JUDICIAL COMMITTEE (PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING)

Wednesday, 28th June, 2017

Present: Councillor Joyce Plummer (in the Chair), Councillors Stewart Eaves, Melissa Fisher, Glen Harrison, June Harrison and Terry Hurn

Apologies Eamonn Higgins, Julie Livesey and Paddy Short

55 Apologies for Absence

Apologies for absence were submitted from Councillors Eamonn Higgins, Julie Livesey and Paddy Short.

56 Substitutions

Councillors June Harrison, Terry Hurn and Glen Harrison attended the meeting as substitute representatives respectively for Councillors Eamonn Higgins, Julie Livesey and Paddy Short.

57 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations.

58 Minutes of Last Meeting

The Minutes of the meeting of the Judicial Committee (Private Hire and Hackney Carriage Licensing) held on 9th May 2017 were submitted for approval as a correct record.

Resolved - That the Minutes be received and approved as a correct record.

59 Court Report - Malik Mahmood UL Hassan

A report advising the Committee of the outcome of court proceedings relating to an appeal to the Magistrates Court by Mr. Malik Mahmood UL Hassan following the revocation of his Joint Private Hire / Hackney Carriage Driver’s Licence was submitted. The appeal was dismissed.

Resolved - That the report be noted.

60 Licensing Procedures for Meetings of the Committee

The General Licensing Procedure and the Complaints Licensing Procedure to be used in relation to hackney carriage and private hire driver licences were submitted. Copies of the Procedures had been sent to the drivers and the complainant.

Resolved - That the Procedures be noted.
61 Licensing Guidelines

The Licensing Guidelines (Appendix G of the Hyndburn Borough Council Hackney Carriage and Private Hire Licensing Policy 2013 - 2016) were submitted. A copy of the Guidelines had been sent to the drivers and the complainant.

Resolved - That the Guidelines be noted.

62 Exclusion of the Public

Resolved - That, in accordance with Section 100A(4) Local Government Act 1972, the public be excluded from the meeting during the following items, when it was likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that there would otherwise be disclosure of exempt information within the Paragraphs at Schedule 12A of the Act specified at the items.

63 Consideration of an Existing Private Hire Driver's Licence (MA)

Exempt information under the Local Government Act 1972, Schedule 12A, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)

On behalf of the Executive Director (Legal and Democratic Services), the Licensing Manager submitted a report informing the Committee of relevant issues relating to a licensed private hire driver (MA). The driver had appeared before the Committee on 9th May 2017 and a copy of the report considered at that meeting was appended to the current report. The Committee had determined that the driver's licence should be suspended for two weeks. Despite having been warned that that he was required by the conditions of his private hire driver's licence to notify the Council of any conviction or caution with seven days of receiving it, a routine DVLA enquiry carried out on 5th June 2017 by licensing officers had shown that the driver had received a new driving conviction and had again failed to notify the licensing department as was required.

Attention was drawn to Appendix G (Policy on the Relevance of Convictions and Cautions) of the Hyndburn Borough Council Hackney Carriage and Private Hire Licensing Policy 2013 – 2016. Legal advice on the relevance of the new driving conviction, two cautions and a suspension was sought by and provided to the Committee at the meeting.

In accordance with licensing procedure, the driver (MA) and his representative had been invited to attend the meeting and in that respect, the driver was in attendance.

The Committee was requested to consider whether the applicant was still a 'fit and proper person' to continue to be licensed as a private hire vehicle driver.
Decision of the Committee:–

Resolved - That, as the conduct of the driver (MA) had been inappropriate and not that expected of a licensed private hire vehicle driver, his licence be revoked pursuant to Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and for the reasons outlined at the meeting and set out in the decision notice.

64 Consideration of an Existing Private Hire Driver’s Licence (AJFA)

Exempt information under the Local Government Act 1972, Schedule 12A, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)

In accordance with licensing procedure, the driver (AJFA) and his representative had been invited to attend the meeting and in that respect, neither were in attendance. The Committee decided to hear the case in the driver’s absence.

On behalf of the Executive Director (Legal and Democratic Services), the Licensing Manager submitted a report informing the Committee of relevant issues relating to a licensed private hire driver (AJFA).

Attention was drawn to Appendix G (Policy on the Relevance of Convictions and Cautions) of the Hyndburn Borough Council Hackney Carriage and Private Hire Licensing Policy 2013 – 2016. Legal advice on the relevance of a warning letter, suspension, convictions and failure to inform the Council about a conviction and change of address as required by the conditions of his private hire driver’s licence was sought by and provided to the Committee at the meeting.

The Committee was requested to consider whether the applicant was still a ‘fit and proper person’ to continue to be licensed as a private hire vehicle driver.

Decision of the Committee:–

Resolved - That, as the conduct of the driver (AJFA) had been inappropriate and not that expected of a licensed private hire vehicle driver, his licence be revoked pursuant to Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and for the reasons outlined at the meeting and set out in the decision notice.
Consideration of an Existing Joint Driver's Licence (MI)

Exempt information under the Local Government Act 1972, Schedule 12A, Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information))

The Licensing Manager, on behalf of the Executive Director (Legal and Democratic Services) submitted a report informing the Committee of relevant issues relating to a licensed joint vehicle driver (MI). A complaint had been lodged by a member of the public against the driver and was set out in the report. The following documents were appended to the report:

- Appendix 1 Copy of Judicial Committee Report and Decision Letter December 2016
- Appendix 2 Copy of Email Complaint dated 01/06/2017
- Appendix 3 Copy of Interview Notes dated 07/06/2017
- Appendix 4 Copy of Email from Witness dated 14/06/2017

Attention was drawn to Appendix G (Policy on the Relevance of Convictions and Cautions) of the Hyndburn Borough Council Hackney Carriage and Private Hire Licensing Policy 2013 - 2016. Legal advice on the relevance of the complaint and five previous complaints was sought by and provided to the Committee at the meeting.

In accordance with licensing procedure, the driver (MI) and his representative had been invited to attend the meeting and in that respect, the driver and his representative (MY) were in attendance. The complainant ((HM) and a Witness (HF) and their representative had also been invited to the meeting and in that respect, the complainant and the witness were in attendance.

The Committee was requested to:

(a) Determine whether the facts related in the complaints were substantially true;

(b) Having made a finding of the facts, decide whether those facts revealed if the driver had acted either unlawfully or in breach of any legislation, regulation or licence condition governing the conduct of licensed private hire vehicle drivers; and,

(c) Determine what action, if any, should be taken against the driver.

Decision of the Committee:-

Resolved (1) That the complaint lodged against the Joint Vehicle Driver (MI) be upheld. On the evidence provided, the Committee found in favour of the complaint as it believed that the version of the events related by both the Complainant and the Witness were on the balance of probability more accurate; and,

(2) That, as the driver (MI) was not considered to be a ‘fit and proper person’, in that his conduct had been inappropriate and not that expected of a licensed joint vehicle driver, his joint driver's licence be revoked pursuant to Sections 61(1)(a)(ii) and 61(1)(b) of the Local
Government (Miscellaneous Provisions) Act 1976 in the interests of public safety; the revocation to be with immediate effect pursuant to Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 (as amended by the Road Safety Act 2006) and for the reasons outlined at the meeting and set out in the decision notice.

Signed:.........................................................

Date: .................................................................

Chair of the meeting
At which the minutes were confirmed