

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

24 July 2009

Dear Councillor

You are hereby invited to a meeting of the **Licensing Committee** to be held in Committee Room 2, Civic Centre, Portholme Road, Selby on **Monday 3 August 2009**, commencing at **10:00 am**.

The agenda is set out below.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 8 June 2009 (pages 5 to 7 attached)

4. Procedure

To outline the procedure to be followed at the meeting (pages 8 to 9 attached).

5. Chair's Address to the Licensing Committee

6. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

7. Complaint about behaviour of Private Hire Operator

Report of the Interim Head of Service – Legal and Democratic Services (pages 10 to 13 attached).

M Connor
Chief Executive
24 July 2009

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

Date of Meeting	Deadline Date	Distribution Date
7 September 2009	19 August 2009	27 August 2009
5 October 2009	17 September 2009	25 September 2009

Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
K Ellis		
J Dyson	D Davies	J McCartney
P Mackay	S Duckett	
K McSherry		
S Ryder		
R Sayner (Chair)		
D White (Vice Chair)		

Enquiries relating to this agenda, please contact Tracey Peam on:

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Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Qualifications for Exempt Information:

Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -

- (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
9. Information falling within any of the 7 categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
 10. Information which;
 - (a) falls within any of paragraphs 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 8 June 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

46	Minutes
47	Procedure
48	Chair's Address to the Licensing Committee
49	Private Session
50	Complaint about behaviour of Licensed Private Hire Operator
51	Complaint about behaviour of Licensed Hackney Carriage Driver

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs P Mackay, J McCartney, Mrs E Metcalfe (*for Mrs J Dyson*), C Pearson (*for Mrs K McSherry*), Mrs S Ryder, and Mrs D White.

Officials: Senior Solicitor, Licensing Enforcement Officer and Committee Administrator

Public: 0

Press: 0

44 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs J Dyson, K Ellis and Mrs K McSherry.

Substitute Councillors were Mrs E Metcalfe (*for Mrs J Dyson*) and C Pearson (*for Mrs K McSherry*).

45 **Disclosure of Interest**

None.

46 **Minutes**

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 18 May 2009 be confirmed as a correct record and be signed by the Chair.

47 **Procedure**

The Procedure was noted.

48 **Chair's Address to the Licensing Committee**

The Chair asked that all questions go through her.

49 **Private Session**

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, as there will be disclosure of exempt information as defined in paragraph 1 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.

50 **Complaint about behaviour of Licensed Private Hire Operator**

Councillors received the report of the Licensing Enforcement Officer with regard to the conduct of a Private Hire Driver in connection with the displaying of a vehicle sign stating the word 'Taxi'.

The word 'Taxi' was displayed on the rear of the vehicle and this word was associated solely with the use of a Hackney Carriage and it was forbidden under Section 46 of the Local Government (Miscellaneous Provisions) Act 1976 for a Private Hire Vehicle Licence to exhibit a sign so as to lead any person to believe that it was a Hackney Carriage.

The driver had been interviewed and made aware of the Schedule of Conditions and removed the offending sign straight away. The driver was in attendance and apologised stating he would contact the Licensing Enforcement Officer first if he wanted to add any signage to his vehicle in future.

Councillors asked various questions in relation to the incident and it was agreed that it was a genuine mistake and no further action be taken.

Resolved:

That no further action be taken but if the driver came before the Committee again this incident would be taken into consideration.

Complaint about behaviour of Licensed Hackney Carriage Driver

The Committee was informed that this hearing was in relation to the behaviour of a Licensed Hackney Carriage Driver.

A decision was made that this matter be deferred until such a time as the Licensing Enforcement Officer had spoken to the Crown Prosecution Service as to whether there was a prosecution pending, for the driver to be legally represented and that the attendance of the Police Constable involved be requested.

Resolved: That

- (i) This hearing be deferred pending the result of the allegation of driving without due care and attention and in order that the driver can be legally represented; and**
- (ii) In addition, the Committee ask that the PC involved be invited to attend this hearing.**

The meeting closed at 10:30 am.

LICENSING COMMITTEE

PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Councillors of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The Head of Service – Legal and Democratic Service will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Councillors of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, will then withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Head of Service – Legal and Democratic Services will write to the applicant informing them of the decision of the Licensing Committee.