

## **REGULATORY PANEL**

**WEDNESDAY 5 JANUARY 2011 AT 2.00PM**

PRESENT:: Councillor Morton (Chairman), Bell, Cape, Graham, Hendry (from 2.10pm) Layden, Mrs Parsons, Mrs Robson, Scarborough, Tootle, Mrs Vasey and Wilson.

### **RP.01/11 APOLOGIES FOR ABSENCE**

There were no apologies for absence submitted for this meeting.

### **RP.02/11 DECLARATIONS OF INTEREST**

There were no declarations of interest submitted for this meeting.

### **RP.03/11 MINUTES OF PREVIOUS MEETINGS**

RESOLVED – That the minutes of the meetings held on 24 November 2010 be agreed as a correct record of the meetings and signed by the Chairman.

### **RP.04/11 APPEAL OUTCOME**

The Chairman reminded the Panel that two years ago the Panel revoked a Hackney Carriage Drivers licence from Mr Jefferies. Mr Jeffery appealed the decision and the process had taken two years, during which time he continued to drive. The Chairman informed the Panel that on 21 December 2010 the Administrative Court refused Mr Jeffery permission to seek judicial review and permission to appeal had been refused. The Court also required Mr Jeffery to pay costs of £550 to the Council by February and he no longer held a Hackney Carriage Drivers licence.

### **RP.05/11 HACKNEY CARRIAGE ADVERT – REQUEST TO DEPART FROM COUNCIL GUIDANCE**

The Licensing Manager presented report GD.03/11 regarding an application for an advert to be carried on a hackney carriage which contained words of a sexual nature which may be contrary to the Council advertising guidelines.

Mr Sutherland, the applicant, was in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. The Assistant Solicitor advised Mr Sutherland that he had a right to be represented but he indicated that he did not wish to be so represented. Mr Sutherland explained that he had not received a copy of the Licensing Manager's report.

The Licensing Manager gave Mr Sutherland a copy of the report and the Panel adjourned to give Mr Sutherland time to read the report.

The Licensing Manager reminded the Panel that the Consolidated Guidelines for advertising on licensed hackney carriage and private hire vehicles had been approved by the Council's Environment Committee on 23 November 2000 and was amended by the Regulatory Panel in October 2008. The Guidelines had been circulated to Members.

Paragraph 5 of the Guidance stated that each proposal would be considered on its merits but the following advertisements would not be approved:

- those with political, ethnic, religious, sexual or controversial texts;
- those for escort agencies, gaming establishments or massage parlours;
- those displaying nude or semi-nude figures;
- those which seek to involve the driver as an agent of the advertiser;
- those likely to offend public taste (including material depicting bodily functions and genitalia and the use of obscene or distasteful language)
- those which seek to advertise more than one company/service or product;
- those which detract from the integrity and/or identity of the vehicle.

The Licensing Manager informed the Panel that an enquiry had been made by Mr Sutherland of Sexual Healing Co regarding the placement of an advert on a saloon taxi licensed with the City Council. Paragraph 3 of the Guidance stated:

Saloon/estate/hatchback (White) Hackney Carriages and  
saloon/estate/hatchback Private Hire vehicles

- Rear doors and rear quarter panel only i.e. the advertising material may cover the whole of the rear door panel and rear quarter panel, below window height, on both sides of the vehicle

Mr Sutherland's company provided sexual aids and material over the internet and for parties and he had also stated that they were extending their business to cater for amputees, with particular consideration to personnel from the Armed Forces.

The Licensing Manager had circulated the initial draft advert with the report which had contained the words 'www.SexualHealing.co' in large writing. Officers had expressed their concern that it did not comply with the Council's advertising guidelines. Mr Sutherland then submitted a second draft, also attached to the report, which used the words 'www.TheRosebuds.Co' as a compromise. The words 'www. SexualHealing.co' would remain on the advert but the size of the lettering had been reduced.

He stated that officers had remained of the opinion that the advertisement did not comply with the Guidance and informed Mr Sutherland that the application would have to be considered by the Regulatory Panel. He added that Paragraph 9 of the Guidance stated:

The view taken by Carlisle City Council is that fare paying passengers pay a premium rate to be conveyed from one location to another in safety, comfort and privacy. As a captive audience, being subjected to excessive or intrusive advertising is not considered either necessary or appropriate to the service being offered.

Mr Sutherland addressed the Panel. He stated that the word 'sexual' was not deemed offence when used for sexual health. He stated that the website sold exactly the same products as Ann Summers who had a shop in the town centre. He did not feel that it was a captive audience as the proposed advertisement would be on the exterior of the vehicle and there would be nothing internally so the audience would be the people out on the street.

