

Licensing Committee

Friday, 1st August, 2014
2.30 - 3.25 pm

Attendees	
Councillors:	Roger Whyborn (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Garth Barnes, Anne Regan, Rob Reid, Pat Thornton and Helena McCloskey (Reserve)

Minutes

- 1. APOLOGIES**
Apologies were received from Councillor Flynn and Councillor Walklett. Councillor McCloskey was in attendance as substitute for Councillor Walklett.
- 2. DECLARATIONS OF INTEREST**
There were no declarations of interest.
- 3. PUBLIC QUESTIONS**
There were no public questions.
- 4. MINUTES OF MEETING HELD ON**
The minutes of the Licensing Committee meeting held on 4 July 2014 were approved and signed as a correct record.
- 5. MINUTES OF SUB COMMITTEE MEETINGS**
The minutes of the Licensing Sub Committee meeting held on 2 July 2014 were approved and signed as a correct record. As the Licensing Sub Committee minutes of 23 July had been circulated subsequent to the publication of the agenda and members had not had time to consider them it was agreed to postpone their approval until the September meeting of Licensing Committee.
- 6. RENEWAL OF PRIVATE HIRE DRIVER'S LICENCE**
The Licensing Officer introduced the report which had been circulated to Members. He advised that an application had been received from Mr Akekur Rahman for a renewal of his Private Hire driver's licence. Mr Rahman had a number of convictions and two new endorsements which meant that he now had 9 points on his DVLA driver's licence. When interviewed by officers on 8 July 2014 he was asked why he had not informed the authority of any points he had received for the offences. Members were asked to consider whether Mr Akekur Babu Rahman was a fit and proper person to hold a private hire driver's licence.

In response to a point of clarification the Licensing Officer explained that Mr Akekur Babu Rahman had 3 points on his licence in addition to those listed on the background papers. These points related to offences in 2011 which the Committee dealt with in 2012. The Licensing Officer undertook to include all

previous offences and points on the licence on the background papers in the future.

In response to other questions the following responses were given:

- With reference to the Committee's requirement from its hearing in June 2012 Mr Akekur Babu Rahman had successfully completed the road safety unit driver assessment
- It was noted that the information regarding the date of the offences within the report differed from the details of offences on the background papers. The details within the report were direct notes from the interview held with Mr Rahman
- Details of exact speeds driven over the speed limit were not available to officers. A Committee Member pointed out that if the speed was very excessive this would be reflected in the sentence
- The points Mr Rahman had received for the earliest offence shown on his licence in November 2011 will cease to have effect in a few months' time.

When invited to address the Committee Mr Rahman explained that the first offence, SP30-exceeding statutory speed limit on a public road came as a complete surprise to him and he could not remember any details. In terms of the second offence, SP50-exceeding speed limit on a motorway he explained that due to roadworks, there were speed restrictions in operation. He had attempted to slow down when approaching the speed restriction but was still over the limit.

In response to questions from Members Mr Rahman said the following :

- He was not carrying any passengers at the time of the motorway offence as he had just dropped off customers in Stroud and was returning to Cheltenham. Mr Rahman imagined that he had been travelling at about 70 mph.
- He was very surprised to receive a letter with regard to exceeding the speed limit on a public road and apologised that this offence had occurred. He was not sure of the exact time this had happened but thought it was likely to have been in the afternoon.
- Mr Rahman had no recollection of receiving any details of the public road offence in terms of the date, time and speed of the offence but acknowledged that he should have known more. He said that this offence was a long time ago and he was a bit disorganised. All he could do was apologise.
- Taxi driving was not Mr Rahman's sole income. He also had a part-time position in the mornings.
- Mr Rahman regretted what had happened and would ensure that this would not happen again.

