

LICENSING COMMITTEE

Date: Monday 13th March, 2023
Time: 1.00 pm
Venue: Mandela Room

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 19 December 2022 3 - 6
4. Exclusion of Press and Public

To consider passing a Resolution Pursuant to Section 100A (4) Part 1 of the Local Government Act 1972 excluding the press and public from the meeting during consideration of the following items on the grounds that if present there would be disclosure to them of exempt information falling within paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Application for a Private Hire Vehicle Driver Licence Ref: 01/23 7 - 12
6. Application for a Private Hire Vehicle Driver Licence Ref: 02/23 13 - 16
7. Application for a Private Hire Vehicle Driver Licence Ref: 03/23 17 - 22
8. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin
Director of Legal and Governance Services

MEMBERSHIP

Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, S Dean, N Gascoigne, T Higgins, S Hill, C Hobson, D Jones, L Lewis, D McCabe, M Smiles and J Walker

Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Joanne Dixon / Scott Bonner, 01642 729713 / 01642 729708, joanne_dixon@middlesbrough.gov.uk / scott_bonner@middlesbrough.gov.uk

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 19 December 2022.

PRESENT: Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, S Dean, T Higgins, S Hill, C Hobson, D Jones, L Lewis, D McCabe and M Smiles

OFFICERS: S Bonner, J Dixon, T Hodgkinson and B Khan

APOLOGIES FOR ABSENCE: Councillors N Gascoigne and J Walker

21/20 **DECLARATIONS OF INTEREST**

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

21/21 **MINUTES - LICENSING COMMITTEE - 5 SEPTEMBER 2022**

The minutes of the Licensing Committee meeting held on 5 September 2022 were submitted and approved as a correct record.

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 5 and 6 as the next items of business.

21/22 **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.

21/23 **APPLICATION FOR REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 09/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 09/22, 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 accompanied by a representative, 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. The driver was first licensed with Middlesbrough Council in January 2019.

The driver now appeared before Members following a complaint from a member of the public in relation to his driving standards. The complaint was made on 27 June 2022 by the parent of a 17-year-old passenger who had travelled in the driver's vehicle on 22 June 2002 and alleged that the driver was driving in a dangerous manner and had exceeded the speed limit – in excess of 100mph at one point. A copy of the complaint was attached at Appendix 1.

As a result of the complaint, the driver was identified and a request was made to his vehicle operator, on 4 August 2002, for further details of the journey as the operator had a GPS system in place which held details of journeys undertaken by Private Hire drivers including records of the speed the vehicle was being driven at during various points in a journey.

On 6 October 2022 the operator responded apologising for the delayed response stating this was due to a software issue. The operator confirmed the speed at which the vehicle had been driving during the journey in question.

On 13 October 2022, the driver was contacted by a Licensing Enforcement Officer to discuss the matter, however, he was unable to recall the journey due to the time that had lapsed since the allegation was made.

On 14 October 2022, having considered the information available, the Licensing Manager decided to revoke the driver's licence with immediate effect on the grounds of 'any other reasonable cause' under delegated powers to suspend or revoke drivers' licences when it was in the interests of public safety.

On 1 November 2022, the driver's representative made representations that the driver had not been given adequate opportunity to provide a full explanation in relation to the matter, the Licensing Manager rescinded the revocation with immediate effect and referred the matter to the Licensing Committee.

During interview, the driver explained he was still unable to clearly remember the journey and that he would not normally travel at such speeds. He had no speeding convictions or complaints made against him regarding his driving. He stated that if he had reached such speeds it may have been as the result of an aggressive driver tailgating his vehicle.

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 and stated that the driver had already suffered financial hardship during the period his licence was revoked and confirmed that he would be willing to undertake a Driver Improvement Scheme programme at his own expense. The driver and his representative responded to questions from Members, the Licensing Manager and the Council's Legal Representative.

It was confirmed that there were no further questions and the 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 No: 09/22, be retained, but that the driver be issued with a warning regarding his future conduct, and be required to complete the Driver Improvement Scheme at his own expense, within three months, for the following reasons:-

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 1 November 2019 ("the Policy"), the report and the representations made by the driver, his representative and the witness.

Decision

3. After carefully considering all of the information and considering the review on its own merits the Committee decided to issue a formal warning regarding the driver's driving standards, for his driving standards to improve and that a further driving incident may risk his licence being revoked. As the driver had been unable to drive for a period of 18 days (dating from 14 October 2022 – 1 November 2022), the Committee considered it appropriate to apportion this as time served under a suspension.

