

AGENDA

Regulatory Panel

Wednesday, 24 February 2021 AT 16:00

This meeting will be a virtual meeting and therefore will not take place in a physical location.

Virtual Meeting - Link to View

This meeting will be a virtual meeting using Microsoft Teams and therefore will not take place at a physical location following guidelines set out in Section 78 of the Coronavirus Act 2020.

Register of Attendance and Declarations of Interest

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

Apologies for Absence

To receive apologies for absence and notification of substitutions.

Public and Press

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

Minutes of the Previous Meeting

3 - 8

The Chair will move the minutes of the meeting held on 20 January 2021 as a correct record. The only part of the minutes that may be discussed is their accuracy. (Copy minutes herewith).

PART A

To be considered when the Public and Press are present

- NIL -

PART B

To be considered when the Public and Press are excluded from the meeting

B.1 APPLICATION FOR A NEW PRIVATE HIRE DRIVER LICENCE

- Information relating to any individual;

Members of the Regulatory Panel:

Conservative – Bainbridge, Ellis, Meller, Morton (Vice Chair), Nedved, Shepherd, Collier (sub), Mrs Mallinson (sub), J Mallinson (sub)

Labour – Ms Ellis-Williams (Chair), Miss Sherriff, Dr Tickner, Patrick, Miss Whalen, Alcroft (sub), Birks (sub), McNulty (sub),

Independent - Tinnion, Paton (sub)

Enquiries, requests for reports, background papers etc to: Rachel Plant,
Democratic Services Officer - rachel.plant@carlisle.gov.uk

REGULATORY PANEL

WEDNESDAY 20 JANUARY 2021 AT 4.16pm

PRESENT: Councillor Ms Ellis-Williams (Chair), Bainbridge, Ellis, Meller, Morton, Nedved, Patrick, Shepherd, Miss Sherriff, Dr Tickner, Tinnion and Miss Whalen

OFFICERS: Assistant Solicitor
Licensing Manager
Environmental Health Officer

RP.01/21 APOLOGIES FOR ABSENCE

No apologies of absence were submitted.

RP.02/21 DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

RP.03/21 PUBLIC AND PRESS

It was agreed that the items of business in Part A be dealt with in public and the items of business in Part B be dealt with when the public and press were excluded.

RP.04/21 MINUTES OF PREVIOUS MEETING

RESOLVED – It was noted that Council, at its meeting on 5 January 2021, received and adopted the minutes of the meetings held on 14 October and 18 November 2020. The Chair will sign the minutes at the first practicable opportunity.

RP.05/21 HACKNEY CARRIAGE/PRIVATE HIRE DRIVER - ENFORCEMENT

The Licensing Manager submitted a report (GD.04/21) regarding a Hackney Carriage and Private Hire Driver.

The Hackney Carriage and Private Hire Driver (the Driver) was in attendance.

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

The Licensing Manager reported that the Driver had been a licensed driver with the Council since 2004. He had no penalty points endorsed on his DVLA driving licence and no penalty points awarded under the Council's Hackney Carriage and Private Hire Enforcement Policy.

On 22 October 2020 the Licensing Office had been made aware that the City Council Civil Enforcement Team had carried out enforcement activity on 18 October 2020 at the Upper Viaduct Car park in relation to littering in the area. A person, later identified as the Driver, had been recorded on littering and urinating beside his vehicle which was his licensed private hire vehicle.

The actions undertaken by the Driver had been recorded by video, details of which had been set out in the report. The video was shown to the Panel, the Driver has previously been shown the video.

The Civil Enforcement Team had issued the Driver with three Fixed Penalty Notices for the littering offences. The Driver failed to report the offences to the Licensing Office within the required time period of 7 days and breached condition 16 attached to his Private Hire Driving Licence and paragraph 18 of the Hackney Carriage Driver Code of Conduct. The Driver was invited to attend an interview in which he apologised for his actions on the car park stating that he had not done anything like this before and believed his actions were due to stress of illness within his close family. He also stated that he was unaware of reporting Fixed Penalty notices for such offences to the Licensing Office.

The Licensing Manager reminded the Panel of the Hackney Carriage and Private Hire Licensing Enforcement Policy which had been adopted in March 2019. The conduct of the Driver fell under the misconduct 'Unsatisfactory Behaviour of Conduct of a Driver' for which 1 to 12 points could be issued. The Policy stated that for a such a misdemeanour Officers could award up to a maximum of 12 points and the Regulatory Panel could award up to 12 points. The Driver also failed to declare the offences in accordance with his licence conditions and this misconduct attracted 6 penalty points.

The Driver addressed the Panel. He explained that his mother had been very ill at the time of the incident and passed away a short time later. His personal circumstances had been too much for him and he was not thinking clearly about his actions. He had apologised for not reporting the offences, he had thought it was only driving offences he had to report. He explained he had been a driver for a long time, and this was the first time he had appeared before the Panel, he confirmed that all of the fines had been paid in full.

The Licensing Manager drew the Panel's attention to the legislation which they must take account of and set out the options for the Panel.

The Driver summed up by apologising for littering.

RESOLVED - The Panel had carefully considered and read the evidence in report GD.04/21 and listened carefully to the responses and heard from the Driver.

The Panel noted that the Driver had held a Private Hire Driver's Licence since 2017 and a Hackney Carriage Driver's Licence since 2004.

The Panel had watched video evidence and heard about the events of 18 October 2020 which led to enforcement action being taken against the Driver. In addition, the Panel had heard that the Driver failed to report the offences to the Licensing Office within the time scale required by a condition on the Private Hire Driving Licence and contrary to the Hackney Carriage Driver Code of Conduct.

