

# LICENSING REGULATORY COMMITTEE

## Review of Recent Court Cases 4<sup>th</sup> September 2014

### Report of Licensing Manager

#### PURPOSE OF REPORT

To inform Members of the outcomes of recent court cases in relation to hackney carriage and private hire drivers.

**The report is public**

#### RECOMMENDATIONS

**The Committee is requested to note the report.**

##### 1.0 Introduction

1.1 Members have requested to be kept informed of licensing court cases, and it is intended to provide a quarterly report. Unfortunately when the last report was due in June, it was mistakenly thought that there were no cases to report since March. This report therefore includes all cases which have been determined in Lancaster Magistrates' court in relation to licensing matters since March.

##### 1.2 10<sup>th</sup> April 2014

Keith Raby of Nether Kellet was convicted for plying for hire on a street which was not a designated rank contrary to Byelaws adopted by Lancaster City Council. He was fined £150 and ordered to pay £150 costs and a £20 victim surcharge.

##### 1.3 26<sup>th</sup> June 2014

Laurence Dent of Lancaster appealed the decisions of the Licensing Regulatory Committee to suspend his hackney carriage and private hire driver's licence for a period of 2 months in February 2014 and a subsequent period of 4 months in June 2014. The second suspension being with immediate effect.

The Appeal was heard before District Judge Hatter at the Magistrates' Court. Evidence was given by the Licensing Manager and by the respective complainants in relation to the two incidents that led to the Committee's decisions to suspend the licence. Members will recall that in respect of the first incident the complainant was the owner of a hair salon, and in the second, another taxi driver.

In respect of the first incident, the Judge found, as a matter of fact, that the evidence of the complainant was clear, cogent and credible and he was satisfied that the incident did take place as alleged and that Mr Dent's actions were not those of a fit

and proper person. The appeal was therefore dismissed and the Committee's decision to suspend the licence for two months upheld.

In relation to the second incident, the Judge found the evidence from the complainant to be vague, elusive and inconsistent and preferred Mr Dent's versions of events and therefore allowed the appeal.

As Mr Dent had already served two months' suspension following the Committee's decision in April the Judge was satisfied that Mr Dent had in effect already served the two month suspension given by Committee in February, and upheld on appeal, and his licence was therefore reinstated following the hearing.

The Judge was clear that no criticism was to be made of the Council and this was reflected in the fact that no costs were awarded.

## 2.0 Conclusion

2.1 Members are asked to note the report.

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Enforcement of licensing matters helps to assure the public that the Council does consider the issue of the safety of the public.

### **FINANCIAL IMPLICATIONS**

Most prosecutions are conducted by the Council's internal solicitors, so that the costs are met from within existing staff budgets. However, on occasions, Legal Services instruct Counsel to represent the Council, for example where the other party is known to have instructed Counsel or a specialist lawyer, or where the case is particularly complex. In the case of the appeals referred to in the report, Counsel was instructed at a cost of £3,000 and this was met from the Council's Legal and Court Costs budget. Any costs awarded to the Council by the court are collected by the court and paid to the Council.

### **LEGAL IMPLICATIONS**

The Council are under a duty to ensure that the legislation in relation to hackney carriage and private hire licensing is enforced.

### **BACKGROUND PAPERS**

None

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