, for offences including assault within three years of an application being made. Mr Ratcliffe had serious concerns over H.M.'s suitability to be a licensed driver and as the offence took place less than three years ago he recommended that the Sub-Committee refused the application.

Appearing before the Sub-Committee H.M. expressed regret for their actions and assured Members they would not behave in a similar manner again. They explained that should they be faced with a challenging customer in future they would remain calm and call the authorities if necessary, rather than engage in confrontation.

**MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 2 NOVEMBER
2021**

The Sub-Committee carefully considered the information provided by both parties. Members expressed concerns that H.M. had previously appeared before them on more than one occasion in relation to their conduct towards passengers and whilst the remorse of the applicant was noted the Sub-Committee was not convinced that a similar incident would not happen again. It concluded that H.M. was not a fit and proper person to be licensed and therefore decided not to depart from the Policy and refused the application.

Resolved: To refuse H.M.'s applications for new Hackney Carriage and Private Hire driver licences.

5 MOTION MOVED, SECONDED, VOTED UPON AND LOST

During deliberation of the preceding Item, Hackney Carriage and Private Hire Driver Licences, the following motion was proposed, seconded, voted upon and lost:

“That the application for a new Hackney Carriage Driver Licence for T.P.S. be granted with a severe warning letter that in the event of any future incidents the licence may be suspended or revoked. “

6 DATE OF NEXT MEETING

The date of the next meeting was confirmed as 7 December 2021.

Chairman

(The meeting ended 7.18 pm)

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

Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of Meeting:	7 December 2021

HACKNEY CARRIAGE DRIVER LICENCES

1.0 Purpose of the report:

1.1 To consider an applicant who has been convicted of offences or who have otherwise given reasons for concern.

2.0 Recommendation(s):

2.1 The Sub-Committee will be requested to determine the referral as appropriate.

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.

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

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 None, as the Sub-Committee is required to determine the application and referrals.

5.0 Council priority:

5.1 The relevant Council priority is:
"The economy: Maximising growth and opportunity across Blackpool"

6.0 Background information

6.1 The Sub-Committee is asked to determine whether or not the applicant is a fit and proper persons to hold Hackney Carriage driver licences in respect of the following case:

D.N. (New)

6.2 Details of offences or matters causing concern and any supporting documents are attached at Appendices 3(a) to 3(b).

6.3 Does the information submitted include any exempt information? Yes

7.0 List of Appendices:

7.1 Appendix 3(a) D.N. Details of case (not for publication)
Appendix 3(b) D.N. DVLA check (not for publication)

8.0 Financial considerations:

8.1 None.

9.0 Legal considerations:

9.1 Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976.

The Sub-Committee must be satisfied that the applicants are fit and proper persons to be licensed.

There is the right of appeal to the Magistrates' Court.

10.0 Risk management considerations:

10.1 None.

11.0 Equalities considerations:

11.1 None.

12.0 Sustainability, climate change and environmental considerations:

12.1 None.

13.0 Internal/external consultation undertaken:

13.1 None.

14.0 Background papers:

14.1 None.

Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of Meeting:	7 December 2021

HORSE DRAWN HACKNEY CARRIAGE DRIVERS LICENCES

1.0 Purpose of the report:

1.1 To consider a licence holder who has been convicted of offences or who has otherwise given reasons for concern.

2.0 Recommendation(s):

2.1 The Sub-Committee will be requested to determine the referral as appropriate.

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.

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

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 None, as the Sub-Committee is required to determine the application and referrals.

5.0 Council priority:

5.1 The relevant Council priority is:
"The economy: Maximising growth and opportunity across Blackpool"

6.0 Background information

6.1 The Sub-Committee is asked to determine whether or not the applicants are fit and proper persons to hold Horse Drawn Hackney Carriage driver licences in respect of the following cases:

- C.B (Existing)
- 6.2 Details of offences or matters causing concern and any supporting documents are attached at Appendices 4(a). 4(b) and 4(c).
- 6.3 Does the information submitted include any exempt information? Yes
- 7.0 List of Appendices:**
- 7.1 Appendix 4(a) C.B. Details of case (not for publication)
Appendix 4(b) C.B. Witness Statement (not for publication)
Appendix 4(c) C.B. Witness Statement (not for publication)
- 8.0 Financial considerations:**
- 8.1 None.
- 9.0 Legal considerations:**
- 9.1 Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976.
- The Sub-Committee must be satisfied that the applicants are fit and proper persons to be licensed.
- There is the right of appeal to the Magistrates' Court.
- 10.0 Risk management considerations:**
- 10.1 None.
- 11.0 Equalities considerations:**
- 11.1 None.
- 12.0 Sustainability, climate change and environmental considerations:**
- 12.1 None.
- 13.0 Internal/external consultation undertaken:**
- 13.1 None.

14.0 Background papers:

14.1 None.

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Lee Petrak, Trading Standards and Licensing Manager
Date of Meeting:	7 December 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 suspend and revoke Hackney Carriage/Private Hire Licences 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 2 November 2021 contained at section 6.8.

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.

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

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 None, for information only.

5.0 Council priority:

5.1 The relevant Council priority is

- "The economy: Maximising growth and opportunity across Blackpool"

6.0 Background information

6.1 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.
- 6.2 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."
- 6.3 It was agreed that due to changes in the officer structure that the power be allocated to the Trading Standards and Licensing Manager.
- 6.4 It was agreed therefore that the procedure work as follows:
- 6.5 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.
- 6.6 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.
- 6.7 Where the Trading Standards and Licensing Manager acts to revoke a licence, they will bring a report to the next Public Protection Sub-Committee.
- 6.8 The Sub-Committee is asked to note the decision taken using delegated powers on 11 November 2021 to suspend with immediate effect, the Hackney Carriage/Private Hire driver's licence, in respect of the following case:

A.F. (existing driver).

And to note the decision taken using delegated powers on 11 November 2021 to revoke with immediate effect, the Hackney Carriage/Private Hire driver's licence, in respect of the following case:

RH (existing driver)

6.9 Details of offences or matters causing concern and any supporting documents are attached at Appendix 5(a) and 5(b).

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

6.10 Does the information submitted include any exempt information? Yes

7.0 List of Appendices:

7.1 Appendix 5(a): AF - Notice of Suspension (not for publication)
Appendix 5(b): RH – Notice of Revocation (not for publication)

8.0 Financial considerations:

8.1 None.

9.0 Legal considerations:

9.1 There is the right of appeal to the Magistrates' Court.

10.0 Risk management considerations:

10.1 None.

11.0 Equalities considerations:

11.1 None.

12.0 Sustainability, climate change and environmental considerations:

12.1 None.

13.0 Internal/external consultation undertaken:

13.1 None.

14.0 Background papers:

14.1 None.