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## LICENSING BOARD

Minutes of the meeting held on 27 March 2018 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

**Present:** Councillor L Potts (Chairman); Councillors Dellar, Connor, K Coleman-Cooke, Crow-Brown, Curran, J Fairbrass, Johnston, Matterface, R Potts, Rogers, M Saunders and Tomlinson

**In Attendance:** Councillor L Fairbrass

**397. APOLOGIES FOR ABSENCE**

There were no apologies made at the meeting.

**398. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**399. MINUTES OF PREVIOUS MEETING**

Councillor Crow-Brown proposed, Councillor J. Fairbrass seconded and Members agreed the Board minutes as a correct record of the meeting held on 4 January 2018.

**400. LICENSING SUB-COMMITTEE MINUTES**

Councillor Crow-Brown proposed, Councillor J. Fairbrass seconded and Members agreed the sub-committee minutes as a correct record of the meeting held on 30 January 2018.

**401. REPORT ON PROSECUTIONS, APPEALS AND LICENSING UPDATE**

Jane Bennett, Licensing Team Leader introduced the item for discussion and advised the meeting that at the time of writing the report, officers did not have the information regarding the court hearing date for an appeal against the Licensing Sub Committee decision made on 21 November 2017.

That information was now available as the hearing date for the case had been set for 12.00 pm on 1<sup>st</sup> May 2018 at the Canterbury Magistrates' Court.

Members noted the report.

**402. EXCLUSION OF PUBLIC AND PRESS**

Councillor Johnston proposed, Councillor Tomlinson seconded and the Board agreed that the public and press be excluded from the meeting for agenda item 7 as it contains exempt information as defined in Paragraphs 1 (Information relating to an individual) and 7 (Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime) of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

**403. GRANT OF LICENCE TO DRIVE PRIVATE HIRE VEHICLES**

Jade Malyn, Licensing Officer introduced the report and gave a brief background to the application and offered two options from which the Board could choose one.

The applicant did not wish to ask questions of the Licensing Officer.

Board Members asked questions of the Licensing Officer.

Board Members asked questions of the applicant regarding the circumstances in which he received a police caution in September 2015.

Officers did not wish to ask questions of the applicant.

Tara O'Leary, Barrister (Cornerstone Barristers, London), acting as Legal Adviser to the Board at today's meeting, advised that the Board may also wish to question why the applicant had not disclosed convictions or cautions on his application form, as required by the guidance notes on the application form provided by the Council. The Board asked questions of the applicant on this matter and the applicant was provided with an opportunity to respond.

The applicant and the council officers left the Chamber to allow Members to deliberate on the matter in confidence.

After the confidential deliberations the Board summoned the applicant and officers back into the meeting.

Councillor Crow-Brown proposed, Councillor Tomlinson seconded and Members unanimously agreed to refuse to issue the licence to the applicant on the following grounds:

- Members are not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence;
- The background to this application was that on the 14<sup>th</sup> of September 2015, the applicant received a caution from Kent Police for sexual assault. The Board notes that Police cautions are issued when there is an admission of guilt and before the Board today, the applicant also admitted to committing the offence;
- The applicant applied to the Council for a licence on the 31 of August 2017 and on his application form he was asked to declare if he had ever received any convictions, including police cautions. He answered 'no' to the questions and thus failed to disclose his caution to the Council;
- The Board has had regard to the Statement of Policy about relevant convictions and Police cautions which is given to all applicants for private hire licences alongside the application form;
  - The Statement states very clearly that the Council's paramount consideration in making decisions about licences shall be ensuring safety and welfare of the public;
  - Applicants are required to declare any police cautions they may have, even if they are regarded as spent under the Rehabilitation of Offenders Act 1974;
  - The Council would normally be justified in refusing to grant an application where an applicant has failed to disclose a caution or conviction;
  - The Council would normally be justified in refusing to grant an application where an applicant has a conviction or caution for an indecency offence and cannot yet show that they have committed no further offences for a period of three to five years;
- The Board was particularly concerned about the applicant's failure to disclose his caution, given the seriousness of any allegation of sexual assault;
- Taxi drivers hold positions of considerable responsibility and the Board takes seriously any failure to disclose relevant information about the drivers' backgrounds, hence the decision to refuse the application.

Meeting concluded: 10.50 am

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