

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 13 May 2024.

PRESENT: Councillors L Lewis (Chair), S Hill (Vice-Chair), J Cooke, C Cooper, D Jones, J Kabuye, T Livingstone, L Mason, J McTigue, A Romaine, J Ryles (Substitute for P Storey) and J Walker

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

APOLOGIES FOR ABSENCE: Councillors S Dean, M Saunders and P Storey

23/45 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Nature of Interest
Councillor L Lewis	Non-pecuniary	Agenda Item No. 7 – Application for PHVDL Ref 07/24 – driver known to her.
Councillor A Romaine	Non-pecuniary	Agenda Item No. 7 – Application for PHVDL Ref 07/24 – driver known to her.

23/46 **MINUTES - LICENSING COMMITTEE - 15 APRIL 2024**

The minutes of the previous meeting of the Licensing Committee, held on 15 April 2024, were submitted and approved as a correct record.

23/47 **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.

23/48 **REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 05/24**

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 05/24, where circumstances had arisen which required special consideration by the Committee.

With the permission of the Chair, the Licensing Manager circulated a copy of a written statement provided by the driver in support of his case.

The Chair introduced those present and outlined the procedure to be followed. The driver was in attendance at the meeting, accompanied by his wife, 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 outlining that the matter was due to be considered at the previous meeting of the Committee on 15 April, however, it was deferred due to unforeseen circumstances. The driver appeared before Members due to allegations of inappropriate comments being made during a journey made by a minor travelling in his vehicle.

It was highlighted that the driver was first licensed with Middlesbrough Council in January 2024. Concerns were raised by an alternative education provider with the driver's employer on 5 March 2024 regarding the conduct of a Private Hire Vehicle driver who had undertaken a booking to transport a 14-year-old female pupil to her home address. This followed concerns raised by the pupil's mother immediately following the journey when the pupil had reported

that the driver had made a number of inappropriate comments and questions making her feel frightened and vulnerable.

A copy of the initial email from the education provider to the driver's employer was attached at Appendix 1.

As of a result of the email received, an investigation was conducted by the driver's employer to establish the identity of the driver and he was subsequently interviewed on 6 March. The driver had stated he did attend the education establishment but was told by a member of staff that the pupil had left. He had stated he undertook the journey anyway so that he would still be paid for the journey and that he had done so because of a previous instance when something similar had happened and he was not paid by his employer for the fare. Following the interview, the employer made further enquiries using the vehicle's tracking system which confirmed that the vehicle in question had undertaken the journey from the education establishment to the pupil's home address, however, the system does not show whether any passengers were carried in the vehicle. Two CCTV stills were provided by the education establishment showing the pupil getting into the driver's vehicle on the day in question.

The driver's employer provided details of the interview undertaken with the driver and the investigation to the Licensing department on 12 March. This was attached at Appendix 2. Copies of the CCTV stills from the education establishment showing the pupil approaching then entering the driver's vehicle were attached at Appendix 3.

The driver was subsequently interviewed by a Licensing Enforcement Officer on 14 March 2024 in relation to the incident. The driver confirmed that he had undertaken the fare in question on 5 March and that whilst he did hold a conversation with the pupil during the journey he did not ask inappropriate questions or make inappropriate comments. When asked why he had informed his employer that he had not picked up the pupil at all, he stated he had been confused and thought his employer was referring to a similar booking where he had undertaken the journey, despite not having a passenger, in order to get paid.

As this version of events differed from that provided to his employer, the Licensing Enforcement Officer discussed this with his employer and his employer sent a further email to the Licensing department clarifying the previous interview undertaken with the driver. This was attached at Appendix 4.

On 14 March 2024, a Licensing Enforcement Officer spoke to the mother of the pupil concerned and she confirmed the details of her complaint. The complainant provided two emails, detailing the circumstances of the incident, to the Licensing department. The first email stated an incorrect time which was corrected in the second email. Copies were attached at Appendix 5.

The Licensing Manager advised that the complainant (the pupil's mother) had been in attendance at the previous Licensing Committee when the matter was due to be heard. Several attempts to contact her to invite her to today's meeting had been made but had been unsuccessful. A letter inviting her to the meeting had also been hand-delivered to her home address but she had made no further contact with the Licensing department and was not in attendance at the meeting.

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

The driver addressed the Committee and responded to questions from Members, the Council's Legal Representative and Licensing Manager.

It was confirmed that there were no further questions and the driver, his wife, 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: 05/24, be revoked, with immediate effect.

Authority to Act

1. Under Section 61 (1) (b) of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may decide to suspend or revoke the licence of a Private Hire Vehicle driver on grounds they consider to be reasonable cause.
2. The Committee considered Sections 61 and 57 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the driver, who was in attendance at the meeting with his wife.
3. The review was considered on its own particular facts and on its merits.

