

## **Mission Statement**

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

27 August 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 7 September 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 3 August 2009 (pages 5 to 6 attached)

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 7 to 8 attached).

**5. Guidelines relating to the relevance of convictions**

In respect of agenda items: 10, 12 13 and 14 (pages 9 to 12 attached).

**6. Chair's Address to the Licensing Committee**

**7. 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 1 of Part 1 of Schedule 12(A) of the Act.**

**8. Complaint about behaviour of Licensed Hackney Carriage Driver**

Report of the Solicitor to the Council.

**9. Complaint about behaviour of Licensed Private Hire Operator**

Report of the Solicitor to the Council.

**10. Complaint about behaviour of Licensed Private Hire Operator**

Report of the Solicitor to the Council.

**11. Complaint about behaviour of Licensed Private Hire Driver**

Report of the Solicitor to the Council.

**12. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council.

**13. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council.

**14. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council.

### **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**

<b>Date of Meeting</b>	<b>Deadline Date</b>	<b>Distribution Date</b>
5 October 2009	17 September 2009	25 September 2009
7 December 2009	19 November 2009	27 November 2009

### **Membership of the Licensing Committee 10 Members**

<b>Conservative</b>	<b>Labour</b>	<b>Independent</b>
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:

Tel: 01757 292022  
Fax: 01757 292020  
Email: [tpeam@selby.gov.uk](mailto:tpeam@selby.gov.uk)

## 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 3 August 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

187	Minutes
188	Procedure
189	Chair's Address to the Licensing Committee
190	Private Session
191	Complaint about behaviour of Private Hire Operator

Present: Councillor Mrs D White in the Chair

Councillors: Mrs D Davies, Mrs J Dyson, Mrs S Duckett, K Ellis, Mrs P Mackay, Mrs C Mackman (for R Sayner), J McCartney, Mrs K McSherry and Mrs S Ryder.

Officials: Trainee Solicitor, Licensing Enforcement Officer and Committee Administrator.

Public: 0

Press: 0

**185 Apologies for Absence and Substitution**

An apology was received from Councillor R Sayner.

Substitute Councillor was Mrs C Mackman.

**186 Disclosure of Interest**

None.

**187 Minutes**

**Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 8 June 2009 be confirmed as a correct record and be signed by the Chair.**

188

### **Procedure**

The Procedure was noted.

189

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

The Chair gave no address to the Committee.

190

### **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 3 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.**

191

### **Complaint about behaviour of Private Hire Operator**

Councillors were informed by the Licensing Enforcement Officer that the applicant had telephoned the Licensing Section this morning informing them that she was unable to attend the meeting.

Discussion took place and it was agreed that this case would be deferred and brought before the next meeting of the Licensing Committee to be held on 7 September 2009.

#### **Resolved:**

**That the applicant be informed that the case would be deferred until the next meeting of the Licensing Committee to be held on 7 September 2009 where a decision would be taken whether the applicant was in attendance or not.**

The meeting closed at 10:07 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.



## **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**

### **GENERAL POLICY**

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of convictions for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

#### **(a) Minor Traffic Offences**

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Driver's licence may be granted after its restoration but a warning should be issued as a future conduct.

#### **(b) Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc should normally merit a warning as to future conduct and advice on the standard expected of Hackney Carriage and Private Hire Vehicle Drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

#### **(c) Drunkenness**

##### **(i) With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If

there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

**(d) Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained or 5 years after detoxification treatment if he/she was an addict.

**(e) Indecency Offences**

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

**(f) Violence**

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

**(g) Dishonesty**

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and

become “fair game” for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty.

In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

- A. The time limits before which convictions become spent are extended in certain circumstances where further convictions take place. Applicants with multiple convictions or any other queries are recommended to read the Home Office publication, ‘A Guide to Rehabilitation of Offenders Act, 1974’ or to seek advice from the Licensing Department or a solicitor before making a formal application.**

	<u>SENTENCE</u> Where suspended sentences are imposed the rehabilitation period is the same as it would be for an equivalent term of immediate imprisonment.	<u>TIME BEFORE CONVICTION BECOMES SPENT</u>
1.	Sentences of imprisonment or youth custody exceeding 30 months are <b>NEVER</b> spent and must be disclosed however long ago they were imposed.	Never Spent
2.	Imprisonment or youth custody for a term exceeding 6 months but not exceeding 30 months.	10 years adult 5 years juvenile
3.	Imprisonment or youth custody for a term not exceeding 6 months.	7 years adult 3½ years juvenile
4.	An order detention in a Detention Centre.	3 years
5.	A Community Service Order	5 years
6.	A Fine	5 years adult 2½ juvenile
7.	Conditional discharge, bound over, Probation.	1 year from the date of conviction or the expiry of the order, whichever is the longer.
8.	Cashiering, discharge with ignominy or dismissal.	10 years adult 5 years juvenile

9.	Dismissal for HM Service	7 years adult 3½ years juvenile.
10.	Hospital Order under Mental Health Act 1983	5 years from the date of conviction or 2 years after the Order expires.
11.	Disqualification, disability or prohibition when not imposed in conjunction with any other sentence.	Period of disqualification, disability or prohibition.
12.	Any other sentence other than those listed above.	5 years