



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **APPEALS COMMITTEE**
- Date & Time** - WEDNESDAY, 16TH JULY, 2014 AT 10.00 AM
- Venue** - NORFOLK ROOM, THE CONFERENCE SUITE, ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile phones

Members of the Committee:

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

Mr S. Askew
Mr R.W. Duffield
Mrs J A North

Member Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Monday, 7 July 2014

PART A - ITEMS OPEN TO THE PUBLIC

| | <u>Page(s)</u> <u>herewith</u> |
|---|-----------------------------------|
| 1. <u>MINUTES</u> | |
| To confirm the Minutes of the meetings held on: | |
| a) 15 January 2014 | 1 - 3 |
| b) 27 June 2014 - Special Meeting | 4 - 6 |
| 2. <u>APOLOGIES</u> | |
| To receive apologies for absence. | |
| 3. <u>URGENT BUSINESS</u> | |
| To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act, 1972. | |
| 4. <u>DECLARATION OF INTERESTS</u> | |
| Members are reminded that under the Code of Conduct they are not to participate and must leave the room, for the whole of an agenda item to which they have a Disclosable Pecuniary Interest. | |
| In the interests of transparency, Members may also wish to declare any other interests they have in relation to an agenda item, that support the Nolan principles detailed within the Code of Conduct. | |
| 5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u> | |
| To note the names of any non-members who wish to address the meeting. | |
| 6. <u>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</u> | |
| Verbal update and review by the Licensing & Business Support Manager. | |
| 7. <u>HEARING PROCEDURES</u> | 7 |
| 8. <u>EXCLUSION OF PRESS AND PUBLIC</u> | |
| To consider passing the following resolution: | |
| “That under 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 on the grounds that they are likely to involve the disclosure of exempt information as defined in paragraph 1, 2 and 7 of Part 1 of Schedule 12A to the Act”. | |

PART B
ITEMS FROM WHICH THE PRESS AND PUBLIC ARE
EXCLUDED

9. CONSIDERATION OF SUSPENSION OR REVOCATION OF A
HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE

8 - 22

Report of the Assistant Director of Commissioning.

10. NEXT MEETING

To note the arrangements for the next meeting to be held on Wednesday, 3 September 2014 at 10.00am in the Norfolk Room.

Public Document Pack Agenda Item 1a
BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 15 January 2014 at 10.00 am in
Norfolk Rooms, The Conference Suite, Elizabeth House, Dereham**

PRESENT

| | |
|--------------------------------------|--|
| Mrs L.H. Monument (Chairman) | Mr S. Askew |
| Mr W. R. J. Richmond (Vice-Chairman) | Mrs J A North |
| Mrs S Armes | Councillor C Bowes (Substitute Member) |

In Attendance

| | |
|-----------------|----------------------------|
| Tiffany Bentley | - Licensing Officer |
| Julie Britton | - Senior Committee Officer |
| Yvonne Blake | - Solicitor |

1/14 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 11 September 2013 were confirmed as a correct record and signed by the Chairman.

2/14 APOLOGIES (AGENDA ITEM 2)

An apology for absence was received from R Duffield.

3/14 HEARING PROCEDURES (AGENDA ITEM 6)

The Hearing procedures were noted.

4/14 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 7)

RESOLVED that under Section 100(a)(4) of the Local Government Act 1972, the press and the public be excluded from the meeting for the following item of business on the grounds that it is likely to involve the disclosure of exempt information as defined in paragraphs 1, 2 and 7 of Part 1 of Schedule 12A to the Act.

5/14 CONSIDERATION OF SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE (AGENDA ITEM 8)

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

The Hearing took place in the presence of the holder of the hackney carriage/private hire drivers licence, a Licensing Officer and Mrs Y Blake, the Council's Solicitor.

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

The Licensing Officer presented the report which was to consider the suspension/revocation of a Hackney Carriage/Private Hire driver's licence in accordance with Section 51(2) of the Local Government (Miscellaneous

Action By

Provisions) Act 1976 which included the following condition in relation to cautions:

“All other crimes – in relation to existing licence holders if any person receives a conviction or caution for any criminal offence within the category of ‘all other crime offences’ then the revocation or suspension of their licence will be imposed or considered giving due thought to their ‘fit and proper’ status in the light of the offence, sentence and circumstances presented”.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states a District Council may suspend or revoke, (on application under Section 46 of the Town Police Clauses Act 1847 or Local Government (Miscellaneous Provisions) Act, 1976, as the case may be), the licence of a driver of a Hackney Carriage or Private Hire vehicle on any of the following grounds:

A. That he has since the grant of the licence:

1. been convicted of an offence involving dishonesty
2. been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or the Act of 1976; or

B. Any other reasonable cause.

The commencement date of the licence holder’s Hackney Carriage/Private Hire drivers licence was highlighted and was accordingly corrected to 1st September 2011.

