

Regulation and Review Committee Panel

21 February 2018

Present: Councillor P Earley (Chair)
Councillor John Hunter, T Mulvenna,
J O'Shea and L Spillard.

RQ95/02/18 Apologies for Absence

No apologies for absence were recorded.

RQ96/02/18 Declarations of Interest and Dispensations

Councillors P Earley and John Hunter declared that in their role as Chair and Deputy Chair of the Committee they had been part of the decision making process to revoke with immediate effect the licence of one of the drivers before the committee today (see minute PQ100/02/18) and as such would leave the meeting room for that item of business.

RQ97/02/18 Exclusion Resolution

Resolved that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test in accordance with Part 2 of Schedule 12A the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Act.

RQ98/02/18 Combined Hackney Carriage/Private Hire Driver's Licence Referral – Mr KS

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral of Mr S, the holder of a combined hackney carriage/private hire driver's licence driver, on a disciplinary matter.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr S's continued suitability to carry out the duties of a licensed driver.

This matter had been deferred from the 12 October 2017 meeting to allow officers to seek additional information from a Council partner (previous minute RQ42/10/17) and again on 16 November 2017 to allow Mr S time to request a copy of the information under data protection legislation (previous minute RQ47/11/17).

A Licensing Officer and Mr S attended the meeting.

The Licensing Officer presented the report and Members of the Committee asked questions.

Mr S then addressed the Committee. Members of the Committee asked questions of Mr S and sought clarification on a number of matters.

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Following a summing up from the Licensing Officer and Mr S they both left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

In determining its response the Committee had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions and conduct.

Taking all that had been presented to the Committee and contained within the papers submitted to the meeting and having considered Mr S's explanation of events the Committee decided that on this occasion a warning was the most appropriate sanction and would be sufficient deterrent to avoid repetition.

Resolved that Mr S be issued with a written warning and reminded of the responsibilities which come with holding a combined hackney carriage/private hire driver's licence.

[After the decision making on the above matter had concluded Councillors Earley and Hunter left the meeting room.]

RQ99/02/18 Election of Chair

Resolved that Councillor J O'Shea serve as the Chair for the following item of business.

[Councillor J O'Shea in the Chair]

RQ100/02/18 Combined Hackney Carriage/Private Hire Driver's Licence Appeal – Mr M

The Committee received a report by the Senior Manager, Technical and Regulatory Services which outlined the background to an appeal by Mr M against the decision by the Authority to revoke his combined hackney carriage/private hire driver's licence with immediate effect in the interest of public safety as the Authority was not satisfied that he was a fit and proper person to hold such a licence.

Mr M was present at the meeting.

A Licensing Officer presented the report to the Committee which included information on the complaint which had led to the revocation, the procedures followed, information received since the revocation, Mr M's licensing and criminal record and his appeal form.

Mr M was given the opportunity to ask questions of the Licensing Officer.

Members asked questions of the Licensing Officer.

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Mr M then addressed the committee and answered questions from Members.

Following a summing up from the Licensing Officer and Mr M, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the committee were to:

- Uphold the appeal and agree to re-instate the licence; or
- Dismiss the appeal and refuse to re-instate the licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and its main concern was the need to maintain high standards amongst licensed drivers and to ensure the protection of the travelling public. In determining its response the committee had regard to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular Chapter 7 which made reference to convictions, cautions, conduct and medical fitness.

Resolved that the appeal be dismissed as the Committee could not be satisfied that Mr M was a fit and proper person to hold a Combined Hackney Carriage/Private Hire Driver's Licence.

RQ101/02/18 Hackney Carriage/Private Hire Driver's Licence Disciplinary Referral – Mr JS

[Prior to the commencement of the presentation on this matter Councillors Earley and Hunter returned to the meeting room.]

[Councillor P Earley in the Chair]

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to a referral relating to the holder of a combined hackney carriage/private hire driver's licence, Mr S.

The Committee was requested to determine whether any disciplinary action was required and to assess Mr S's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr S accompanied by a member of his family attended the meeting.

The Licensing Officer presented the report and, after clarifying a number of points from Mr S, answered questions from Members of the Committee.

Mr S then addressed the Committee.

Members of the Committee asked questions of Mr S and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr S, all parties left the meeting room to enable consideration of the matter to be undertaken in private.

The options available to the Committee were to:

- take no action;
- issue a warning as to the driver's future conduct;
- suspend the driver's licence; or
- revoke the driver's licence.

The Committee considered that it was an established principle that a licence was a privilege and not a right and seriously considered all the options available to it.

In determining its response the Committee took into account all that had been presented and contained within the papers submitted to the meeting and had regard to Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Hackney Carriage and Private Hire Licensing Policy, in particular chapter 7 which makes reference to convictions, cautions, conduct and medical fitness.

The Committee determined that due to the circumstances of the case, a suspension of four weeks was the most appropriate sanction as it was an effective way of giving Mr S time to reflect on what actions he took when working as a licensed driver; discover techniques to help him manage his behaviour and language; and remind himself of the Highway Code.

Resolved that Mr S's combined hackney carriage/private hire driver's licence be suspended for a period of four weeks.

