

**TAXI & PRIVATE HIRE LICENSING PANEL (65)**

**25<sup>th</sup> MARCH 2013 at 10.00 am. (ALL DAY PANEL)**

**PRESENT:** Councillors M. Ayub, Hinkley and Rivers

**29 ELECTION OF CHAIR (REF: 1)**

**Resolved:** That Councillor Rivers be elected Chair of Panel No. 65.

**30 LOCAL GOVERNMENT ACT 1972, PART VA (REF: 5)**

**Resolved:** That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting as it is likely that if members of the public were present during consideration of the items remaining there would be disclosure to them of exempt information falling within Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended.

**31 PRIVATE HIRE DRIVER'S LICENCE – RENEWAL – MR S.A. A. (REF: 6)**

The Head of Business and Consumer Services reported on an application by Mr S. A. A. for the renewal of a Hackney Carriage Driver's Licence, which he was not authorised to approve in view of the application being outside the Council's Convictions Policy.

Mr S.A. A. had been invited to attend the meeting to speak in support of his application and was present at the meeting with his Solicitor, Mr Hussain. The Panel followed their procedure for oral hearings as set out at Minute 442(6)/90 of the then Licensing Sub-Committee.

Mr S.A. A. was asked whether or not he knew any of the Panel Members present, to which replied that he did not. The Panel were asked if they knew the applicant to which, they responded that they did not.

Mr S.A. A. was given the opportunity to challenge the contents of the report of the Head of Business and Consumer Services but did not dispute the information contained therein.

The Panel agreed the Head of Business and Consumer Services could call witnesses who had been present in the vehicle on 21<sup>st</sup> March 2011.

The Panel heard Mrs. M. I. had called a taxi on Monday 21<sup>st</sup> March 2011 to take her and her daughter to the Luton and Dunstable Hospital. The vehicle parked on the opposite side of the road and whilst Mrs M. I. was trying

to get into the taxi Mr S. A. A. moved the vehicle which caused Mrs M. I. to fall on the road injuring her knee.

The injury led to Mrs M. I. spending three weeks in hospital and she is still receiving treatment from her GP.

**Resolved:** That having regard to:

- (a) the Council's Convictions Policy,
- (a) the report from the Head of Business and Consumer Services,
- (b) the statements made by Mr S. A. A. prior to the meeting and the oral representations made by him and his solicitor at the meeting
- (c) the conflicting and inconsistent oral representations made by the witnesses

the Panel were not satisfied that Mr S. A. A.'s actions had caused the injury to the passenger as was alleged and accordingly that Mr S. A. A. 's Private Hire Driver's Licence be **RENEWED** for a period of **TWO YEARS** subject to compliance with the Council's pre-licensing requirements.

Mr S. A. A. be **WARNED** it is an offence to drive a vehicle when passengers are not wearing their seatbelts, unless they are excused from doing so due to a medical exemption and he should ensure all passengers are wearing their seatbelts before he moves the vehicle. Failure to do so also amounts to a breach of Paragraph 16 of the Council's Standard Conditions for a Private Hire Drivers Licence.

### **32 HACKNEY CARRIAGE DRIVER'S LICENCE – REVIEW – MR N. M. (REF: 7)**

The Head of Environmental and Consumer Services invited the Panel to consider whether Mr N. M. should continue to hold a Hackney Carriage Driver's Licence, should be renewed following:

- (a) his caution for possession of cannabis
- (b) his conviction on 9<sup>th</sup> April 2010 for causing or likely to cause danger by reason of load or passengers for which he was fined £310 and had his licence endorsed with 3 penalty points; and
- (c) his history of complaints received in relation to his licence.

Mr N. M. had been invited to attend the meeting to speak in support of his application and was present with his trade union representative Mr J. Leach. The Panel followed their procedure for oral hearings as set out at Minute 442(6)/90 of the then Licensing Sub-Committee.

Mr N. M. was asked whether or not he knew any of the Panel Members present, to which replied that he did not. The Panel were asked if they knew

the applicant to which, they responded that they did not.

