

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 28 June 2021.

PRESENT: Councillors R Arundale (Chair), E Polano (Vice-Chair), S Dean, T Higgins, S Hill, C Hobson, D Jones and S Walker

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

APOLOGIES FOR ABSENCE: Councillors A Bell, C Cooke, L Lewis, M Smiles and J Walker

21/6 **DECLARATIONS OF INTEREST**

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

21/7 **MINUTES- LICENSING COMMITTEE - 14 JUNE 2021**

The minutes of the Licensing Committee meeting held on 14 June 2021 were submitted and approved as a correct record.

21/8 **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.

21/9 **REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 6/21**

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: 06/21, 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 a 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 in relation to a complaint made by two Council Neighbourhood Safety Officers on 26 April 2021 in relation to the driver's behaviour towards a female on 13 April 2021. The submitted report made reference to the relevant sections of the Council's Policy Guidance on Cautions, Convictions and Complaints.

The report highlighted that the driver was first licensed with Middlesbrough Council in February 2014. This was the driver's first appearance before Members and the Licensing Manager confirmed that there had been no previous complaints made in relation to the driver.

The driver was interviewed by a Licensing Enforcement Officer on 27 April 2021 when he provided an explanation in relation to the incident – full details of which were contained within the submitted report - and confirmed that there were no other outstanding matter of which the Council was unaware.

The complaint related to an incident witnessed by two Council Neighbourhood Safety Officers. The Officers had heard an argument between a female and the taxi driver, when they had approached the driver to try and prevent the situation escalating. Witness statements were provided by the Officers and were attached at Appendices 1 and 2.

Bodycam footage of the incident, taken by the Neighbourhood Safety Officer, was made available and viewed by Members.

The driver confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The driver's representative addressed the Committee in support of the driver case and responded to questions from Members and the Council's legal representative.

The driver also addressed the Committee and responded to questions from Members.

It was confirmed that there were no further questions and driver, his 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.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

ORDERED that Private Hire Vehicle Driver Licence, Ref 06/21 be retained but that the driver be issued with a warning in relation to his conduct.

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 had been convicted of an offence involving dishonesty, indecency or violence;
- Since the grant of the licence the driver had 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 1 November 2019 ("the Policy"); the report and the representations made by the driver and his representative.

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 the driver with a warning, that will be placed on his record, for the following reasons:-

Reasons

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

6. The Committee noted the Policy stated that a licensed driver should be courteous, avoid confrontation, not exhibit prejudice, not take the law into their own hands and demonstrate conduct befitting to the trust that is placed in them.

7. It noted that the Policy also referred to offences similar to public order incidents.

8. It noted that a condition of the driver's licence was to comply with the code of conduct, and it was a condition that a driver must always be polite, and behave in a civil and orderly manner at all times. This was also confirmed in the Code of Conduct.

9. The Committee noted that the driver had breached his Licensing Conditions and Code of Conduct on 13 April 2021 in that he shouted and swore in the street and shouted and swore whilst carrying a passenger. The driver was also acting in an aggressive manner. This was shown in the footage provided by neighbourhood safety officers.

10. It considered that the driver had been licensed for seven years and had no previous complaints or issues throughout the length of his licence nor did he have any previous convictions.

11. Although the driver's actions and conduct on 13 April 2021 were wholly inappropriate for a driver licensed in Middlesbrough, the Committee decided to stop short of suspending his licence in view that the driver was extremely remorseful of his actions. The Committee considered his actions on the day were wholly out of character and as a result of false allegations shouted in the street about him and fear of reprisals. The Committee considered that his behaviour on this occasion warranted a warning (to be placed on his record) not to conduct himself in this unbecoming manner in the future.

12. There was no internal or statutory route of appeal against the decision of the Committee to issue a warning to the driver, however, the driver had the option of judicially reviewing the lawfulness of the decision to the high court if grounds had been made out. If the driver decided to challenge the decision by way of judicial review, independent legal advice as to the grounds and time limits that may apply should be sought and the Council would claim its costs in defending the decision.