

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
TOWN POLICE CLAUSES ACT 1847**

**REVIEW OF A PRIVATE HIRE
VEHICLE DRIVERS LICENCE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform the Sub-Committee of a review of a Private Hire Vehicle Drivers Licence.
- 1.2 To request that the Sub-Committee determines the appropriate action to be taken in relation to the Private Hire Vehicle Drivers licence in regard to Mr Craig Anthony Downing

2. BACKGROUND INFORMATION

- 2.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council may suspend, revoke or refuse to renew a licence on the grounds that since the grant of the licence the person has:
 - (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847; or
 - (c) any other reasonable cause.
- 2.2 The Licensing (Miscellaneous) Sub-Committee is authorised to determine applications for the grant, transfer, renewal or revocation of Hackney Carriage/Private Hire Licences relating to drivers, operators and vehicles.
- 2.3 Drivers of Hackney Carriages and Private Hire Vehicles must be in possession of a valid Hackney Carriage or Private Hire Vehicle Drivers Licence, depending which vehicle they wish to drive. On initial application, prior to the grant of a licence, and upon application to renew a licence a check is made with the Criminal Records Bureau to see if the person has any cautions or convictions.

- 2.4 Information may also be received from the police in regard to current Hackney Carriage/Private Hire Vehicle Drivers who have been found guilty of an offence by the courts.
- 2.5 Mr Craig Anthony Downing has held a Private Hire Vehicle (PHV) Drivers Licence since July 2011, which was renewed in July 2012. His current licence expires on 27 July 2013.
- 2.6 Information has been received that the DVLA had revoked Mr Downing's DVLA driving licence. Following information from the DVLA further investigation into the driving licences produced by Mr Downing at the time of Grant application in 2011 and again at renewal application in 2012, two different counterpart driving licences were produced. There is a balance of probability that false information was submitted at the time of the grant application.
- 2.7 Due to the nature of the offence it was deemed appropriate to suspend the Hackney Carriage and Private Hire Vehicle Drivers Licence, under Section 61(1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976, until such time that the said issue has been resolved. In the interests of public safety the suspension took immediate effect, in accordance with Section 61(2B) of the said Act.
- 2.8 It is therefore necessary to review the Private Hire Vehicle Drivers Licence on the grounds of 2.1(c) above, any reasonable cause.
- 2.9 Applicants are required to submit their original DVLA driving licence with all applications. The driver must hold a full Driving Licence and have held such a licence for a minimum of 12 months.
- 2.10 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and Amendments Order 2002, exempts applicants for HC/PHV Driving Licences from the Rehabilitation of Offenders Act 1974, and therefore all relevant convictions can be considered.
- 2.11 Any information disclosed on a CRB check will be presented at the meeting as the said information cannot be reproduced. Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication
- 2.12 Members should not allow themselves to pre-determine or to be prejudiced in favour of or opposed to the application until they have had an opportunity to consider all the pertinent facts.
- 2.13 Members should be aware that as they are acting in a quasi-judicial role as regards this licensing matter, they should remain in the room so that they hear all the evidence on which the decision will be based.

3. OPTIONS FOR CONSIDERATION

3.1 The options available to the Licensing (Miscellaneous) Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1976 when considering such information are as follows:

Option 1 – To remain suspended

Option 2 – To revoke the licence

4. ANALYSIS OF OPTIONS

4.1 A criminal record does not debar an applicant from gaining or renewing a licence unless the authority considers the conviction(s) render the person unsuitable. In the first instance criminal records are checked against guidelines in respect of the Rehabilitation of Offenders Act 1974 and guidance produced in line with the Department of Transport Circular 2/92 and Home Office Circular 13/92. A Copy of the guidance is attached for Members' information as **Appendix A**. The analysis of the four options at paragraph 3.1 are as follows:

Option 1 – The licence could remain suspended until such time the Licensing (Miscellaneous) Sub-Committee deem it necessary to reinstate it.

Option 2 – The revocation of a licence is the ultimate action available to the sub-committee. Should the sub-committee feel that it is appropriate to remove the licence having considered all the evidence, the revocation can take immediate effect if it is deemed appropriate to protect the public. Revocation should be considered where it is deemed necessary to protect the public.

4.2 Should the Licensing (Miscellaneous) Sub-Committee revoke the licence or impose additional terms, conditions or restrictions then the applicant may appeal to a Magistrates Court within 21 days from the date on which he was notified of the decision. Should the Magistrates uphold the decision of the council, the applicant has further recourse to the Crown Court.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no resource implications

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Local Government (Miscellaneous Provisions) Act 1976

6.2 Town Police Clauses Act 1847

7. OUTCOMES OF CONSULTATION

7.1 Not applicable.

8. RECOMMENDATIONS

8.1 That the application be determined in accordance with the options outlined at paragraph 3 above, taking into account the information received.

DIRECTOR OF PLACES

Civic Centre
SCUNTHORPE
North Lincolnshire
DN16 1AB

Author: Colin Daniel
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Background Papers used in the preparation of this report: -
Application file, except information protected by the Data protection Act.