Members discussed the issue. Some believed a decision should be deferred, possibly for two months, until they had received all the relevant evidence about the public highway offence in front of them. This would enable them to assess the case properly. Others believed they should focus on the information presented to them. Officers confirmed that granting a licence for two months was not a possibility; it would have to be a 12 month licence. Members were concerned that Mr Rahman had been asked on a number of occasions to

provide an explanation as to the details behind the two offences but had no recollection at all of one offence and was weak on his recollection of the other and that this was not the first time he had forgotten to inform the authority of points on his licence and had already been asked once before to complete the road safety unit driver assessment.

Members were advised that they had the following recommendations to determine:

1. The application be granted with no further action taken as the committee considers Mr Rahman to be a fit and proper person to hold a private driver's licence, or
2. The application be refused as the committee considers Mr Rahman to no longer be a fit and proper person to hold a private hire driver's licence

Upon a vote it was

Resolved that the application be refused as the Committee considers Mr Rahman to no longer be a fit and proper person to hold a private hire driver's licence

Voting : Unanimous

7. BRIEFING NOTE

The Licensing Officer introduced the Briefing Note. He advised that this concerned the following forthcoming changes in law:

1. Law Commission Report and Draft Taxi and Private Hire Services Bill and recommendations - this was not expected to be introduced for at least 18-24 months
2. Government Deregulation Bill - this was currently making its way through the Parliamentary process
3. Changes to mandatory licensing conditions on the Sale/Supply of alcohol - these will come into force in October 2014
4. The deregulation of certain forms of entertainment under a Legislative Reform Order, due to come into force in April 2015.

Members discussed the briefing note. The following comments were made with regard to the Law Commission Report and Draft Taxi and Private Hire Services Bill:

- Rickshaws would be covered under Recommendation 26 or Recommendation 21 although there was no mention of design safety which was the main concern of Cabinet.
- The briefing was purely for information at this stage, there was no formal consultation
- There was an apparent contradiction in the wording in Recommendation 37 and Recommendation 46 although officers explained that there is a difference between licensing authorities having the ability to set *conditions* and having the ability to set *standards*,

- The issue of flagging down a taxi was discussed. A member of the public may flag down a hackney carriage but not a private hire vehicle. It is recommended (Recommendation 12) that licensing authorities be given the power to determine that taxis hailed in such a way be under a duty to stop and that it would be an offence to fail to stop in such circumstances. There is also a recommendation (Recommendation 11) that councils could set their own distance limit for that rule to apply
- There are differences with regard to the way vehicles can be hired- if a hackney carriage refuses to take a passenger without a reasonable cause this is an offence; a private hire vehicle must always be pre-booked and is not compelled in the same way.
- The Licensing Officer undertook to further examine some sections of the full Law Commission Report and email members clarification of Recommendations 17 (operator licensing and dispatch functions) and 72 (a new offence in relation to touting).

8. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION

9. REVIEW OF LICENSING PROTOCOL

Vikki Fennell, One Legal referred to the report which had been circulated and which sought the agreement of the Committee to the methodology and timescale for the review of the “Probity in Licensing” Protocol which was adopted by the Council in October 2006. She explained that the Standards Committee had agreed the terms of reference at their meeting on 11 July as follows:

To review “Probity in Licensing” and prepare a revised version for consideration by the Standards Committee. The review would include consideration of any recent best practice and guidance from the Home Office and other relevant professional and public bodies. The review would include consultation, as appropriate, with Members and Officers.

The Standards Committee had nominated Councillors Fisher, Regan and Mr Martin Jauch. Three members were now sought from the Licensing committee.

Councillors Chard, Seacome and Whyborn indicated their willingness to participate in this group.

Resolved

To establish a task and finish working group of members (Councillors Chard, Seacome and Whyborn from Licensing Committee) and officers to review “Probity in Licensing”, the composition and terms of reference of the working group being set out at paragraph 2.3 of the report.

**10. DATE OF NEXT MEETING
FRIDAY 5TH SEPTEMBER AT 2:00 P.M.**

Roger Whyborn
Chairman