Decision

4. Following careful consideration of all the information, the Licensing Committee decided to revoke the Private Hire Vehicle driver's licence with immediate effect (in the interest of public safety under Section 61 (2B)) on the grounds of the following:-
 - i) The driver had acted dishonestly by taking payments for a taxi journey(s) he did not complete.
 - ii) The driver failed to uphold the standards of safeguarding, especially in respect of a vulnerable person.

Reasons

5. The Committee heard an account of the driver in respect of the collection of a child from a school, and who had allegedly made inappropriate comments towards the child during the course of that journey. The Committee also heard an account of the driver's admission of dishonesty.
6. The Policy confirmed that the Council's licensed drivers were expected to be trustworthy persons. The qualities which the Committee specifically refer to were honesty, integrity and safeguarding which formed part of being a fit and proper person.
7. For completeness, fraud under its legal definition as per the Fraud Act 2006; A person who dishonestly makes a false representation and intends, by making that representation, to make a gain for himself or cause a loss to another.
8. The driver advised the Committee of a misunderstanding with regards to the interview conducted on 6 March 2024 by his employer. The driver stated that, during the interview, he was referring to a different taxi job where he stated he went to collect a student from another school and was confused as to which incident was being referred to.
9. It was noted that the mother and sister of the victim (the child) had attended a previous hearing, however, due to a conflict of interest, the matter was adjourned. The mother and sister did not attend the hearing on 13 May 2024.
10. The Committee referred to Appendix 4 which detailed an interview that had taken place on 6 March 2024. The driver admitted to taking money for jobs he never completed. He advised he did this as he has previously lost money for attending a job whereby the child was not present at the school and he was not paid. This was further corroborated in the driver's additional evidence where he stated:

"Yes it was dishonest of me to complete a journey without the passenger in order to be paid, however, I am not the only driver that has missed out on payments when customers aren't there..."

The Committee considered this to be admission to an act of fraud.

11. Dishonesty, under the Taxi Licence Policy (Appendix G, Section (i)), stated that expectations were clear for the licensed driver who was expected to be a trustworthy person.

12. In line with the Taxi Licence Standards and the Policy, there was a duty on taxi licence holders to safeguard passengers with specific reference to vulnerable people. The Committee considered children to fall within the category of vulnerable people and, therefore, extra care should have been taken to ensure the child felt safe.

13. The Committee questioned the driver on the collection of the child from the school and he stated in his additional evidence:-

“there has been no discrepancy in anything I have said in any of the interviews I attended”.

However, the Committee found that there were discrepancies with regards to the collection of the child, where the driver stated in the interview with his employer that he never collected the child, but there was evidence showing CCTV screenshots of the collection (Appendix 3). He then stated he was confused about which collection was being referred to.

14. There were also discrepancies in how he the driver explained he had showed his phone to the child - with him originally stating he pulled his phone out of his pocket and then, upon intervention from his wife, stated that it was actually in a mobile dock attached to his dashboard. As a result, the Committee considered the driver to lack credibility.

15. Furthermore, the Committee asked the driver on the interaction between himself and the child. The driver stated he had not made her feel uncomfortable as he interacted with her in the same way he would have interacted with his own daughters who were of similar age. The driver denied making any reference to cheating on his wife and stated he showed a picture of his family using his mobile phone to the child whilst undertaking the journey.

16. Whilst the driver gave an account of his actions and admitted to conversing with the child to make her feel comfortable, the Committee considered the driver to be unaware if he had made the child feel uncomfortable and more care should have been taken in the situation to ensure a vulnerable person felt safe.

17. The decision of the Committee was based on the evidence before it and, therefore, decided that the driver was dishonest in taking payment for a job which he had not completed and engaged in actions which amounted to fraud. Further to this, whilst the complaint regarding inappropriate comments was disputed by the driver, the Committee considered the driver to have failed in upholding safeguarding standards and raised concerns regarding public safety. The Committee felt more should have been done to ensure the child felt safe in the vehicle. The Committee also considered that the nature of the dishonest actions and discrepancies within his evidence further added to the lack of credibility of the driver and, therefore, could not consider him to be trustworthy.

18. It was, therefore, considered whether the driver was a ‘fit and proper’ person. Whilst no criminal conviction or charges were brought against the driver for his conduct, in admitting to the dishonesty, which the Committee considered to amount to fraud, paired with the failure in safeguarding a vulnerable person and the risk to public safety, it was the Committee’s decision that the driver was not a ‘fit and proper’ person and to revoke his Private Hire Vehicle driver licence with immediate effect.

19. If the driver was aggrieved by the decision, he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The address for the local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.

20. 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 £1,000.

**** DECLARATION OF INTEREST**

The Chair, Councillor Lewis, declared a non-pecuniary interest in the following agenda item, as the applicant was known to her. Councillor Lewis withdrew from the meeting at this point and, therefore, took no part in the consideration or determination of the matter.

**** VICE CHAIR IN THE CHAIR**

Owing to the Chair declaring an interest in the following item, the Vice Chair, Councillor Hill, took the Chair at this point in the meeting.