Mr N. M. was given the opportunity to challenge the contents of the report of the Head of Environmental and Consumer Services and disputed the following information:

- the misuse of drugs was not proven and Mr N. M was considered fit to drive by the Police doctor who examined him.
- That previous Panel decisions outlined in the report should be disregarded

**Resolved:** That having regard to:

- a. the Council's Convictions Policy,
- b. the oral report by the Head of Business and Consumer Services
- c. Mr N. M. 's convictions for the following offences:
  - (i) Speeding conviction on 2<sup>nd</sup> July 2007 and received a £60 fine and 3 penalty points
  - (ii) MS90 - on 28<sup>th</sup> May 2009 for he was convicted for failure to identify driver and received a fine in the sum of £369 and 6 penalty points.
- d. Mr N. M. previous Panels history and warnings received.
- e. The fact that Mr N. M. drove his hackney carriage after having smoked cannabis and admitted to police officers that had 'smoked weed';
- f. Mr N. M's failure to disclose the drugs found in his vehicle when stopped by the Police; and
- g. The fact Mr N. M. drove whilst suspended.

the application be **REFUSED** under Section 51(1) of the Local Government (Miscellaneous Provisions) Act since there were reasonable grounds to refuse Mr N. M.'s Hackney Carriage Driver's Licence.

### **33 PRIVATE HIRE DRIVER'S LICENCE – REVIEW – MR A. A. (REF: 8)**

Resolved: That the case be **DEFERRED** to be dealt with under delegated powers.

**34      REVOCATION OF STREET TRADING CONSENT – DINERS’ CHOICE (REF: 9)**

The Head of Business and Consumer Services requested the Panel to consider the revocation of the Street Trading consent for ‘Diner’s Choice’ on Pitch 9, George Street, Luton.

The Panel heard that various complaints had been received from Licensing Enforcement Officers and warning letters sent concerning the failure to remove the trailer from George Street, which had been ignored by Mr L. J.

The Panel also heard George Street is covered by an Anti-Terrorism Regulation Order, which means it is under the control of the Police.

Mr. L. J. had been invited to attend the meeting to make representations. Mr L. J. was present at the meeting with an interpreter appointed by the Council to challenge the contents of the report of the Head of Business and Consumer Services but did not dispute the information contained therein.

Mr. L. J. stated the reason the food trailer was not been removed was it had been vandalised in the parking area allocated to him which resulted in the generator being stolen and drinks taken at a total cost of £2000, which was reported to the Police; and further stated the food trailer was left in George Street for safer reasons to stop further damage.

The Panel followed their procedure for oral hearings as set out at Minute 442(6)/90 of the Licensing Sub Committee.

**Resolved:** That having regard to:

- (a) the Council’s Street Trading Consent Conditions,
- (b) Mr. L. J.’s remorse; and
- (c) The oral representation made by Mr. L. J. previously and at the meeting

That the Street Trading Consent Licence be allowed to continue and Mr L. J. be **WARNED** in respect of his failure to comply with the conditions of the Street Trading Consent and with the Council’s requests to remove the food trailer and although no further action was recommended on this occasion the Panel asked that these be noted on Mr L. J.’s record.

The Panel further resolved the following additional Condition be added to the Street Trading Consent namely:-

“The Consent holder must ensure that the food trailer or any other retail unit is removed from the Pitch at the end of every trading day at the time detailed in the Street Trading Consent and that it is not returned to the Pitch until the beginning of the next trading day at the time detailed in the Street Trading Consent.”

### 35      **REVOCATION OF STREET TRADING CONSENT — THAI PAN. (REF: 9)**

The Head of Business and Consumer Services requested the Panel to consider the revocation of the Street Trading consent for ‘Thai Pan’ on Pitch 7, George Street, Luton.

The Panel heard complaints had been received from Licensing Enforcement Officers and warning letters sent to Mrs R. S. concerning the failure to remove the trailer from George Street, which had been ignored.

The Panel also heard George Street is covered by an Anti-Terrorism Regulation Order, which means it is under the control of the Police.

Mrs. R. S. had been invited to attend the meeting to speak make representations. Mrs R. S. and her husband were both present at the meeting and did not dispute the information contained within the report.

**Resolved:** That having regard to:

- (a)      the Council’s Street Trading Consent Conditions,
- (b)      Mr. R.S.’s remorse; and
- (c)      The oral representation made by Mr. R.S. prior to the meeting and at the meeting

the Street Trading Consent Licence be allowed to continue and Mrs R. S. be **WARNED** in respect of her failure to comply with the conditions of the Street Trading Consent including the Council’s requests to remove the food trailer and no further action was recommended on this occasion the Panel asked that these be noted on Mrs R. S.’s record.

The Panel further resolved the following additional Condition be added to the Street Trading Consent namely:-

“The Consent holder must ensure that the food trailer or any other retail unit is removed from the Pitch at the end of every trading day at the time detailed in the Street Trading Consent and that it is not returned to the Pitch until the beginning of the next trading day at the time detailed in the Street Trading Consent.”

