

## **REGULATORY PANEL**

**WEDNESDAY 7 AUGUST 2013 AT 2.00 PM**

**PRESENT:** Councillor Bell (Chairman), Councillors Allison, Cape, Craig, Ms Franklin, Layden, Morton, Nedved (as substitute for Cllr Mrs Vasey), Mrs Parsons, Mrs Stevenson, Mrs Warwick and Wilson (as substitute for Cllr Scarborough).

**OFFICERS:** Legal Services Manager  
Licensing Manager  
Licensing Officer

### **RP.35/13 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillor Scarborough and Councillor Mrs Vasey.

### **RP.36/13 DECLARATIONS OF INTEREST**

There were no declarations of interest affecting the business to be transacted at the meeting.

### **RP.37/13 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** – That the minutes of the meetings held on 17 April and 29 May 2013 be agreed as a correct record of the meetings and signed by the Chairman.

### **RP.38/13 DISCLOSURE OF ADDITIONAL CONVICTION – DRIVING WITHOUT DUE CARE AND ATTENTION - MICHAEL DONNELLY**

The Licensing Officer submitted report GD.38/13 regarding a licensed Hackney Carriage Driver who had informed the City Council on 19 June 2013 that he had received a conviction of 'Driving without due care and attention' by the Court on 17 June 2013.

Mr Donnelly, the Driver, was in attendance at the meeting.

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

The Licensing Officer outlined Mr Donnelly's Licensing History and highlighted previous incidents that had occurred.

The Licensing Officer reported that Mr Donnelly had informed the Licensing Office that he had, on 11 April 2013, been involved in an incident when he accidentally knocked down a member of the public whilst reversing out of Greystone Road Community Centre.

Mr Donnelly had been interviewed by the Licensing Officer on 24 April 2013, details of which were provided at Appendices C and D to the report.

On 17 June 2013 Mr Donnelly plead guilty to 'Driving without due care and attention' at Court and received £120 fine and 4 penalty points. Apart from that conviction there were no further endorsements on Mr Donnelly's driving licence.

In response to a question the Licensing Officer confirmed that Mr Donnelly had not come to the attention of the Licensing office since the 2009 speeding offence mentioned within the report.

The Licensing Officer informed the Panel that the CCTV footage of the incident was available to watch if Members agreed. She added that if the Panel agreed to watch the footage Mr Donnelly had requested that he wait outside for the duration of the video.

The Panel agreed to watch the CCTV footage and Mr Donnelly left the meeting, returning at the end of the video.

Mr Donnelly then addressed the Panel. He explained that immediately after the incident he called the operator of Radio Taxis to explain that an ambulance was needed and he had been involved in an incident. Fortunately the paramedics had arrived quickly and were followed by the Police who had been called out as a result of the call for the ambulance. The Police contacted Mr Donnelly at midnight that evening to inform him that the lady had been released from hospital and had suffered a fractured ankle. He had not returned to work that weekend. He had called his insurance company and had admitted liability pending any civil action. He had attended Court on 17 June and represented himself.

Mr Donnelly felt that the CCTV evidence made the incident look worse than it was, he had checked his mirror and the impact had been a nudge, this had not been challenged in Court. The Court had fined him £120 and he had received 4 points, the Judge had said it was a momentary lapse of concentration. The incident had affected him badly, he had co-operated with everyone and he had incurred other costs.

In response to questions Mr Donnelly confirmed that:

- The car park had no other vehicles in.
- He couldn't explain why he had reversed out of the car park instead of turning the vehicle. It would have been possible to turn the vehicle using a five point turn.
- His vehicle had three fitted head rests on the back seat.
- He did not feel that he was going at an excessive speed as he had not travelled far in the car park.
- He had not been to the Community Centre before, he usually worked from 6.00pm, the afternoon of the incident had been a one off shift to make up for a missed shift.
- The additional costs incurred had been the Court costs.
- As a result of the incident he would be much more aware and to check before he moved the car.
- He had no other employment.

The Licensing Officer added that she had visited the Community Centre car park and the CCTV footage did not show how narrow the car park was. A car could turn in the car park but it would take more than three turns. In response to a question she informed the Panel that she had not heard of any similar incidents in the car park.

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** – 1) That, Mr Donnelly be issued with a letter of warning and required him to sit and pass a Driving Standards Agency Taxi Driving Test within 26 weeks. If Mr Donnelly did not pass his test within 26 weeks his licence would be revoked.

2) The reason given by the Panel for the above resolution is that the Panel had considered the matter in depth, including the CCTV footage and the representations from Mr Donnelly, and were of the opinion that Mr Donnelly's actions demonstrated a lack of caution and carelessness. Against this, the Panel had weighed his previous good licensing history and his obvious remorse.

3) That it be noted that Mr Donnelly was informed that he had a right of appeal and that right would be confirmed in writing.

#### **RP.40/13      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 each minute) of Part 1 of Schedule 12A of the 1972 Local Government Act.

#### **RP.39/13      VERBAL UPDATE**

(Public and Press excluded by virtue of Paragraph 7)

With the agreement of the Chairman the Licensing Manager gave the Panel a verbal update on a matter the Panel had previously considered.

The Licensing Manager reminded the Panel of the reports that they had considered on 29 May and 12 June 2013 regarding the condition of a Hackney Carriage under the Exceptional Condition Policy and the suitability of Hackney Carriage Driver as a fit and proper person. The Hackney Carriage Driver had appealed the decision but had failed to pay for the appeal cost and as a result the case was not heard. The decision of the Panel to revoke the Hackney Carriage Drivers licence and Hackney Carriage licence stands.

(The meeting ended at 2.40pm)