

BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 16 July 2014 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mrs L.H. Monument (Chairman)	Mr S. Askew
Mr W. R. J. Richmond (Vice-Chairman)	Mr R.W. Duffield
Mrs S Armes	Mrs J A North

In Attendance

Yvonne Blake	- Solicitor
Josie Hoven	- Licensing Officer
Fiona Inston	- Licensing & Business Support Manager
Helen McAleer	- Senior Committee Officer

15/14 MINUTES (AGENDA ITEM 1)

Action By

(a) 15 January 2014

The Chairman drew attention to the wording in the Procedures at Points 8 and 9 which did not accurately reflect what actually happened at the meeting. It was agreed that the Procedures should be amended and in future the Minutes should record whether the Committee or the Appellant left the room whilst the evidence was considered.

The final paragraph on page 2 should be amended to read:

After considering the matter, the Committee recalled the Licence Holder and the Licensing Officer. The Solicitor advised the Licence Holder, on behalf of the Committee, that:

An amendment was also made to the first bullet point below that paragraph to amend continuation to continuing.

RESOLVED that, subject to the two amendments above, the Minutes of the meeting held on 15 January 2014 were agreed as a correct record and signed by the Chairman.

(b) 27 June 2014 - Special Meeting

The Chairman suggested that the same change should be made to the Minutes as above. Therefore, the paragraph above the bullet points on page 6 of the Agenda was amended to read:

After considering the matter, the Committee recalled the Licence Holder, the Representative and the Licensing Officer. The Solicitor advised the Licence Holder, on behalf of the Committee, that:

RESOLVED that, subject to the amendment above, the Minutes of the meeting held on 27 June 2014 were approved as a correct record and signed by the Vice-Chairman (who had been Chairman of that meeting).

16/14 URGENT BUSINESS (AGENDA ITEM 3)

The Chairman advised Members that an item of Urgent business would be dealt with under Agenda Item 6.

17/14 DECLARATION OF INTERESTS (AGENDA ITEM 4)

For transparency, Councillor Askew declared that he knew the Licence Holder for Agenda Item 9. He would leave the room when that item was discussed.

18/14 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (AGENDA ITEM 6)

The Licensing & Business Support Manager reminded Members that at a meeting in 2013 she had requested that authority be delegated to Officers to suspend or revoke a licence in urgent cases where information indicated that the driver might pose a risk to public safety.

At that time the Committee had decided not to delegate authority to Officers, but to require a Special Committee to be convened within three days to make the decision in urgent cases. They had agreed to review the procedures for suspension and revocation of licences after 12 months.

Following the Special Committee meeting in June which had dealt with just such a case, it was felt to be the right time to ask Members to reconsider the issue.

The Licensing & Business Support Manager had serious concerns that an occasion could arise where information was received, late on a Friday for example, which indicated that a licence holder might pose a threat to public safety and under the current procedures there would be no way to stop that person from operating as a Taxi Driver over the weekend.

She was also concerned that the legality of current procedures regarding suspension or revocation of a licence had been called into question by a court case involving Cardiff City Council. There was now some doubt about whether the licence could be revoked after it had been suspended.

The Solicitor thought that in the Cardiff case the judge had found that suspensions were being used as punishment. The decision to suspend the licence at the Special June meeting, for a specific period, had been to allow time for the licence holder to provide additional information. She considered that the licence could still be revoked if necessary, as long as there was another Committee meeting.

Members discussed that case and the reasons behind the ruling. They also discussed the Officer's concerns about the need to be able to take urgent action to protect public safety.

The Chairman did not think that a licence should be suspended without the licence holder having the opportunity to put their case.

The Licensing & Business Support Manager advised that the licence holder would be invited to the Council offices to put their case. All the information would be taken into account. The matter would then be discussed with the Chairman of the Appeals Committee, the Portfolio Holder and the Director. The decision to revoke or suspend a licence would always be made following consultation, never in isolation.

Members then discussed suspension timescales and it was agreed that a specific period for suspension should be determined on a case by case basis. The period should allow time for further evidence to be provided and for a Committee meeting to be arranged if an additional one was needed.

RESOLVED that authority be delegated to the Licensing Officers (in conjunction with others) to suspend a licence for a specific period, not exceeding three months, in urgent cases only, where immediate action was required.

Members then discussed the case that had been heard at the special meeting and agreed that in the absence of the information which had been expected it would be necessary to arrange another special meeting before the licence suspension period expired.

RESOLVED that a Special meeting of the Appeals Committee be arranged for 10.00am on 25 July 2014.

19/14 HEARING PROCEDURES (AGENDA ITEM 7)

The procedures were noted and would be amended as discussed at Minute No 15/14a.

20/14 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 8)

RESOLVED that under Section 100(A) of the Local

Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the disclosure of exempt information as defined in paragraphs 1, 2 and 7 of Part 1 of Schedule 12A to the Act.

21/14 CONSIDERATION OF SUSPENSION OR REVOCATION OF A HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE (AGENDA ITEM 9)

Councillor Askew left the meeting.

The Committee heard the application in accordance with the Council's procedure.

The Hearing took place in the presence of the holder of the Hackney Carriage/Private Hire drivers licence, a Licensing Officer and Mrs Blake, the Council's Solicitor.

The Chairman made introductions and explained the procedures to the licence holder.

The Licensing Officer presented the report and pointed out the following errors:

In the third paragraph on page 9 the date should be 05/09/2012;

In the fifth paragraph on page 9 the name was incorrect

In the eighth paragraph on page 9 the date should be 08/05/2014; and

Appendix D should refer to the Yellow Book.

The licence holder had admitted breaching the conditions of the licence. Having been presented with the facts the Committee were asked to make a decision as to whether the licence holder remained a fit and proper person to be licensed as a Hackney Carriage/Private Hire driver.

The licence holder explained the circumstances which had resulted in the offence. He had Googled Breckland's Policy on traffic offences and he passed a print out of the results to the Chairman. He had misunderstood the wording and believed that he had not been required to notify the Council of the additional points.

The Chairman read from the printed extract and agreed it was not clear as it referred to nine points.

The Solicitor suggested that the wording of condition 5 of the Council's Policy should be amended to read: "If a driver accrued 6 or more points in a 12 month period on his/her DVLA licence they would be deemed to be in breach and would be required to appear before

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the Committee”.

The Licensing Officer noted that the Yellow Book clearly set out the requirements.

Following a number of questions and having heard all the evidence the licence holder and the Licensing Officer withdrew from the meeting to allow the Committee to consider their options.

After considering the matter the Committee recalled the licence holder and the Licensing Officer and the Solicitor advised, on behalf of the Committee that no further action would be taken regarding the non-notification of the points. Members were concerned that the licence holder had not read the Yellow Book and it had been noted that it was a requirement of the Licence that the Yellow Book was kept in the taxi cab.

The Chairman requested that the Licensing Officer should send a replacement copy of the Yellow Book to the licence holder immediately and she asked him to read it and to tell other drivers about his experience which had been due to his not having read it.

RESOLVED not to suspend or revoke the licence holder's Hackney Carriage/Private Hire driver's licence.

The Solicitor suggested that the Council's Policy needed reviewing. The Licensing Officer agreed and said that the review had been held up by the Law Commission Review.

22/14 NEXT MEETING (AGENDA ITEM 10)

The date of the next scheduled meeting on 3 September 2014 was noted.

The meeting closed at 12.07 pm

CHAIRMAN