4. The Committee further decided to require the driver to attend a Driver Improvement Scheme approved by the Council, at his own expense, as soon as possible but not later than three months from the date of the decision notice.

The reasons for the decision were as follows:-

Reasons

5. The driver had been granted a Licence on 18 January 2019 and the current licence was due to expire on 30 December 2024. The driver had never had any prior warnings or points placed on his licence. The driver was required to appear before the Committee following a formal complaint whereby the driver was speeding with a passenger in his vehicle.

6. The driver had collected a 17-year-old passenger on 22 June 2022 and the passenger's mother (the complainant) alleged he drove at speeds of 110 to 120 mph. The driver's vehicle operator, (the employer of the driver), was contacted for GPS data which would indicate the speed of the driver. This data showed the speed at 30 second intervals during the journey. This data was presented to the Committee and various speeds were recorded, notably one at 100.1mph.

7. Due to delays in obtaining the data, four months had lapsed between the initial fare and a Licensing Enforcement Officer discussing the matter with the driver. Nevertheless, it was accepted by the driver that he was driving at speeds at or in excess of 100mph. On 14 October 2022 the Licensing Manager revoked the driver's licence with immediate effect. The decision to revoke the driver's private hire vehicle driver's licence was reversed on 1 November 2022 (18 days from the date of revocation) following representations by the driver.

8. The Committee considered submissions from the driver's representative which suggested the driver did not remember the journey and the only plausible reason for speeding was that the driver was being tailgated. This was not a matter of fact and the Committee explored questions surrounding this. The driver's contention was if he had been contacted within a closer period of time to the incident, he would have been able to give an accurate account as to why he was travelling at such a speed.

9. The Committee, after considering the speeding and complaint, decided that a suspension and warning would be the appropriate decision. This warning aimed to improve the driver's driving standards which he must improve immediately and any further driving incident may risk his Licence being revoked.

10. The driver was required to attend a Council approved Driver Improvement Scheme as soon as possible but within three months, at his own expense. This should refresh and retrain the driver to ensure his driving standards improved and he was a safe driver in order to protect the public.

11. The Committee decided it suitable to apportion the 18 days as time served under suspension.

12. This was in accordance with the Policy which stated, "if a licensee had driven unsafely as a result of minor traffic offences or had upheld complaints about his driving standards, putting the public at risk... the Council may require the Licensee to attend a driver improvement scheme at his own expense and/or suspend the Licence or revoke the Licence".

This decision was final and there was no internal or statutory route of appeal, 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 he may wish to seek independent legal advice as to the grounds and time limits that may

apply. If the driver decided to take this course of action the Council would apply for any costs it incurred in defending its decision.

**** LIFTING OF THE EXCLUSION OF PRESS AND PUBLIC**

In accordance with the Rules of Procedure, number 5, as the items had been considered out of order from that stated on the agenda, the Press and Public would be permitted to enter the meeting for consideration of the following item, Agenda Item 4.

21/24 **TAXI LICENSING POLICY - VERBAL UPDATE**

The Licensing Manager provided the Committee with a verbal update in relation to the latest position regarding the Licensing Policy.

The Committee was informed that the Policy was approved by the Council's Executive at its meeting on 8 November 2022.

The revised Policy had been updated in line with new Statutory Taxi and Private Hire Vehicle Standards recommended by the Department of Transport which aimed to improve consistency in the taxi licensing system across Local Authorities and to reduce the risk of harm to all passengers, particularly focussing on those presented to children and vulnerable passengers. The key changes within the new Policy included:-

- Standards for convictions – new tariffs.
- Tax conditionality – drivers must provide a particular tax code when applying for a licence.
- DBS checks to be carried out on proprietors as well as drivers.

In addition, several additional changes had been made to the Policy which were requested by the Taxi Trade. These changes related to streamlining the application process, reducing costs and to align the Council's processes with other Local Authorities. The changes included:-

- Vehicle age restriction policy – a vehicle could now be first licensed up to 5 years or age and come off plate at 10 years of age.
- Window tints – to allow factory manufactured window tints.
- Drivers no longer required to undertake a topographical test (street names).

AGREED that the information provided be noted.

21/25 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None.

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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