

A meeting of the **LICENSING AND PROTECTION SUB-COMMITTEE** will be held in **MANAGING DIRECTOR'S MEETING ROOM, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **WEDNESDAY, 25 JULY 2018** 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 the Minutes of the meeting held on 11th July 2018.

**Democratic
Services
388169**

2. MEMBERS INTERESTS

To receive from Members, declarations as to 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. COMPLAINT ABOUT A HACKNEY CARRIAGE / PRIVATE HIRE DRIVER LICENCE HOLDER (Pages 13 - 30)

To consider a report by the Head of Community.

**S Foster
387075**

7. NEW APPLICATION FOR A HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE (Pages 31 - 44)

To consider a report by the Head of Community.

**S Foster
387075**

Dated this 17 day of July 2018



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.

This page is intentionally left blank

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION SUB-COMMITTEE held in Meeting Room 0.1A, Ground Floor, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 11 July 2018.

PRESENT: Councillors J R Clarke, Mrs A Dickinson, Mrs P A Jordan and D J Mead.

IN ATTENDANCE: Councillor S Corney

10. ELECTION OF CHAIRMAN

In accordance with procedure for meetings of the Licensing and Protection Sub-Committee, it was

RESOLVED

that Councillor J Clarke be elected Chairman for the meeting.

11. MINUTES

The Minutes of the meeting held on 27th June 2018 were approved as a correct record and signed by the Chairman.

12. MEMBERS INTERESTS

No declarations were received.

13. 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.

14. LICENSING AND PROTECTION SUB-COMMITTEE PROCEDURE

The Licensing and Protection Sub-Committee's Procedure was received and noted.

15. CONVICTIONS GUIDANCE

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

16. COMPLAINT ABOUT A HACKNEY CARRIAGE / PRIVATE HIRE DRIVER LICENCE HOLDER

(The Licence Holder was accompanied by Mr MA, representative of his Operator, who provided assistance with translation as required).

Consideration was given to a report by the Head of Community (a copy of which is appended in the Annex to the Minute Book) containing details of the case of Mr IK. Mr IK was an existing Hackney Carriage and Private Hire Driver who was the subject of a complaint to the Authority by a member of the public.

Following the presentation of the report by the Licensing Officer, the Sub-Committee also viewed a video that the complainant recorded of the driver that specifically related to the complaint that had been submitted.

Mr IK was then given the opportunity to address the Sub-Committee. In doing so he responded to the Licensing Officer's report and the complainant's statement following clarification provided by Mr MA. Mr IK further provided his account of the alleged incident and then responded to questions from Members of the Sub-Committee, Legal representative and Licensing Officer concerning the complaint and his responses to it. A copy of the applicant's check undertaken by the Driver and Vehicle Licensing Agency (DVLA) was also provided to the Sub-Committee.

Mr IK then left the meeting to enable the Sub-Committee to make their determination.

The Sub-Committee gave careful consideration to the complaint and the information within the Sub-Committee report together with the verbal submissions made by Mr IK and on his behalf. The Sub-Committee also took into account the District Council's Schedule of Conditions of licence, the legislative and policy provisions and advice from their Legal representative.

Whereupon having concluded that Mr IK had breached his licence conditions, specifically the overriding objective of the protection of the travelling public during the incident, it was

RESOLVED

that Mr IK's Licence be suspended for a period of 6 months.

Mr IK was advised of his right of appeal to the Magistrates Court within 21 days.

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

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-Committee considered an application for a Hackney Carriage and Private Hire Licence from Mr SH who had an undeclared conviction and reprimand.

Copy of the applicant's checks undertaken by the Disclosure and Barring Service (DBS) were provided to the Sub-Committee and Members were advised of the options available to them in respect of the application.

Mr SH was then permitted to address the Sub-Committee and in so

doing took the opportunity to explain why he had failed to declare his previous convictions by reference to a previous application that had been submitted and acknowledged his mistake. He also responded to a series of questions from the Sub-Committee concerning the process of completion of the application form and his comprehension of the form.

The Sub-Committee gave careful consideration to the application, the information within the Sub-Committee report, the contents of the DBS check together with the submission made by the applicant. The Sub-Committee also took into account the District Council's guidelines relating to the relevance and treatment of convictions, the District Council's Schedule of Conditions of Licence, the legislative and policy provisions and advice from the District Council's legal representative.

Whilst acknowledging the failure to properly record offences was a serious matter, Members were mindful that the convictions dated from 2002 and 2003 and therefore had no relevance under the District Council's Policy. Whereupon, it was

RESOLVED

that the application for a Hackney Carriage and Private Hire Drivers Licence be granted.

In concluding the deliberations on this matter, the Chairman reminded Mr SH of his requirements to declare all of his convictions on the annual renewal of his application going forward.

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

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-Committee considered an application for a Hackney Carriage and Private Hire Licence from Mr JG who had declared a previous caution on his application form.

As the applicant was not in attendance, the Sub-Committee

RESOLVED

that consideration of this application for a Hackney Carriage and Private Hire Drivers Licence be deferred to the meeting on 25th July 2018 to permit a further opportunity for the applicant to attend.

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

Pursuant to Minute No. 139/17 consideration was given to a report by the Head of Community (a copy of which is appended in the Annex to the Minute Book) containing details of an application for a Hackney Carriage and Private Hire Licence from Mr ML who had previous motoring offences.

Mr ML had not been available to attend the hearing and Members

were informed that this was the third occasion on which he had failed to attend. The applicant had advocated that the application be considered in his absence and the Sub-Committee therefore agreed to hear the case in the applicant's absence.

The Sub-Committee gave careful consideration to the case, the information within the Sub-Committee report, the written submission made by the applicant and a copy of the applicant's check undertaken by the Driver and Vehicle Licensing Agency (DVLA). The Sub-Committee also took into account the Council's guidelines relating to the relevance and treatment of convictions, the District Council's Schedule of Conditions of licence and the legislative and policy provisions.

Whereupon owing to the serious nature of the offence and inconsistencies with regard to the explanations provided in the applicant's written submission, it was

RESOLVED

that the application for a Hackney Carriage and Private Hire Drivers Licence be refused.

The applicant would be advised of his right of appeal to the Magistrates Court within 21 days.

Chairman

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

F:/Licensing/PH&Taxis/Panel Meetings/Reports material/2014

Agenda Item 6

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

Agenda Item 7

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank