

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 18 November 2019.

PRESENT: Councillors Arundale (Chair); Waters (Vice Chair); Councillors; Bell, Goodchild, Higgins, Hill, Jones, Polano, Sands and Smiles and J A Walker.

OFFICERS: S. Bonner and C. Cunningham

APOLOGIES FOR ABSENCE Councillors; Dean, Lewis and Rooney.

DECLARATIONS OF INTERESTS

No declarations of interest were made at this point in the meeting.

19/30 MINUTES - LICENSING COMMITTEE - 21 OCTOBER 2019

The minutes for the meeting of the Licensing Committee held on 21 October 2019 were submitted and accepted as a true record.

19/31 EXCLUSION OF PRESS AND PUBLIC.

ORDERED:- that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**** SUSPENSION OF COUNCIL PROCEDURE RULE NO. 5 - ORDER OF BUSINESS**

ORDERED: that in accordance with Council Procedure Rule No. 5, the Committee agreed to vary the order of business to consider agenda item 7 as the next item of business.

19/32 REVIEW OF A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 24/19

The Director of Culture and Communities submitted an exempt report in connection with a Review of a Private Hire Vehicle Driver Licence, Ref: 24/19, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The Driver, who was in attendance at the meeting and accompanied by his legal representative, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Senior Licensing Officer presented a summary of the report, confirmed that the Driver's Licence was due to expire on 30 April 2022, not 11 July 2022 as cited in the report. The Committee was also advised that the Driver had been licensed since July 2002 had had previously appeared before the Committee in January 2008 in relation to excessive speeding.

Members were advised that the Driver had appeared before the Committee on 28 January 2008 in relation to Offence 1 listed in the report, namely excess speed and following a complaint from a School Crossing Patrol Officer in the Redcar and Cleveland Area. Members issued the Driver with a warning about his future conduct.

The Committee was advised that the Driver now appeared before Members due to Offences 3 and 4 listed in the report. Specifically, Offence 3 related to an incident on 27 February 2017 in which the Driver was involved in a collision with a cyclist at 10pm in the Grove Hill area of Middlesbrough, but failed to report it. When interviewed by a Licensing Enforcement Officer, the Driver stated the collision was very minor and that it was a result of a misunderstanding at

a pedestrian crossing. At the time of the incident the Driver had made attempts to speak to the cyclist who became angry and aggressive toward him and felt it prudent to drive away for his own safety given the time of night and the location.

Offence 4 related to an incident on the 13 January 2019 in which the Driver had been approached by two Council Officers during a Taxi Licensing Test purchase exercise. He had accepted the fare, which was touting for business, which was contrary to his Private Hire Vehicle Licence. The Driver was subsequently interviewed by Licensing Enforcement Officers on 25 January 2019 during which the Driver admitted the offence and 6 points were endorsed on his licence.

The Committee was also advised that a further allegation of plying for trade that had occurred on 28 July 2019. The Committee also heard the Driver had taken 3 males from Guisborough to Middlesbrough after the Driver's booked fare had been a 'no show'. One of the passengers had made a complaint to the Driver's operator about the incident and a complaint was also made to Redcar and Cleveland Council as this was the area the incident occurred in.

The Driver confirmed that the report was an accurate representation of the facts.

The Driver, and his legal representative, presented his version of events to the offences and incidents listed in the report and responded to questions from Members, the Council's legal representative and the Senior Licensing Officer.

It was confirmed there were no further questions for the Driver, or his legal representative, and at this point the Driver, and his legal representative, withdrew from the meeting while the Committee considered the review.

Subsequently, all interested parties returned and announced the Committee's decision.

ORDERED:- That Private Hire Vehicle Driver Licence, Ref 24/19, be suspended for a period of three months.

On the 18 November 2019, the Licensing Committee considered a review of the Driver's combined hackney carriage and private hire vehicle Driver's licence. It considered the review on its merits, it considered the report, information and representations made to the Committee. It considered the legislation and Middlesbrough Council Private Hire and Hackney Carriage Licensing Policy 2019 ('the Policy').

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') the Licensing Committee may suspend or revoke the licence of a Driver of a hackney carriage or private hire vehicle on the grounds that since the grant of the licence the Driver had been convicted of an offence involving dishonesty, indecency or violence; or had been convicted of an offence or had failed to comply with the provisions of the Act or the Town Police Clauses Act 1847 or for any other reasonable cause.

