

## **Mission Statement**

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

22 December 2010

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 10 January 2011, commencing at 10:00 am.

### **AGENDA**

**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 6 December 2010 (pages 4 to 7 attached)

**4. Procedure**

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

**5. Guidelines for Hardship**

In respect of agenda item: 11 (pages 10 to 11 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 3 of Part 1 of Schedule 12(A) of the Act.**

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

Report of the Licensing Enforcement Officer (pages 12 to 19 attached).

**9. Application for a Hackney Carriage Licence**

Report of the Licensing Enforcement Officer (pages 20 to 31 attached).

M Connor  
Chief Executive  
22 December 2010

**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>
7 February 2011
4 April 2011
9 May 2011

### **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)		

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SELBY DISTRICT COUNCIL

**MINUTES**

Minutes of the proceedings of a meeting of the Licensing Committee held on 6 December 2010 in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

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387	Complaint About Behaviour of Hackney Carriage Driver
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389	Complaint About Behaviour of Hackney Carriage Driver

Present: Councillor R Sayner in the Chair

Councillors: Councillor Mrs D White, Councillor B Marshall, Councillor Mrs J Dyson, Councillor K Ellis, Councillor Mrs P Mackay, Councillor Mrs K McSherry and Councillor Mrs S Ryder.

Officials: Senior Solicitor, Licensing Enforcement Officer and Overview and Scrutiny Coordinator.

Public: 0

Press: 0

381 **Apologies for Absence and Substitution**

Apologies were received from Councillor Mrs S Duckett.

382 **Disclosure of Interest**

There were none.

383 **Minutes**

**Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 1 November 2010 be confirmed as a correct record and be signed by the Chair.**

384

### **Procedure**

The Procedure was noted.

385

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

The Chair informed the Committee that the decision they had resolved about the 'Complaint About Behaviour of Licensed Hackney Carriage Driver' case that came as agenda item 10 to the Licensing Committee meeting held on 6 September 2010, had been appealed by the defendant. The case is listed for mention at Selby District Magistrates Court on 21 December 2010.

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### **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 the new Schedule 12 (A) of the Local Government (Access to information) (Variation) Order 2006.**

387

### **Complaint About Behaviour of Hackney Carriage Driver**

The Licensing Committee were told that the Hackney Carriage Driver had informed Democratic Services by letter that he was unable to attend the meeting due to work commitments and would therefore request that his case be considered at the next scheduled Licensing meeting.

#### **Resolved:**

**That the case be deferred until the Licensing Committee meeting on 10 January 2011.**

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### **Complaint About Behaviour of Licensed Private Hire Operator**

Councillors received the report of the Licensing Enforcement Officer with regard to the conduct of a licensed Private Hire Operator, in connection with an allegation of failing to report a road traffic accident.

Councillors were asked to consider whether or not the individual was a fit and proper person to be licensed to operate a Private Hire Vehicle within Selby District. Additional papers to the report were also considered in the form of supportive character witnesses from customers of the Private Hire Operator, circulated to members at the

meeting.

The Licensing Enforcement Officer outlined the details of the case.

The Driver gave an explanation of the circumstances surrounding the incident which had led to the complaint and answered councillors' questions.

The Licensing Enforcement Officer questioned the individual further to seek clarification on certain points and then summarised the case.

**Resolved:**

**That the Licensing Committee decided that no further action be taken in connection with this matter.**

389

### **Complaint About Behaviour of Hackney Carriage Driver**

Councillors received the report of the Licensing Enforcement Officer with regard to the conduct of a licensed Hackney Carriage Driver; in connection with her simple police caution for assault and for breaching a condition attached to her licence in failing to provide written details within three days of that matter to the Council.

Councillors were asked to consider whether or not the individual is a fit and proper person to be licensed to drive a Hackney Carriage within Selby District. Additional papers to the report were also considered in the form of supportive character witnesses and copies of Licensing Committee papers from 2006 in which the same individual appeared before the committee to apply for a Hackney Carriage Driver licence.

The Licensing Enforcement Officer outlined the details of the case and councillors sought clarification on certain details.

The Driver gave an explanation of the circumstances surrounding the incidents which had led to her coming before the Licensing Committee and answered councillors' questions.