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APPLICATION FOR PRIVATE HIRE DRIVER LICENCE REF:- 07/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 07/24, where circumstances had arisen which required special consideration by the Committee.

**** DECLARATION OF INTEREST**

When the applicant joined the meeting, Councillor Romaine declared a non-pecuniary interest in the item, as the applicant was known to her. Councillor Romaine withdrew from the meeting at this point and, therefore, took no part in the consideration or determination of the matter.

The Chair introduced those present and outlined the procedure to be followed. The applicant 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 outlining that the applicant appeared before the Committee as a result of his previous convictions, detailed at 1) to 5) in the report.

The applicant was interviewed by a Licensing Enforcement Officer on 18 April 2024 when he confirmed that there were no outstanding matters of which the Council was unaware and provided explanations in relation to the offences at 1) to 5). The applicant also advised that he was previously licensed with Middlesbrough Council until his licence was revoked following the offence at 2). The Licensing Manager advised that this could not be confirmed as records from that period were no longer held, however, he was able to confirm that he did recall the applicant being a licensed driver with the Council.

The applicant confirmed that the report was an accurate representation of the facts and was invited to address the Committee in support of his application.

The applicant addressed the Committee and responded to questions from Members and the Council's Legal Representative.

It was confirmed that there were no further questions and the applicant 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 application.

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 the application for Private Hire Vehicle Driver Licence, Ref No: 07/24, be refused.

Authority to Act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may decide to grant a Private Hire Vehicle driver's licence only if it was satisfied the driver was a fit and proper person to be granted such a licence.
2. The Committee considered Section 51 of the Act, the Middlesbrough Council Private Hire

and Hackney Carriage Policy 2022 (“the Policy”), the report and representations made by the applicant.

3. The application was considered on its own particular facts and on its merits.

Decision

4. Following careful consideration of all the information, the Licensing Committee decided to refuse the application for a Private Hire Vehicle driver’s licence on the grounds that it was not satisfied the applicant was a fit and proper person to be granted such a licence.

Reasons

5. The applicant had a history of serious criminal offences from 1989 to 2017. These ranged from robbery, false accounting, harassment and breach of restraining order. The applicant also had four penalty points on his DVLA licence for speeding in a 30mph zone.
6. The Committee questioned the applicant on the Harassment offence in 2006. The applicant stated that he was undergoing marital issues at the time and his ex-wife had prevented him from visiting his children. As a result of this, a restraining order was issued in order to protect his ex-wife. The applicant stated he was regretful of his actions.
7. In 2017, the applicant breached the restraining order by attending the house of his ex-wife. He was aware the restraining order was still active at the time of committing the breach. The Taxi Licence Policy stated the following:-

“Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to have remained free from conviction for 5 to 10 years (the period depending on the conviction and circumstances, as detailed above), before an application is likely to be successful.”

8. Questions were asked regarding the circumstances of the breach and why it occurred. The applicant stated he missed his children and had not seen them in over 10 years and decided to turn up at the home. The applicant stated he was aware of the consequences of turning up. The Committee considered this improper in character, a clear disregard for the law and a serious crime.
9. The applicant made submissions on the day of regret for his actions and advised he had been honest and upfront before the Committee. The applicant also advised he was not the same person he was when the offences were committed and he wished to have a fresh start.
10. In respect of the evidence before Members, the Committee considered all previous convictions, character and actions of the applicant. The Committee considered there to be elements of dishonesty with regards to the false accounting, a disregard for the law with respect to the breach of the restraining order as well as issues regarding improper character and conduct of the applicant which was directly contrary to the Policy and Code of Conduct.
11. The Committee, therefore, did not consider the applicant to be a ‘fit and proper person’ under S51 of the Local Government (Miscellaneous Provisions) Act 1976.
12. If the applicant was aggrieved by the decision, he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The address for the local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
13. If the applicant 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 applicant which

could be in the region of £1,000.

**** Councillor Romaine returned to the meeting at this point.**

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

Licensing Appeals

Whilst there were currently no pending licensing appeals, the Licensing Manager provided a brief update to Members in relation to two Licensing Sub Committees that had been held recently.

1. Middlesbrough Empire – An expedited summary review had been held on 28 March following receipt of an application from the Chief constable of Cleveland Police based on serious crime and disorder at the premises. The Sub Committee had imposed Interim Steps on the Premises licence which included suspending the licence until the Full Review Hearing.

The full review was held over two days on 24 and 25 April when a further suspension of the licence until 16 May was imposed as well as a range of other conditions including replacing the previous management team and door staff team at the venue.

2. Berwick Hills Petrol Station – Following the sale of a number of petrol stations by Morrisons across the country, Morrisons petrol station at Berwick Hills had been sold to an independent operator who had applied for an alcohol licence. Following objections from local ward councillor, public health and police, a Sub Committee was held on 26 April to consider the matter. A decision in respect of this was pending.

NOTED