The Licensing Committee decided to suspend the Driver's combined hackney carriage and private hire vehicle Driver's licence for a period of three months on the grounds that the Driver has been convicted of an offence contrary to Section 48 of the Act and for any other reasonable cause.

The reasons for the decision were as follows:

1. The Committee considered the history of the Driver's licence on the whole which was granted on the 11 July 2002.
2. It noted the Driver was warned on the 28 January 2008 in relation to his driving standards as a result of a speeding conviction and a complaint from a school crossing patrol officer.
3. The Driver was further warned in relation to his driving standards on the 4 April 2017 as a result of a conviction for speeding in December 2008 and a conviction for failing to stop after an accident in February 2017.
4. The mitigation given to the Committee was that the Driver did not consider there had

- actually been an 'accident' because it was a misunderstanding as he thought the male on the bike had been giving way. That as the male was shouting aggressively at him he drove away. That there were no driving issues and he was convicted simply because he did not report it. However, the Committee considered it was serious that the Driver whose vocation was to drive the public did not realise he needed to report such an incident.
5. The Driver failed to declare the above two convictions to the Council in breach of the condition on his licence.
 6. On the 23 July 2019 the Driver was convicted of unlawfully plying for hire and having no insurance. The Driver's representative explained to the Committee that it occurred after the Driver had finished his shift and was parked up in Linthorpe Village. He stated he only took the fare after he was approached by Council officers and did not go out looking or touting for fares. However, the Committee considered that it is serious for a licensed Driver to breach the rules regarding plying for hire in a private hire vehicle. It also considered the matter to be serious because by plying for hire the Driver's insurance was invalidated and therefore he was driving whilst uninsured with passengers. The area where the vehicle was parked was also near to a hackney carriage rank.
 7. The Committee was seriously concerned that only five days after being convicted for plying for hire and having no insurance which resulted in 6 points on his licence, a fine and costs, knowing the risks, again the Driver unlawfully plied for hire contrary to the Act in Guisborough on the 28 July 2019. The Committee noted the mitigation that the Driver stated 3 males had opened his door to get in his vehicle and because it was very busy on that particular night and it was difficult to move away he took the passengers. However, the Committee considered that this did not outweigh their serious concerns that very shortly after a conviction he committed the same offence, knowing the risks. The Committee were also concerned that when the Driver was interviewed by licensing officers about this incident he could not explain why he had taken the fare but told officers the taxi trade was very quiet and that he was struggling to earn money for his family.
 8. The Policy stated that a licensee convicted of an offence in relation to their private hire vehicle or driver's licence will bring into question their continued fitness to hold a licence. It stated the Council would take into consideration the seriousness of the offence, nature of the offence, any previous criminal history or complaints and the licensee's attitude towards the offence. It confirmed that a driver convicted of such an offence whilst acting as the driver of a private hire vehicle may have his licence suspended or revoked with immediate effect.
 9. The Policy listed major traffic offences and within that list was the offence of using a vehicle uninsured against third party risks. The Policy went on to state that the Council appreciated there was a difference in the level of seriousness of the offences listed and would consider each on its own merits. The Policy in relation to major traffic offences stated that if an applicant had an endorsement in respect of a major traffic offence then the application would normally be refused until at least four years had lapsed without incident.
 10. Taking into consideration the length of time the Driver has had a licence and the representations made by the Driver, the Committee decided to suspend the licence as opposed to revoking it. The Committee considered that the Driver failed to act within the rules and the law regarding his trade, despite warnings, and convictions at the public's risk. He failed to report two offences which was a requirement on his licence, he failed to report an accident and failed to take notice of a conviction for plying for hire and having no insurance as five days later again he unlawfully plied for hire despite the risk.
 11. The Committee therefore considered that a substantial period of three months suspension was required and is appropriate in order to deter and ensure the Driver does not commit any such offences which put the public at risk.

If the Driver was aggrieved by the decision he could appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.

If the Driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council would claim its costs in defending its decision from the Driver which could be in the region of £700.

19/33

REVIEW OF A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE REF:-22/19

The Director of Culture and Communities submitted an exempt report in connection with a Review of a Private Hire Vehicle Driver Licence, Ref: 22/19, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The Driver, who was in attendance at the meeting, and accompanied by his legal advisor, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Senior Licensing Officer presented a summary of the report and advised Members the Driver had been licensed since 22 December 1999 which was due to expire on 30 November 2019.