The Panel listened carefully to the Driver's account of these events.

The Panel must be satisfied that the Driver was a fit and proper person to hold a Hackney Carriage Driver's Licence and a Private Hire Driver's Licence.

The Panel decided to issue 9 penalty points in accordance with the City Council's Hackney Carriage and Private Hire Licensing Enforcement Policy.

The reasons for the Panel's decision were:

1. Failure to declare the offences to the Licensing Office
2. Clear unsatisfactory behaviour or conduct of a driver who was licenced by Carlisle City Council.

RP.06/21 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 item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph number (as indicated in brackets against the minute) of Part 1 of Schedule 12A of the 1972 Local Government Act.

RP.07/21 SUSPENSION OF DOG BREEDING AND DOG BOARDING LICENCES (Public and Press excluded by virtue of Paragraph 7)

The Environmental Health Officer submitted a report (GD.10/21) regarding the suspension of personal dog breeding and dog day-boarding licences.

The Dog Breeder was in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. The Dog Breeder confirmed that she had received, read and understood the Environmental Health Officer's report. The Assistant Solicitor advised the Dog Breeder that she had a right to be represented but he indicated that she did not wish to be so represented.

The Environmental Health Officer reported that the Dog Breeder held two licences:

- Dog Breeder licence – allowed a maximum of 4 breeding bitches, to produce a total of 4 litters of puppies per year and not to have more than 1 litter of puppies on site at a time.
- Day Boarding licence – maximum of 30 dogs on site.

The Environmental Health Officer set out in some detail the concerns and complaints that had been received and the resulting investigation as set out in the report. The report also included photographs, a report from the City Council appointed veterinarian and two videos which had been taken during an inspection.

The Environmental Health Officer responded to questions clarifying the following:

- that had been some evidence that the Dog Breeder had used a vet but not for the matters detailed in the report;
- the issues that some of the dogs had and the impact on the dogs health;
- the City Council had appointed an independent vet to assess the dogs;
- the Dog Breeder had held a licence with the Council since June 2019;
- new licences were only issued for one year and an inspection was undertaken before any further licences were issued;
- all licences had been extended due to the Coronavirus and there had been some difficulty in inspecting homes safely;
- the number of dogs that the Dog Breeder would have been legally allowed to breed compared to the number that was sold.

The Dog Breeder addressed the Panel. She gave details of her personal life which had impacted on her ability to manage the business. She set out the impact her current situation

had on her and reported that she loved her animals and her job and did not want to lose it. She confirmed that all the animals had been seen by her own vet and clarified where they stayed and how they were transported. With the approval of the Chair, the Dog Breeder circulated photographs, a vet report, and several statements of support to the Panel.

The Panel adjourned at 6.05pm until 6.15pm to read the documentation provided by the Dog Breeder.

The Dog Breeder responded to questions from the Panel.

The Environmental Health Officer drew the Panel's attention to the legislation which they must take account of and set out the options for the Panel. The options which had been included in the report had been amended to:

- Take no action against the Dog Breeder
- Suspend, vary or revoke the licence to breed dogs
- Suspend, vary or revoke the licence to operate a dog day boarding business
- To revoke both the licence to breed dogs **and** the licence to operate a dog day boarding business

Should the Panel chose to revoke one of the licences the legislation required that all licences issued to the individual under the regulations would be revoked.

The Dog Breeder summed up by reiterating her love for her job.

RESOLVED – The Panel had carefully considered and read the evidence in report GD.10/21 and listened carefully to the responses and heard from the Dog Breeder.

The Panel noted that the Dog Breeder was licensed by Carlisle City Council to have a maximum of four breeding bitches to produce a total of four litters of puppies per year and not have more than one litter on site at any one time. The Dog Breeder was also licensed to operate a day boarding business taking up to a maximum of thirty dogs on site.

The Panel had heard that two complaints were received by the Council that the Dog Breeder was exceeding the number of permitted puppies on site and heard details of the resulting investigation including video evidence, the evidence included in the report and from the Council's Environmental Health Officer. In addition, the Panel have listened carefully to the Dog Breeder's account of the events and gave consideration to additional documentation submitted by the Dog Breeder.

Under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 the Panel had grounds to suspend, vary or revoke the Dog Breeder's licences if they were satisfied that:

- The licence conditions were not being complied with
- There had been a breach of these regulations
- Information supplied by the Dog Breeder was false or misleading
- It was necessary to protect the welfare of an animal

The Panel decided to:

Revoke both the licence to breed dogs and the licence to operate a dog boarding business with immediate effect due to the Panel's concern over animal welfare:

The reasons for the Panel's decision were:

1. The Dog Breeder did not comply with the licence conditions, keeping far more dogs than the licence allowed, the Dog Breeder was found to be exceeding the number of dogs they were licenced to supervise when an inspection was carried out.

2. The Dog Breeder breached the regulations and as a result was also being prosecuted by Carlisle City Council.

3. The Dog Breeder supplied false and misleading evidence to the Council regarding the number of breeding dogs they possessed, they did not adequately explain the allegations resulting in a warrant being obtained, they had not microchipped all the dogs and many were registered to the wrong keepers and four were not registered at all.

4. It was necessary to protect the welfare of the Dog Breeder's animals, some of which were underweight and suffering with dental disease and ear infections due to mites, some with severe infections. The Panel heard that two of the dogs had been killed in transit to the dog day boarding business due to inadequate transport arrangements. Officers also viewed dogs being transported more than one per cage.

The Dog Breeder was informed of their right to appeal which would be confirmed in writing.

[The meeting ended at 7.14pm]

