

A meeting of the **LICENSING AND PROTECTION SUB-COMMITTEE** will be held in **MEETING ROOM 0.1A, GROUND FLOOR MEETING ROOM, PATHFINDER HOUSE, HUNTINGDON PE29 3TN** on **TUESDAY, 28 JUNE 2016** at **10:00 AM** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

1. **MINUTES** (Pages 5 - 8)

To approve as a correct record the Minutes of the meeting of the Licensing and Protection Applications Sub-Group held on 26th April 2016.

**Democratic
Services
388169**

2. **MEMBERS INTERESTS**

To receive from Members, declarations as to disclosable pecuniary, non-disclosable pecuniary or non pecuniary interests in relation to any Agenda item. See Notes below.

3. **EXCLUSION OF PRESS AND PUBLIC**

To resolve –

that the press and public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

4. **LICENSING AND PROTECTION SUB-COMMITTEE PROCEDURE**
(Pages 9 - 10)

5. **CONVICTIONS GUIDANCE** (Pages 11 - 12)

6. **NEW APPLICATION FOR A HACKNEY AND PRIVATE HIRE LICENCE** (Pages 13 - 30)

To consider a report by the Head of Community.

**I Shaw
387075**

Dated this 16th day of June 2016



Head of Paid Service

Notes

1. Disclosable Pecuniary Interests

(1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*

(2) *A Member has a disclosable pecuniary interest if it -*

(a) relates to you, or

(b) is an interest of -

(i) your spouse or civil partner; or

(ii) a person with whom you are living as husband and wife; or

(iii) a person with whom you are living as if you were civil partners

and you are aware that the other person has the interest.

(3) *Disclosable pecuniary interests includes -*

(a) any employment or profession carried out for profit or gain;

(b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);

(c) any current contracts with the Council;

(d) any beneficial interest in land/property within the Council's area;

(e) any licence for a month or longer to occupy land in the Council's area;

(f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or

(g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.

Non-Statutory Disclosable Interests

(4) *If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.*

(5) *A Member has a non-statutory disclosable interest where -*

(a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

(b) it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or

(c) it relates to or is likely to affect any body –

(i) exercising functions of a public nature; or

(ii) directed to charitable purposes; or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.

and that interest is not a disclosable pecuniary interest.

2. Filming, Photography and Recording at Council Meetings

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

Please contact Mrs Claire Bulman, Democratic Services, Tel: 01480 388234 / email: Claire.Bulman@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Elections & Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION APPLICATIONS SUB-GROUP held in Meeting Room 1.1, First Floor, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN on Tuesday, 26 April 2016.

PRESENT: Councillor R Fuller – Chairman.

Councillors Mrs S Conboy, D J Mead and R J West.

92. MINUTES

The Minutes of the meeting held on 22nd March 2016 were approved as a correct record and signed by the Chairman.

93. MEMBERS INTERESTS

No declarations were received.

94. EXCLUSION OF PRESS AND PUBLIC

RESOLVED

that the press and public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

95. LICENSING SUB-GROUP PROCEDURE

The Licensing and Applications Sub-Group Procedure was received and noted.

96. CONVICTIONS GUIDANCE

The Council's Guidance relating to the relevance and treatment of convictions was noted.

97. NEW APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE

Further to Minute No. 91 and with the assistance of a report by the Head of Community (a copy of which is appended in the annex to the Minute Book), the Sub-Group considered an application for a Hackney and Private Hire driver's licence from Mr SS who did not meet the Council's published criteria to hold such a licence owing to his previous convictions. A copy of the results of the applicants DBS check, DVLA driver record and his driving licence were provided to Members of the Sub-Group, together with a letter from the applicant and two references submitted on his behalf. The options available to the Sub-Group were (i) allow the application to proceed or (ii) refuse the application.

The applicant was then given the opportunity to address the Sub-

Group. Following a number of questions from Sub-Group Members, Mr SS left the meeting.

Following careful consideration of the application, the information within the committee report and the DBS check, the submissions made by the applicant and the references provided on his behalf, the Sub-Group also took into account the Council's guidelines relating to the relevance and treatment of convictions and the legislative provisions. Whereupon it was

RESOLVED

that the application be refused on the grounds that the applicant is not a 'fit and proper' person owing to the relevant serious nature of the offences committed by the applicant and the pattern of these offences, his convictions for offences involving violence and drugs and his failure to notify the Council of three endorsements for an offence in 2014. The Council's Guidelines relating to the relevance and treatment of convictions also require the applicant to have been free from conviction for at least 5 years.

98. REVIEW OF AN EXISTING JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE

The Sub-Group considered a report by the Head of Community (a copy of which is appended in the annex to the Minute Book) outlining the case of Mr MA who had been convicted for offences which had not been disclosed to the Council. A copy of his driving licence and the DVLA driving record were provided for Members of the Sub-Group, together with a copy of the court register for 30th July 2016.