He explained that the Rosebud website had been used as an alternative to the Sexual Healing site but advertisement would need to retain the company name 'Sexual Healing' somewhere on it. He added that the site also had items that helped amputees and people who had suffered from cervical cancer, the company was new and would stock a full range of products for health as well as organise party nights, the profits from which would go to charity. He added that the company was trying to take away the seedy part of sex.

In response to questions from Members and Officers, Mr Sutherland felt that the public would not be offended by the advertisement, if they were to be offended it would be by the content of the website. People know what Ann Summers sold and Sexual Healing sold the same product in the privacy of people's homes. There was nothing on the site that was offensive or x rated.

Members felt that the term 'Rosebud' was misleading and could cause Members of the public to look at the site by mistake.

Mr Sutherland agreed that 'Rosebud' was not ideal and had been a second choice and added that he would prefer to keep Sexual Healing. In response to a further question Mr Sutherland explained that the idea behind the name 'Sexual Healing' was because they wanted to 'heal' everyone's perspective of sex and stop it being something that should be hidden.

Mr Sutherland confirmed that the proposed advertisements were red with the name of the company 'Sexual Healing' on the bottom of each advert. It was proposed that one would be placed on the rear panel and one on the rear door. He added that he did advertise on the internet but wanted to advertise on a local taxi as it was a local business based in Carlisle.

Mr Sutherland expanded on the 'healing' part of the site and explained that there was a sexual health button on the main website which took people to products for amputees and the disabled. There would be more products added. He had contacted Help for Heroes and hospitals to discuss the products and how they could positively help people. One of the products, the intimate rider, had been shown on a Channel 4 pre watershed show.

The Assistant Solicitor had viewed the website and found that the search engine had not responded to key words such as amputees.

Mr Sutherland explained that the website had been hacked twice over the Christmas period and was in the process of being fixed and repopulated.

Following further discussion the matter was voted upon and it was:

RESOLVED – That the application for an advert for [www.SexualHealing.co](http://www.SexualHealing.co) to be placed on a hackney carriage had been considered on its merits, however, the Panel could see no reason to depart from Carlisle City Council's consolidated guidelines for advertising and the application was therefore refused specifically on the grounds of:

- Those with political , ethnic, religious, sexual or controversial texts;
- Those likely to offend public taste (including material depicting bodily functions and genitalia and the use of obscene or distasteful language)

## **RP.06/11      SEXUAL ENTERTAINMENT VENUES**

Having arrived later Councillor Hendry did not take part in the discussion for this matter.

The Licensing Manager submitted report GD.05/11 regarding an amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

The Licensing Manager reported that Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called 'Sexual Entertainment Venue' which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, to allow local authorities to regulate lap dancing and similar entertainment.

To adopt the amendment Local Authorities must pass a resolution which specified that the amendments made by Section 27 to Schedule 3 should apply to their area and the day on which it should come into force within the area. They must also publish a notice that the resolution had been passed, for two consecutive weeks in a local newspaper, the first publication no later than 28 days before the date specified in the resolution for the provisions to come into force in the local authority's area. There will also be a transitional period for 12 months beginning with the date specified in the resolution; this would allow any existing venues to obtain the appropriate licence.

The Licensing Manager explained that full Council had, on 9 November 2010, approved the recommendation to adopt the legislation and procedures were in place. It was proposed that the implementation date for adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 be 1 March 2011.

RESOLVED – That the Regulatory Panel recommends to the City Council that the implementation date for adoption of Schedule 3 of the Local Government

(Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 be 1 March 2011.

## **RP.07/11 PUBLIC AND PRESS**

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraph number (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

## **RP.08/11 APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE**

(Public and Press excluded by virtue of Paragraph 7)

Having arrived later Councillor Hendry did not take part in the discussion for this matter.

The Licensing Officer presented Report GD.04/11 regarding an application for a licence to drive a Hackney Carriage.

DB, the applicant, was in attendance at the meeting.

The Assistant Solicitor outlined the procedure the Panel would follow. DB confirmed that he had received and read the Licensing Officer's report. The Assistant Solicitor advised DB that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer provided details of the applicant's licensing history and application.

DB addressed the Panel. He informed the Panel of the circumstances of his most recent conviction, his personal circumstances and his reasons for the application.

DB answered Members and Officers questions.

The Licensing Officer reminded the Panel of the relevant Legislation and outlined the options open to the Panel.

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter.

RESOLVED – That, having given serious consideration to the matter, the Panel agreed to grant DB's application for a Hackney Carriage driving licence accompanied by a strong letter of warning as to his future conduct.

(The meeting ended at 2.55pm)