

MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the REGULATORY SUB COMMITTEE B held on 18 November 2016 at 10.00 am

Present Councillors

L D Taylor, Mrs F J Colthorpe and
D R Coren

Also Present

Officer(s): Simon Newcombe (Public Health and Professional Services Manager), Simon Johnson (Legal Services Manager), Thomas Keating (Lead Licensing Officer) and Sally Gabriel (Member Services Manager)

4 APOLOGIES AND SUBSTITUTE MEMBERS

No apologies were recorded.

5 CHAIRMAN - ELECTION

RESOLVED that Cllr L Taylor be elected as Chairman of the Sub Committee for the meeting.

6 TO DETERMINE WHETHER OR NOT A LICENSED DRIVER AND VEHICLE PROPRIETOR REMAINS FIT AND PROPER

Members of the Sub-Committee and officers introduced themselves.

Members of the Committee confirmed that they had no interests to declare and discussed whether to hold the hearing in public or in private. Given the specific information contained within the report it was:

RESOLVED that under Section 100A (4) of the local Government Act 1972, the public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

(Proposed by the Chairman)

Consideration was given to a report from the Director of Corporate Affairs and Business Transformation relating to a licensed driver and seven potential issues that cumulatively appeared to call into question the licensed driver's character and suitability to continue to hold licenses with the authority. The hearing (16 September 2016) had been deferred to allow further information to be considered.

The Public Health and Professional Services Manager outlined the contents of the report highlighting the issues for consideration:

- Using a vehicle without an MOT

- Complaints had been received about using unlicensed vehicles (3)
- A complaint from a customer
- Private Hire Operator records
- Late receipt of documentation

He highlighted a statement made by the Licence Holder made in September 2016 which had been factually incorrect and that there were a series of occasions when a vehicle had not had an MOT certificate by the required time and that records seemed to indicate a lack of proactive vehicle maintenance, of the total 64 MOT tests considered, 28 had failed many of which had been for multiple reasons, a further 20 had passed with advisories and 16 had passed without comment.

As a result of the further investigation that had taken place the Licence Holder had been interviewed further. The Lead Licensing Officer outlined the details of the interview of 20 October 2016 highlighting the detail of the failed MOT tests and/or advisories and that there had been a general pattern in that mileage was taking place between the dates that the vehicle had failed the MOT and being re-tested. The issue of unlicensed family members driving the vehicles for personal use was also raised. Members considered the records for the individual vehicles which outlined the MOT expiry date, the test date, the result of the test, mileage records, reasons for failures and advisories.

The Public Health and Professional Services Manager outlined the information that had been received prior to the hearing: that of vehicle check sheets and invoices for works that had taken place. He asked the panel to consider whether the licence holder remained fit and proper to maintain his current licenses and outlined the options available to the panel.

Consideration was given to whether having failed an MOT test a vehicle should be used in the interim period before re-testing.

The Licence Holder's legal representative addressed the meeting outlining the way in which the license holder dealt with the sourcing of parts if his vehicles failed MOT testing. He then addressed his client seeking answers to questions which included:

- Why the witness statement had been incorrect – the client had not been trying to deceive but had made mistakes.
- The poor maintenance of the vehicles and an issue with a driver who had been supposedly doing his own maintenance.
- How parts were sourced and then taken to the garage for the works to take place.
- The gap between the MOT failure and retesting and where the vehicles were in the interim period.
- The client had never been involved in any accident whilst carrying a passenger and no breakdowns could be remembered.
- Information relating to the seat belt issue that had been raised.
- Procedures that would now be put in place, which included a 6 weekly check on the vehicles, dates and times would be put on a wall chart identifying when the vehicles required testing.

Discussion took place regarding:

- The location of the seat belt which had been damaged.
- The 18 occasions when miles had been added following failure and re-testing.
- The need for the vehicles to be roadworthy and safe for hire;
- The appearance of the checklist and promises to improve administration.
- The issue of the missing plate and how it had been found in another vehicle.
- Details of the ownership of the business and the individual vehicles.

The License Holder's legal representative was invited to sum up.

The Sub Committee withdrew to consider its decision.

It was

RESOLVED that the Licence Holder be issued with a formal warning that if matters highlighted within the hearing (administration, maintenance and checking systems) were not addressed, then the licence holder would be recalled to the Regulatory Sub Committee who would discuss options available including the revocation of the driver, vehicle and operators licences.

For the following reasons:

- Whilst the licence holder's disregard for the administrative side of his business had thankfully not resulted in any public harm, it nonetheless had the potential to impact on public safety.
- The Sub Committee would also like to draw to the licence holder's attention that an MOT was not just about a vehicle being roadworthy but was also about the safety of passengers and other road users or members of the public.
- Apart from his shortcomings as an administrator, the Sub Committee felt that the License Holder was a fit and proper person to hold driver, vehicle and operators licences.
- In making its decision, the Sub Committee had considered the Council's Hackney Carriage and Private Hire Licensing Policy and relevant legislation.

(The meeting ended at 12.55 pm)

CHAIRMAN