The Licensing Enforcement Officer questioned the individual further to seek clarification on certain points and then summarised the case.

At this point in the meeting Councillor Mrs K McSherry declared a personal interest in the case due to the individual's children attending the school at which she was a Governor. Councillor McSherry remained in the room but did not take part in the vote.

**Resolved: That;**

Licensing Committee  
6 December 2010

- i) The Committee considers the individual to be a fit and proper person to be a licensed Hackney Carriage Driver;**
- ii) The individual will be issued with a written final warning for the conduct of failing to provide written details of a simple police caution for assault within three days of the matter to the Council and for the offence of assault, remaining on file for 2 years.**

**Recommendation to Full Council:**

**That the Legal Department be allowed to keep hard copies of the personal Licensing files of Hackney Carriage and Private Hire Drivers; in order that they are available to members of the Licensing Committee when dealing with individuals for matters brought to their attention.**

The meeting closed at 11:20

## **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 Members 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 District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
  - iii) The Chair will introduce Members 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, press and public, will then be asked to 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, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Committee Section will inform in writing to the applicant the decision of the Licensing Committee.

# **GUIDELINES FOR LICENSING COMMITTEE TO CONSIDER ASSESSING FINANCIAL HARDSHIP**

Agreed at Licensing Committee on 5<sup>th</sup> December, 2005

Agreed at Full Council on 13<sup>th</sup> December, 2005

Amended at Licensing Committee on 1<sup>st</sup> December 2008

The District Council's existing policy on granting Licences for hackney carriage vehicles enables an applicant to seek to not comply with the requirement for the vehicle to be accessible for disabled passengers on the ground of financial hardship.

On the 24<sup>th</sup> October, 2005, the Committee discussed as to what would constitute "financial hardship".

The Policy relating to this particular aspect has evolved over a period of time and Officers of the District Council namely, Peter Burns, Head of Legal Services and Tim Grogan, Licensing Manager, believe that the Policy in its present form is sound and should not be changed. In deed, the Policy has been subject to consideration by a Judge in the Crown Court on two occasions recently, both of whom have indicated that they believe that the Policy is sound.

However, it was agreed at the Committee that some consideration should be given to what does constitute "financial hardship". The following is a suggestion for consideration.

- (i) The starting point is the full financial position of the applicant. This includes assets held by the applicant and any he may have access to which may be held by another. Documentary evidence of the full financial position is advisable and the burden of proving hardship is on the applicant. The Licensing Committee expect details of income and expenses for at least the last two years, preferably produced by the individual's accountant. In looking at an applicant's liabilities, expenses and debts, those associated with the business would be given priority over personal debts. Although personal debts might be relevant, they should be given much less weight than commitments associated with the business.
- (ii) The age and condition of the vehicle subject to the present application must, of course, be considered together with the cost of such a vehicle and the applicant will also need to explain whether he has made enquiries with regard to the purchase of a vehicle which does have access facilities for the disabled. The Committee have become mindful of the fact that second hand vehicles can be obtained at relatively reasonable cost although in cases in the past the starting point appears to have been that applicants have assumed that new vehicles are to be purchased at a cost well in excess of £20,000. Applicants will be asked to explain fully that they have looked into the full range of vehicles offering wheelchair accessible facilities.
- (iii) The age of the applicant can be considered particularly if the individual is near to retiring age and a large financial commitment would not be reasonable in

the circumstances because of the limited number of years which the individual is intending to continue to work.

- (iv) Where an individual applies for hardship in relation to an application, he should be informed that in the event of his application being successful, then the Committee feel that he takes the necessary steps to ensure that provision is made within his business for a replacement vehicle in the future, which complies with this policy and that in the event of any claim for hardship on any second or subsequent occasion, it will be a material consideration that he had a previous application approved and was given this appropriate advice and that any further hardship claim might be more difficult to prove.
- (v) If the applicant is an existing Hackney Carriage Operator consideration should be given to the type of vehicle currently being used as well as the number of years that individual has been licensed by the Council. Particular weight should be attached if for instance the operator was licensed prior to the policy change in June 1999.
- (vi) This list of guidelines is not exhaustive and in appropriate circumstances additional questions can be asked.