

Regulation and Review Committee Panel

14 February 2019

Present: Councillor J Stirling (Chair)
Councillor J Mole, T Mulvenna and J O'Shea.

RQ56/02/19 Apologies for Absence

Apologies for absence were recorded for Councillor John Hunter.

RQ57/02/19 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ58/02/19 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.

RQ59/02/19 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 Mr T against the decision of the Licensing Authority to refuse to issue a private hire vehicle proprietor's licence for his motor vehicle as it did not meet the Authority's specification for vehicles.

A Licensing Officer and Mr T attended the meeting.

The Committee was informed by the Licensing Officer that Mr T's licence had been refused due to the level of tint on the rear windscreen and rear passenger windows. It was explained that powers relating to the licensing of private hire vehicles was contained in Section 48 of the Local Government (Miscellaneous Provisions) Act 1976. Under this section a district council may grant a licence to use a vehicle as a private hire vehicle provided it is satisfied:

(a) that the vehicle is –

- (i) suitable in type, size and design for use as a private hire vehicle;
- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- (iii) in a suitable mechanical condition;
- (iv) safe, and

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(v) comfortable

A district council may attach to the grant of a licence under this section any conditions as they consider reasonably necessary.

Chapter 2 of the Authority's Hackney Carriage and Private Hire Licensing Policy covers vehicle licences and paragraph 71 refers to tinted windows:

"The windows (excluding the windscreen which must have a minimum light transmission of 75%) of any vehicle shall not have been treated so that less than the percentages detailed below of light is transmitted through it:

- 70% minimum light transmission for front side windows
- 34% for all other windows

Licensing Officers are able to exercise their discretion as to the suitability of a vehicle where the light transmittance of the windows is below 34%. This discretion however does not apply to the front windscreen or the front side windows".

Mr T had indicated on his application for a private hire proprietor's licence that his vehicle had tinted windows. The windows were measured and the tint for the rear side windows was 18.7% and for the rear window was 25%. These levels were considered too far below the permitted level for Licensing Officers to use their discretionary powers to approve the vehicle. A licence for the vehicle was refused as the glass fitted to the rear side windows and rear screen was far below the standard required by the Policy, which was primarily designed to ensure as far as possible the safety of customers using licensed vehicles.

An appeal against this decision was made by Mr T.

Before concluding his presentation, the Licensing Officer reminded the 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 any conditions attached to the grant of the licence were reasonably necessary.

After Members had asked questions and sought clarification on a number of matters from Mr T and the Licensing Officer, Mr T addressed the Committee.

Mr T explained why he thought an exemption could be made for his vehicle. This included that the windows were factory fitted; that he believed Newcastle City Council would grant the licence; and that the tint would increase the comfort of his passengers and reduce exhaust emissions.

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

The Members, supporting officers, the Licensing Officer and Mr T then left the meeting room to inspect the vehicle. The vehicle was viewed from all angles, close up and from a distance, and with and without someone sitting in the rear of the vehicle. Members also observed another vehicle from the same manufacturer of Mr T's car with tinted windows parked nearby.

The Licensing Officer and Mr T then summed up their respective cases and 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 issue the vehicle with a private hire proprietor's licence; or
- b) Dismiss the appeal and not issue the vehicle with a private hire proprietor's licence.

In determining its response the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976 and the Authority's Hackney Carriage and Private Hire Licensing Policy and considered all that had been presented at the meeting, contained within the papers and that they had observed. The Committee seriously considered both options available to it.

Resolved that the appeal against the refusal to licence Mr T's vehicle be dismissed.

Reason: The Committee was satisfied that the imposition of a minimum tint for windows complied with the requirements of section 47 of the Local Government (Miscellaneous Provisions) Act 1976 and was reasonable and necessary to ensure the safety of the travelling public.

The decision to refuse to licence the vehicle due to the level of the tint on its rear windscreen and rear passenger windows being below the minimum standard required by the Authority's Policy of 34% was also reasonable and appropriate. The light transmission limit was placed on the windows in the interest of public safety and the overriding consideration of the licensing regime was the safety of the public. Nothing put forward at the meeting justified a departure from the Policy in relation to this matter at this time.

The Committee accepted that Newcastle City Council might licence the vehicle but each licensing authority had to apply its own policies, as it considered appropriate, for the safety and comfort of passengers.