The driver was then invited to address the Sub-Group to respond to the issues which had been raised within the report and to present his case for continuing to hold a licence. Following a number of questions from Sub-Group Members, MA left the meeting. The options which were available to the Sub-Group on this occasion were (i) take no further action, (ii) issue a written warning (iii) suspend the licence or (iv) revocation of the licence.

Following careful consideration of the contents of the contents of the committee report, the submissions made by the driver and his responses to Members questions, the Sub-Group also took into account the Council's guidelines relating to the relevance and treatment of convictions, the Hackney Carriage and Private Hire Vehicles Drivers Schedule of Conditions of Licence and the legislative provisions.

Having accepted that the driver had held a licence since 2004 and had not previously come to the attention of the licensing authority, the Sub-Group did not consider him to be a threat to the public. The Sub-Group also acknowledged that the offences had not been committed whilst Mr MA had been driving a taxi. However in view of his disqualification from driving for six months under the totting process for two offences and his failure on both occasions to notify the Council within 7 days, it was

RESOLVED

that Mr MA should be issued with a formal written warning regarding his responsibilities as a licensed driver and his understanding of Huntingdonshire District Council's schedule of conditions.

The driver was advised that any subsequent occurrences of a similar nature may render him liable to appear before the Licensing and Protections Sub-Group again who would consider whether he was a 'fit and proper' person to continue to hold a private hire and hackney carriage driver's licence.

It was also agreed that the driver should be provided with a further copy of the Schedule of Conditions for drivers of hackney carriage and private hire vehicles.

99. REVIEW OF AN EXISTING JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS LICENCE

The Sub-Group considered a report by the Head of Community (a copy of which is appended in the annex to the Minute Book) outlining the case of AC, an existing licensed Hackney Carriage and Private Hire driver who had recently received an endorsement on his driving licence which had not been disclosed to the Council within seven days.

In the absence of the licence holder, the Sub Group took into account his submission which had been sent to the Licensing Team and which indicated that he was happy for a decision on this matter to be made in his absence. In doing so, Members acknowledged the errors with paragraphs 1.5 and 2.4 of the committee report. The options which were available to the Sub-Group on this occasion were (i) take no further action, (ii) issue a written warning (iii) suspend the licence or (iv) revocation of the licence.

Following careful consideration of the contents of the contents of the committee report and the submission made by the driver, the Sub-Group also took into account the Council's guidelines relating to the relevance and treatment of convictions, the Hackney Carriage and Private Hire Vehicles Drivers Schedule of Conditions of Licence and the legislative provisions.

Having accepted that the licence holder's failure to notify the Council was for a minor speeding offence and appeared to be a genuine oversight, it was

RESOLVED

that on this occasion no further action should be taken.

It was also agreed that the driver should be provided with a further copy of the Schedule of Conditions for drivers of hackney carriage and private hire vehicles.

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HUNTINGDONSHIRE DISTRICT COUNCIL

LICENSING AND PROTECTION SUB COMMITTEE PROCEDURE

1. Introduction

- 1.1 The following proceedings apply to the Licensing Sub-Committees established by the Licensing and Protection Committee of Huntingdonshire District Council acting as the Licensing Authority.

2. Membership

- 2.1 Each Licensing Sub Committee shall comprise four members appointed from the Licensing and Protection Committee. In the event of the Chairman of the Licensing and Protection Committee not being present at a meeting, the Sub-Committee shall elect a chairman from among its members for the purpose of that meeting.
- 2.2 The quorum for meetings of a sub-committee shall be three members but a sub- committee shall make every endeavour to ensure that each meeting is conducted when four members are present.
- 2.3 Members shall endeavour to be present throughout an individual meeting of a sub-group. If a member of a sub-committee is required to leave a meeting temporarily, the Chairman shall adjourn the hearing for the duration of the period whilst that member is unavailable. Any member who is absent from a meeting for any reason whilst that meeting is taking place shall be precluded from commencing or continuing to take part in the matter under debate upon his arrival/return and from voting upon the matter at the conclusion of that item of business.
- 2.4 Where the Sub-Committee undertakes a site visit prior to a meeting, a member shall be precluded from taking part in the meeting if he has not attended that site visit.
- 2.5 A member will not take part in a meeting at which a matter is being discussed which relates to an application where either the applicant is resident in or the premises is situated in the ward which he represents.

3. Notice of Meetings

- 3.1 Upon the date of a meeting of a sub-committee being arranged, notice shall be given to the parties to the meeting.
- 3.2 The notice of the meeting shall be followed by a copy of the meeting agenda 5 working days prior to the meeting.

4. The Meeting

- 4.1 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing or that part of the hearing taking place in public. The Sub-Committee will normally resolve to exclude the public from that part of the hearing during which the Sub-Committee determines the matter which is the subject of the hearing.