[After the consideration of the above matter Councillor L Spillard and J O'Shea left the meeting room and took no part in the decision making for the following item.]

RQ102/02/18 Private Hire Vehicle Proprietor's Licence – Appeal

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to an appeal by IS and PS against the decision by officers to refuse to issue a licence for eight passengers and to allow an exemption to a condition regarding the display of decals on the driver and front passenger doors for a private hire vehicle.

A representative for the proprietor of the vehicle in question attended the meeting. Unfortunately there had been a misunderstanding as to the day of the meeting and it was not possible to get the vehicle concerned to the meeting venue at Quadrant for inspection by the Committee. The Chair of the Committee agreed that the appeal against the decals condition would proceed at the meeting and the appeal against the number of licensed passengers would be deferred.

The Committee was informed by the Licensing Officer that powers relating to the licensing of private hire vehicles was contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976. A district council may attach to the grant of a licence under this section any conditions considered reasonably necessary. Chapter 2 of the Authority's Hackney Carriage and Private Hire Licensing Policy makes reference to Vehicle Licences with paragraph 8 referring to the general conditions that are attached to each hackney carriage / private hire vehicle proprietor's licence. Condition 5 of these general conditions states: There shall be attached centrally to each front door of the vehicle the appropriate hackney carriage or private hire vehicle decals supplied by the Authority. The decals must be securely affixed or in the case of Hackney Carriage Vehicles permanently

affixed to the vehicle and these must be maintained in a satisfactory condition and be legible.

On 10 January 2018 an application to licence a vehicle as a private hire vehicle had been received. The application was accompanied by the relevant documentation and licence fee. It included a request to allow two passengers to use the twin seat in the front of the vehicle and as a consequence licensing the vehicle for eight passengers and to grant an exemption during certain long distance bookings from condition 5, which required the displaying door decals. The door decals issued by the Authority were required to be displayed on each front door whilst the vehicle was being used for private hire purposes.

The vehicle met all requirements set out in the Hackney Carriage and Private Hire Licensing Policy and had passed its test at the Authority's test station. The vehicle was subsequently licensed to carry up to seven passengers, no exemption from condition 5 was granted.

The Authority's Officer in granting a Private Hire Proprietor's Licence for the vehicle in question without granting an exemption from the requirements of condition 5 considered that the display of decals as required by that condition to be an important safety feature as the decals clearly identified the vehicle as a hackney carriage or private hire vehicle, included the licence number of the vehicle and contained information as to how the vehicle could be hired/booked.

The appeal against the imposition of condition 5 on the Proprietor's Licence and the number of licensed passengers permitted to be carried in the vehicle was made on 9 January 2018.

Before concluding his presentation, the Licensing Officer reminded Committee that it had discretion and may depart from the Policy if it considered there were compelling reasons to do so. The Committee must act in accordance with the law and may only agree to the grant of a licence where it was satisfied that the vehicle was fit to be licensed and that any conditions attached to the grant of the licence were reasonably necessary.

After Members had asked questions, the proprietor's representative addressed the Committee. The representative explained that the request was only to exempt the vehicle from displaying the Council decals when it was being used for long distance passenger transport work, for example, a journey booked by a travel company. The fleet of this make of car was under used and the proprietor had been informed by a travel company that they would be able to offer more distance work to the south and cruise terminals if the vehicles displayed less signage. If there was nothing on the vehicle wings or front of the vehicle then they could offer a "much wider profile of journeys". There would be no need for the decals to be removed for journeys to and from Newcastle airport and whilst the door decals would be removed the plate would still be displayed on the rear making the vehicle identifiable as a private hire vehicle.

Members asked questions and sought clarification on a number of matters.

The Licensing Officer and proprietor's representative then summed up their respective cases.

All parties then left the meeting room to allow the Committee to consider its decision in private.

The Committee had the following options.

- a) Uphold the appeal and permit the vehicle to be exempt from displaying the door decals during certain long distance bookings; or
- b) Dismiss the appeal and not permit the vehicle to be exempt from displaying the door decals during certain long distance bookings.

In determining its response the Committee had regard to the Authority's Hackney Carriage and Private Hire Licensing Policy and considered all that had been presented at the meeting and contained within the papers.

Resolved that the appeal against the imposition of condition 5 (display of decals) should be dismissed.

Reason: The Committee was satisfied that the imposition of condition 5 complied with the requirements of Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 and was reasonable and necessary to inform passengers that they were travelling in a vehicle licensed by the Authority with all the associated expectations and requirements that the driver was a fit and proper person and the vehicle safe.

The Committee considered upholding the appeal with additional conditions to the vehicle licence regarding who had booked the journey or with a definition of 'long distance' but decided that the management of these conditions and their enforcement would be too difficult.

The Committee understood that it had discretion to depart from the Hackney Carriage and Private Hire Licensing Policy. However, as the safety of the public had to be the Authority's main concern and the use of door decals on a prominent location of a licensed vehicle is an integral part of achieving that by clearly identifying the vehicle as a Private Hire Vehicle, the Committee did not on this occasion see good reason to depart from the Authority's Policy.