Report of the Service Director
Neighbourhood & Environment

Agenda Item No:
Meeting: 27 November 2008

NORTH LINCOLNSHIRE COUNCIL

LICENSING (MISCELLANEOUS) SUB-COMMITTEE

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

APPLICATION TO REVIEW A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE TD050

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To inform the Sub-Committee of a review of a Hackney Carriage/Private Hire Vehicle Driver's licence.

1.2 To request that the Sub-Committee determines whether to revoke or suspend the application for a Hackney Carriage/Private Hire Vehicle Drivers licence in regard to Mr Dean Edward Mitcham.

2. BACKGROUND INFORMATION

2.1 This 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.

2.2 Drivers of Hackney Carriages and Private Hire Vehicles must be in possession of a valid current Hackney Carriage and Private Hire Vehicle Drivers Licence and ID Badge. It is a requirement that on initial application, prior to the grant of a licence, and upon application to renew a licence every 3 years, that a check be made with the Criminal Records Bureau, for the existence and content of any criminal record held in the name of the applicant.

2.3 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.

2.4 It is also a requirement that the applicant's DVLA licence be submitted with all applications.

2.5 On 28 May 2008 a complaint was received from a licensed taxi driver of a physical assault on him from a passenger of his vehicle, the passenger being Mr Mitcham.

2.6 On 11 June 2008 Mr Mitcham contacted the department to inform them of an incident he was involved in on the evening of 28 May 2008.

2.7 The incident resulted in Mr Mitcham attending Scunthorpe Magistrates Court on 14 August 2008. The decision of the court was to put the case before the Crown Court on 9 September 2008. At this hearing, the decision of the court was again to adjourn the hearing until 24-25 November 2008.

2.8 Mr Mitcham's case was put before this sub committee on 25 September 2008. The decision was to defer the hearing until the next sub committee date, due to the absence of Mr Mitcham.

2.9 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.

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:

- To revoke the licence
- To suspend the licence for a set period of time
- To take no action

3.2 Should the Licensing (Miscellaneous) Sub-Committee revoke the licence or impose additional terms, conditions or restrictions then the licence holder 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.

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 (attached to the rear of the agenda).**

4.2 The legislation also allows the Licensing Authority to attach Conditions to a Private Hire Vehicle Drivers Licence and in the event that the licensed driver has breached any of the Conditions during the period of their licence may result in them being put before an Assessment Board of Officers of the Licensing Division to consider it. In the event that the Assessment Board is not satisfied that the applicant is a "fit and proper"

person, a recommendation is made to this Sub-Committee to determine the licence or the renewal application.

4.3 Reports will be updated at the meeting if necessary to take account of any additional relevant information received after publication.

4.4 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.

4.5 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.

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 3.1 above, taking into account the information provided by Humberside Police.

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