

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Friday 19 March 2021.

PRESENT: Councillors Councillor Ronald Arundale, A Waters (Vice-Chair), B Cooper (Substitute for A Bell), S Dean, S Hill, D Jones, L Lewis, D Rooney, R Sands, M Smiles and J Walker

OFFICERS: S Bonner, J Dixon, C Cunningham, T Hodgkinson, S Lightwing and S Morris

APOLOGIES FOR ABSENCE: J Goodchild, T Higgins and E Polano

20/23 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

20/24 **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.

20/25 **REVIEW OF COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS' LICENCE REF: 1/21**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 01/21, 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, accompanied by his legal representative, was in attendance at the meeting and verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report which outlined that the matter was due to be considered on 1 February 2021, however, due to the unavailability of the Police Officer involved in the case, the meeting was rearranged. The rearranged meeting was scheduled to take place on 1 March 2021, however, due to the unavailability of the driver's legal representative, the matter was again deferred to today's date.

It was noted that the driver first licensed with Middlesbrough Council in May 2007. The driver appeared before Members following a complaint received from his two local Ward Councillors regarding an incident that occurred on 29 September 2020 and the offence, detailed at 1) in the report, which resulted from the incident.

The complaint was made to the Licensing Office by a Ward Councillor on 29 September 2020 in relation to an incident that had occurred the same day. A resident had approached the Ward Councillor to advise that the driver had parked his Private Hire Vehicle so as to obstruct the highway. Other vehicles were unable to pass the driver's vehicle without mounting the grass verge and as it was refuse collection day, the refuse vehicle would not have been able to pass the driver's vehicle. The resident had advised the Councillor that the driver had stated he did not have the keys to the vehicle and had parked it there the previous evening, however, the resident had CCTV footage showing the driver parking his vehicle there that morning. The Ward Councillor had subsequently visited the driver's home and asked him to move his vehicle as it was causing an obstruction. The driver had sworn at the Councillor and refused to move his vehicle. Street Wardens were called, however, the driver still refused to move the vehicle and this eventually resulted in the Police being called to the scene.

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A copy of the Councillor's statement was attached Appendix 1. As the Councillor was not able to attend the meeting, a further email, dated 8 March 2021, was attached at Appendix 1(a) in support of the original complaint.

In addition, a second Ward Councillor made a complaint on 29 September 2020 in relation to the same incident. The Councillor had been travelling in a private vehicle and was unable to pass due to the driver's vehicle obstructing the highway. The Councillor had asked the driver to move his vehicle but he had refused. A copy of the Councillor's complaint, together with photographic evidence taken at the scene, was attached at Appendix 2. Further information was provided by the Councillor on 25 January 2021 and this was attached at Appendix 2(a).

Licensing Officers were unable to obtain a copy of the CCTV footage referred to by the local resident, however, the resident reviewed the footage and noted down the information. This was provided at Appendix 3.

The driver was interviewed by a Licensing Enforcement Officer on 1 October 2020, when he provided an explanation in relation to the incident and this was contained within the submitted report.

On 18 January 2021, a statement was received from the Police Officer who attended the scene and a copy of the statement was attached at Appendix 4. It was highlighted that video footage from the Police Officer's Body Worn camera which captured the incident was available for Members to view should they wish to do so.

The Licensing Manager confirmed that the Fixed Penalty Notice issued to the driver by the Police had been paid in full.

The driver's legal representative confirmed that the report was an accurate representation of the facts and stated that the driver did not contest the content of the statements submitted by the Ward Councillors or Police Officer.

The second Ward Councillor to make a complaint against the driver was invited to join the meeting. The Councillor confirmed the content of her complaint at Appendix 2 and 2(a) and provided her version of events in relation to the incident.

There were no questions from Members of the Committee and the driver's legal representative confirmed to the Councillor that the driver did not to contest the complaint and wished to offer his apologies for the incident.

The Councillor withdrew from the meeting at this point.

The driver's legal representative presented the case on behalf of the driver and responded to questions from Members and the Council's legal representative.

It was confirmed that there were no further questions and the driver, his legal representative, and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew from the meeting whilst the Committee determined the review. The Chair advised that the Committee would advise the relevant parties of the Committee's decision, in writing, within five working days.

ORDERED that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref 01/21 be retained but that the driver be issued with a warning regarding his behaviour.

The driver was advised that he would receive the full decision, considerations and reasons within five working days.

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage vehicle driver's licence on the grounds that:-

- Since the grant of the licence the driver has been convicted of an offence involving

dishonesty, indecency or violence.

- Since the grant of the Licence the driver has committed an offence or breached the Act or the Town Police Clauses Act 1847.
 - For any other reasonable cause.
2. The Committee considered: Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on the 1 November 2019 (“the Policy”); the report and the representations made by the driver, his representative and the witnesses.
 3. The review of the licence was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all of the information the Licensing Committee decided to issue a formal warning to the driver to go on his record.

Reasons

5. The Committee considered the driver’s history, on the whole, in order to assess his suitability to continue to be licensed.

The Committee considered that the driver’s behavior was wholly unacceptable, however, noted that the driver apologised for his behavior and apologised to the witnesses. The Committee noted that the driver’s representative explained that the incident was wholly out of character when he was suffering from stress. It noted that the driver and his family were tested positive for Coronavirus shortly after the incident. The Committee considered that the driver had been licensed since 2007 and there were no other incidents or complaints on his record. It also noted that the driver’s operator had offered further training. Therefore, after weighing all of the information the Committee decided not to take any further action on this occasion but to issue a warning in respect of the driver’s behavior during the incident.