**Resolved:** That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting as it is likely that if members of the public were present during consideration of the items remaining there would be disclosure to them of exempt information falling within Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended.

**36 PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER'S LICENCES – REVIEW – MR. Z M. D. (REF: 12)**

The Head of Business and Consumer Services invited the Panel to consider whether Mr. Z. M. D. is a fit and proper person to continue to hold a Private Hire and Hackney Carriage Driver's Licences, following his breach of the Town Police Clause Act 1947, Local Government (Miscellaneous Provisions) Act 1976, the Standard Conditions of both Private Hire & Vehicle Licences and a resolution of the 10<sup>th</sup> December 2003 made by Regulation Committee.

Mr Z. M. D. had been invited to attend the meeting to answer questions of the Panel on this matter. Mr. Z. M. D. and an interpreter appointed by the Council were present at the meeting and the Panel followed their procedure for oral hearings as set out at Minute 442(6)/90 of the then Licensing Sub-Committee.

Mr Z. M. D. was asked whether or not he knew any of the Panel Members present, to which replied that he did not. The Panel were asked if they knew the applicant to which, they responded that they did not.

Mr Z. M. D. was given the opportunity to challenge the contents of the report of the Head of Business and Consumer Services disputed the following information contained therein:

The Panel were advised of the following:-

- (a) That on 29<sup>th</sup> January 2009 Mr Z. M. D.'s vehicle RA05KPN failed to pass its annual test although it did so two days later;
- (b) That on 13 June 2009 Mr Z. M. D. was issued with a vehicle rectification notice test although it did so two days later;
- (c) That on 14 May 2010 the Council received a complaint that Mr Z. M. D. was frequently illegally ranking your Private Hire vehicle but that this could not be independently corroborated;
- (d) That on 21 December 2010 Mr Z. M. D. was sent a Warning Letter relating to breach of a "no waiting" restrictions in your Private Hire vehicle;

That on 21 December 2010 Mr Z. M. D. was given a caution for touting;

- (e) That Mr Z. M. D. failed to report an accident to his Private Hire vehicle on 23<sup>rd</sup> October 2011 within 72 hours reporting it on 3 November 2011;
- (f) That on 24 July 2012 Mr Z. M. D. was advised that his Private Hire vehicle had not completed its six monthly safety check and that he indicated that the vehicle had been sold but failed to attend a meeting in respect of this on 31 July 2012 and his Private Hire vehicle was suspended on 1<sup>st</sup> August 2012;
- (g) That Mr Z. M. D. failed to attend a subsequent meeting and his Hackney Carriage Driver's Licence and Private Hire Driver's Licence were suspended on 7 August 2012;
- (h) That on 8 August 2012 Mr Z. M. D. confirmed that the vehicle had been sold and that he was now resident in Bradford;
- (i) That on 29 August 2012 Mr Z. M. D. surrendered his Hackney Carriage Driver's and Private Hire Driver's Licence, and;
- (j) That on 27 September 2012 Mr Z. M. D. surrendered his Hackney Carriage Driver's and Private Hire Driver's badge.

Date of Offence	Offence	Sentence
(i) 19.06.2004	TS50 Failing to comply with traffic signal	FPN 3 points
(ii) 13.03.2006	SP30 exceeding 30mph speed limit and	FPN 3 points
(iii) 16/09.2006	TS10 failing to comply with traffic signal	FPN 3 points

but decided that these were not relevant.

**Resolved:** That having regard to:

- (a) The Council's Licensing Conditions;
- (b) Mr Z. M. D's lack of communication regarding his vehicle and failure to engage with the licensing department with regard to his vehicle and non compliance with Licensing Conditions;

- (c) The statements made by Mr Z. M. D. prior to the meeting and the oral representations made at the meeting.

Mr Z. M. D.'s Private Hire and Hackney Carriage Driver's Licences be **REVOKED** under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 on the grounds he was not a fit and proper person.

**37 PRIVATE HIRE DRIVER'S LICENCE – REVIEW – MR W. H. (REF: 13)**

**Resolved:** That the case be **DEFERRED** to be dealt with under delegated Powers.

**(Note: The morning session – Agenda Items 6-7 – ended at 14.00 p.m.**

**The afternoon session – Agenda Items 7-12 – commenced at 14.20 p.m.**

**The meeting ended at 16.45 p.m.)**