The Committee was told that the Driver had previously appeared before Members on 26 July 2004 as a result of Offences 4-8 listed in the report after which the Committee decided to revoke the Driver's Licence. The decision was appealed and subsequently overturned by Teesside Crown Court in March 2005.

Members were advised that the Driver now appeared before the Committee because of concerns about his driving standards and complaints that were raised in relation to his conduct.

The Driver was interviewed by a Licensing Enforcement Officer on 23 September 2019 and confirmed his explanations for Offences 1-8, provided explanations for Offences 9-10 and complaints listed at 11-17 in the report.

The Committee was advised that, in relation to a complaint made in January 2017, it was alleged the Driver had driven over a passenger's foot after he assisted his wife to load her shopping into the Taxi. The Driver stated that this was due to a misunderstanding and that he had assumed the male passenger was not travelling with him and had consequently began to reposition his taxi in order to move off. The male passenger at this point claimed the taxi had ran over his foot but refused to show the driver the injury. Members heard the driver was issued with a warning.

With regard to a complaint made in November 2017, Members heard the driver had driven through a 'No Entry' sign and through a red light from Brentall Street from the Bus Station. The driver admitted to driving through a 'No Entry' sign but not to driving through a red light. The Committee heard that the driver was issued with the warning for driving through an area of Middlesbrough designated for Buses only.

Members were advised that on 9 August a complaint had been received regarding the Driver's conduct when the driver had argued for an alternative drop-route route to that suggested by the passenger. The passenger claimed the driver was also looking at his mobile phone prior to the journey. The Driver stated that due to the locations of the drop-offs it would have made sense to make amendments to the drop-off route. No further action was taken in relation to this matter.

The Committee also heard that a complaint had been received by the Driver's operator who had suggested that complainant also contact the Council. It was alleged that after collecting a 13 year old passenger at 10.16am, the Driver had informed the passenger he was going to collect some breakfast from his home as he had been working since early morning. In doing so he asked the passenger if she would like to come into his home. The passenger declined the invitation and the Driver went to collect his breakfast that had been prepared for him, leaving the passenger alone. The passenger claimed to have been locked in the vehicle

during this time. The passenger complained they had arrived late at their destination as a result of the breakfast stop. The Driver denied asking the passenger to accompany him into his house, but confirmed that he stopped at home to collect some breakfast. It was also confirmed that the Licensing department were unable to secure a witness statement from the passenger and as such no further action was taken.

In relation to a complaint about the Driver parking his taxi on the footpath on Borough road the Driver admitted this incident occurred and a warning was issued. Photographs in support of this complaint were attached at Appendix 1 of the report.

The final complaint concerned a journey during which the complainant felt the driver spoke too loudly on his phone, via Bluetooth, scaring the complainant's daughter and that the driver had driven over speedbumps too quickly despite knowing she was heavily pregnant. The driver stated that he recalled the journey taking place without incident and that he's spoken to his brother on his phone via his Bluetooth headset.

The Committee also heard that several complaints had also been received by the Driver's operator, which were detailed at Appendix 2 in the report.

The Driver confirmed that the report was an accurate representation of the facts.

The Driver, and his legal representative, presented his version of events to the offences and complaints listed in the report and responded to questions from Members, the Council's legal representative and the Senior Licensing Officer.

It was confirmed there were no further questions for the Driver, or his legal representative, and at this point the Driver, and his legal representative, withdrew from the meeting while the Committee considered the review.

Subsequently, all interested parties returned and announced the Committee's decision.

ORDERED:- Driver's combined hackney carriage and private hire vehicle driver's licence be suspended for a period of six weeks on the ground for any other reasonable cause.

On the 18 November 2019, the Licensing Committee considered a review of the Driver's combined hackney carriage and private hire vehicle driver's licence. It considered the review on its merits, it considered the report, information and representations made to the Committee. It considered the legislation and Middlesbrough Council Private Hire and Hackney Carriage Licensing Policy 2019 ("the Policy").

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") the Licensing Committee may suspend or revoke the licence of a driver of a hackney carriage or private hire vehicle on the grounds that since the grant of the licence the driver has been convicted of an offence involving dishonesty, indecency or violence; or has been convicted of an offence or had failed to comply with the provisions of the Act or the Town Police Clauses Act 1847 or for any other reasonable cause.