- 4.2 Subject to the above, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified
- 4.3 At the commencement of the meeting, the Chairman shall introduce the members of the Sub-Committee and any officers in attendance to support the Sub-Committee and shall ask the parties and any persons accompanying them to state their names and addresses or who they represent. The Chairman shall explain to the parties present that the hearing is subject to this procedure, copies of which will have been distributed to the parties with the notice of the hearing, and shall enquire of the persons present whether there are any questions of clarity or explanation about its contents.
- 4.4 The Licensing Officer will present the application. The Chairman will then invite the applicant or his representative to address the Sub-Committee on his application, to respond to any point(s) upon which notice has been given that clarification is required by the licensing authority and to call any person(s) to whom permission has been granted to appear in support of his application.
- 4.5 The applicant or his representative or any person called on his behalf may then be asked any questions upon their presentation by any member of the Sub-Committee or by an officer of the Council.
- 4.6 The party or his representative or any of his witnesses may be asked any questions upon their presentation by any member of the Sub-Committee or by the applicant or his representative or any of the other parties present at the hearing or their representatives.
- 4.7 After the applicant or his representative has addressed the Sub-Committee and after comments and questions have been invited, the applicant or his representative will be invited by the Chairman to leave the meeting and await the decision of the Sub-Committee. An officer from legal services will remain with the Sub-Committee to provide legal advice only.

5. Determination of Applications

- 5.1 At the conclusion of the meeting, the Sub-Committee will determine the application and will endeavour to do so as soon as practicable after the meeting has concluded.
- 5.2 The Licensing Authority will notify the applicant and parties of its decision forthwith upon the making of the decision.

HUNTINGDONSHIRE DISTRICT COUNCIL

DECLARATION OF RELEVANT CONVICTIONS

1. When submitting an application for a licence to drive a hackney carriage and/or private hire vehicle you are requested to declare any convictions, both criminal (including any official cautions or warnings issued by the Police or any other Regulatory Body) and motoring, together with details of any fixed penalty tickets for moving road offences. The information you give will be treated in confidence and will only be used when considering your application.
2. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1075 was amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 (SE2002/441). The effect of this order has been to add 'taxi drivers' (hackney carriage and private hire drivers) to the list of 'excepted occupations'. This means that **you must disclose ALL previous convictions for ANY offences** rather than just those which are not 'spent' under the terms of the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012).
3. You should be aware that the District Council is empowered in law to check with the Disclosure and Barring Service (DBS) for the existence and content of any criminal record held in the name of an applicant. Information received from the DBS will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.
4. The disclosure of a criminal record or other information will not stop you from gaining a licence unless the District Council's Licensing & Protection Panel considers that the conviction(s) renders you not a "fit and proper person" under the Licensing legislation. In making this decision the District Council will refer to its guidelines relating to the relevance and treatment of convictions and consider the nature of the offence, how long ago the offence took place and what age you were when it was committed and any other factors which may be relevant. Should you be refused a driver's licence on the grounds that you are not a fit and proper person to hold such a licence you will have a right of appeal to a Magistrates' Court.
5. If you would like to discuss this matter please telephone the Licensing Manager on (01480) 387075, in confidence, for advice.

Under normal circumstances convictions would normally become spent after the following rehabilitation periods, however please see 2. above:

Sentence:

Custodial* over 30 and up to 48 months:

Custodial* over 6 months and up to 30 months:

Custodial* of 6 months or less

Fine

Compensation order

Community or Youth Rehabilitation Order **

A relevant order***

Absolute discharge or other sentence not otherwise covered in this table:

Spent after:

7 years from completion of sentence

4 years from completion of sentence

2 years from completion of sentence

1 year from date of conviction

date payment made in full
1 year from day provided for by or under order as last day order is to have effect. Where no provision is made, 2 years from date of conviction.

last day on which order is to have effect

Nil

Removal from Her Majesty's service****

1 year from date of conviction

A sentence of service detention

1 year from completion of sentence

- NOTE:**
- (i) A custodial sentence of more than 4 years can never become spent.
 - (ii) If you were under 18 years of age at date of conviction, the period shown in the right-hand column is halved.

**A custodial sentence* means a sentence of: (a) imprisonment, (b) detention in a young offenders institution, (c) Borstal training, (d) youth custody, (e) corrective training, (f) detention under s91 of the Powers of Criminal Courts (Sentencing) Act 2000 or s209 of the Armed Forces Act 2006, (g) a detention & training order under S100 of the Powers of Criminal Courts (Sentencing) Act 2000 or an order under s211 of the Armed Forces Act 2006, (h) any sentence of a kind superseded by a sentence mentioned in (f) or (g).

***A community or youth rehabilitation order* means: (a) a community order under s177 of the Criminal Justice Act 2003 (b) a service community order or overseas community order under the Armed Forces Act 2006 (c) a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008, or (d) any order of a kind superseded by an order mentioned in (a) (b) or (c)

**** a relevant order* means: (a) a conditional discharge (b) a bind over to keep the peace or be of good behaviour (c) an order under s1(2A) of the Street Offences Act 1959 (d) a hospital order under Part 3 of the Mental Health Act 1983 (e) a referral order (f) an earlier statutory order or (g) any order imposing a disqualification, disability, prohibition or other penalty not otherwise dealt with.

***** removal from Her Majesty's service* means: a sentence of dismissal with disgrace from Her Majesty's service, a sentence of dismissal from Her Majesty's service or a sentence of cashiering or discharge with ignominy

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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