The licence holder had been issued with a Simple Caution for Fraud by False Representation for an offence that he had admitted to.

The Chairman said it was the Committee’s duty to consider this offence and invited the licence holder to explain the circumstances.

The licence holder explained to the Committee the circumstances which resulted in this offence being committed - altering a website belonging to a taxi firm of which he had been previously employed. He said that he took full responsibility for his actions and in hindsight should not have reacted to the personal situation and instead should have considered the possible consequences; however, he did not consider this offence to affect his ability to carry out his job and he regretted his actions.

The Solicitor advised the licence holder about the law in relation to accepting the caution and therefore admitting to the crime of fraud.

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.

The Committee re-convened and after considering the matter, the Solicitor advised on behalf of the Committee that:

- the caution appeared to reflect on the licence holder’s integrity and honesty; however, the Committee felt that given a period of contemplation, the licence holder should be able to consider how his

Action By

actions had jeopardised his continuation to hold a licence for the Council.

- the Committee felt that following the period of suspension, the licence holder could still be a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

The right to appeal against the decision under S61 of the Local Government (Miscellaneous Provisions) Act 1976 was explained.

RESOLVED that the licence holder's Hackney Carriage/Private Hire driver's licence be suspended for a period of four weeks.

The Chairman felt that during the four weeks suspension the licence holder would have had sufficient time to reflect on his behaviour as honesty and integrity was a necessary part of the licence.

6/14 NEXT MEETING (AGENDA ITEM 9)

The arrangements for the next meeting on 26 February 2014 at 10.00am in the Norfolk Room were noted.

The meeting closed at 11.30 am

CHAIRMAN

13/14 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the press and the public be excluded from the meeting for the following item of business on the grounds that it is likely to involve the disclosure of exempt information as defined in paragraphs 1, 2 and 7 of Part 1 of Schedule 12A to the Act.

14/14 CONSIDERATION OF SUSPENSION/REVOCAION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE

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

The Hearing took place in the presence of the holder of the hackney carriage/private hire drivers licence, a Licensing Officer and Mrs Y Blake the Council's Solicitor.

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

The Licensing Officer presented the report which was to consider the suspension/revocation of a Hackney Carriage/Private Hire Drivers Licence in accordance with Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 which states that a District Council may suspend or revoke, (on application under Section 46 of the Town Police Clauses Act 1847 or Local Government (Miscellaneous Provisions) Act 1976 as the case may be), the licence of a driver of a Hackney Carriage or Private Hire Vehicle on any of the following grounds:

b) any other reasonable cause.

(2B) If it appears that the interests of Public Safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

The Chairman invited the licence holder to explain the circumstances.

The Licence holder's representative explained to the Committee that the Licence holders' driving licence was up for renewal with the DVLA. Medical forms had been returned however there had been a section which was incomplete and returned to the licence holder. This was dealt with immediately and returned.

Meanwhile the Licence Holder had contacted Breckland Council to

Action By

inform the Licensing team that a medical issue had been highlighted and this should be dealt with.

The Licensing team contacted the Licence Holder's GP to ask for a letter of confirmation to inform that the Licence Holder was able to drive. However the letter received did not cover driving to Group 2 standards, as required by the Breckland Licensing Policy. The GP was absent, and unable to provide this clarification until week commencing 30 June 2014.

Following a number of questions and having heard all the evidence the Licence Holder, the Representative and the Licensing Officer withdrew from the meeting to allow the Committee to consider their options.

The Committee re-convened and after considering the matter, the Solicitor advised on behalf of the Committee that:

- on the grounds of public safety the licence be suspended with immediate effect for a period of 28 days with the proviso that upon receipt of a satisfactory worded letter from the GP to the Licensing Officer the suspension can be lifted.
- the committee felt that this matter would be resolved within this time frame.

The right to appeal against the decision under S61 of the Local Government (Miscellaneous Provisions) Act 1976 was explained.

Resolved that the licence holders Hackney Carriage/Private Hire Driver's licence be suspended for a period of 28 days with the proviso that upon receipt of a satisfactory worded letter from the GP to the Licensing Officer the suspension can be lifted.

The Chairman felt that during this time the matter could be resolved.

The meeting closed at 10.55 am

CHAIRMAN

**PROCEDURE FOR
APPEALS COMMITTEE HEARINGS**

1. Chairman introduces the Officer(s) and explains procedure to parties present.
2. Presentation by Officer(s).
3. Questions to Officer(s) by Members on Policy etc.
4. Presentation by Applicant (opening, call witnesses and produce documents relevant to application).
5. Questions to Applicant by Members.
6. Summary by Applicant.
7. Advice from Officer(s) on policy and/or Solicitor on law and jurisdiction.
8. Members retire from hearing accompanied by the Committee Officer to consider the matter (They may call in Solicitor to help draft reasons for decision. Any other advice must be repeated in open forum).
9. Members return and the decision, including reasons, is announced.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 9

Document is Restricted