The reasons for the decision were as follows:

1. The Committee noted that the Licence was granted in 1999 with a warning in respect of driving standards. It noted the Licence was revoked because of six offences in 2004 involving no insurance, speeding and breaches of the Act, however, that the Crown Court reversed the decision to revoke the licence on the 29 March 2005.
2. The Driver committed two further speeding offences in 2009.
3. The Driver's licence had been suspended between 1 February 2013 and the 20 March 2013 following an arrest, however, no further action was taken by the police and the Driver informed the Council that the allegations were untrue.
4. The Driver's Licence was suspended from the 26 November 2018 to the 8 January 2019. This was as a result of a Complaint that the Driver took a thirteen year old female passenger travelling alone to his home during a journey. The female was left in the vehicle whilst he went

into his house. The Driver admitted this, however, Officers could not obtain any further information from the passenger or her parents.

5. The Driver had received 3 warnings for the following incidents

a. On the 14 February 2017 following a complaint from a customer that the Driver pulled away with the rear door still open, ran over his foot and his attitude at the time. The Driver claimed it was simply a mistake, he pulled away slowly thinking he was only taking the female passenger and denied running over the customer's foot.

b. On the 14 November 2017 following a complaint that the Driver cut through a no entry sign at the bus station.

c. On the 30 July 2019 following a complaint for inappropriate parking over a pavement. The Driver claimed he parked there to pick up an item from the shop opposite.

6. The Driver had been informed by his operator that his actions were not acceptable for each of the following complaints received:

a. On the 9 November 2017 that he was talking on his phone for the whole journey which was denied by the Driver.

b. On the 17 January 2018 that the Driver looked at his phone during part of the journey. The Driver said that he would look at his hands free device if a job became available.

c. On the 28 March 2018 that the Driver asked lots of questions of a female passenger. The report from the operator stated the Driver denied the allegation but the Driver informed the licensing officer he could not recall the incident.

d. On the 30 April 2018 that the Driver charged school children extra for waiting times in that the children gave him £4 for a £3.20 journey. The Driver claimed in order to charge more he would have to contact the operator for instruction. However, the Committee noted that the same operator gave the driver advice that his actions were not acceptable.

e. On the 26 July 2019 that when the customer had entered the car the Driver was swearing on his phone. The Driver denied swearing.

f. On the 1 August 2019 that the Driver had been shouting very loudly on his phone during the entire journey which scared her young daughter and that he failed to slow down over speed bumps. The Driver denied the allegation but confirmed he had a conversation with his brother with his hands free device and stated that cannot otherwise than go slow over speed bumps.

7. A member of the public felt the need to complain about a journey on the 9 August 2018 about the Driver's attitude when asked to drop off the passengers in the order requested.

8. The Driver denied many of the allegations made by the Complainants and explained that his personality and conversation is "loud" which passengers could have misrepresented. However, the Committee considered that since 2017, 11 complaints had been received from different passengers at different times about the Driver's conduct. The complainants did not appear to know the driver or have any reason to collude against the Driver. All those passengers took the matter so seriously they felt the need to make complaints. The Committee on balance therefore concluded there is a pattern of inappropriate behaviour by the Driver.

9. The Driver presented some references to Committee from customers however it did not consider that they outweighed the seriousness of the Complaints. The Driver produced a reference from a Director of the Company, however, the Committee considered that the reference in no way outweighed that the operator on six occasions advised the Driver his actions were unacceptable.

10. Despite warnings given by the Council and advice given by his Operator the Driver's actions continued to lead to complaints from passengers.

11. The Driver's Licence is subject to the following conditions, that drivers must:

- always be clean, respectable and polite,
- take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by them.
- behave in a civil and orderly manner at all times,
- at all times treat their passengers or any potential passenger with courtesy and respect
- must take particular care with unaccompanied children, and
- must not cause any nuisance or annoyance to any person whether inside or outside of their vehicle

12. The Committee considered that the Driver had breached his conditions on numerous occasions, failed to adhere to warnings and advice and his behaviour is unsuitable. The Committee therefore considered it appropriate to suspend the licence. In view of the continuous issues with the Driver, the Committee deemed it appropriate to suspend the licence for a period of six weeks which it considered should deter the Driver from acting

inappropriately, ensure he drives safely and to protect the public.

If the Driver was aggrieved by the decision he may appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.

If the Driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council would claim its costs in defending its decision from the Driver which could be in the region of £700.

19/34

ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR MAY BE CONSIDERED.

The Licensing Manager provided Members with a verbal update regarding the on-going licensing situation in relation to Wolverhampton City Council.

ORDERED:- That the information provided to the Committee be noted.