

COUNCIL MEETING – 17 JULY 2018

REPORT OF THE LICENSING SUB-COMMITTEE

7 June 2018

Present: Councillors Ekins (Chairman), Maguire and Simmons.

Also present: Mrs A Wilcox (Principal Environmental Health Manager), Mr M O'Donnell (Health Protection Team Leader), Mrs A Walton-Miller (Solicitor/DistrictLaw) and Miss N Harewood (Governance Officer).

The meeting commenced at 1pm.

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Ekins be appointed as chairman for this sub-committee.

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting during consideration of the following items in accordance with section 100A(4) to the Local Government Act 1972 on the grounds that they would involve the likely disclosure of exempt information of the description shown in schedule 12A to the Act.

Minute No.	Item	Exemption
3	Application to consider private hire driver's licence.	E1 & 2
4	Application to consider private hire driver's licence and private hire vehicle licence.	E1 & 2
5	Application to consider hackney carriage driver licence and hackney carriage vehicle licence.	E1 & 2
6	Application to consider hackney carriage driver, private hire driver and hackney carriage vehicle licence.	E1 & 2

3. APPLICATION TO CONSIDER PRIVATE HIRE DRIVER'S LICENCE

The annexed circulated exempt report of the director was received in relation to a request to consider the application for private hire driver's licence.

The chairman welcomed the licence holder and introduced the sub-committee members and those present to them.

The principal environmental health manager presented the report to the sub-committee. She explained that the council had recently received a complaint concerning the licence holder whilst acting as a licensed driver. After reviewing the licence holders compliance the sub-committee was invited to determine whether the private hire driver's licence should

remain in place.

Preceding complaints over the last two and a half years raised the question as to whether the licence holder remained a 'fit and proper' person to hold such licence.

The first complaint in October 2015 received from the Police stating that an off duty police officer observed the licence holder speeding, driving with a defective brake light and reversing the wrong way up a one way street. A letter sent to the licence holder regarding this matter was presented to the sub-committee.

In November 2016 the licence holder notified the licensing officer that he had received three penalty points for a speeding contravention. A copy of the DVLA disclosure was presented to the sub-committee.

In January 2018 a complaint was received alleging that the licence holder was speeding, and undertaking other vehicles with school children in his vehicle. The licence holder denied the allegation.

The final complaint was received in April 2018 where the licence holders had parked on zig zag lines. The complainant took a photograph of the incident. The licence holder admitted to parking on zig zag lines.

The licence holder explained that due to a requirement as per his contract that children must be dropped off in visibility of their properties coupled with the traffic at the time meant this had been the only visible place to stop his vehicle.

The licensing authority's key objective is to ensure public safety and council policies reflect this overriding concern. If there was any doubt about the suitability of an individual to be licensed, the committee should be mindful of the need to protect the public and caution should be exercised.

Members considered the three separate complaints which all concerned unsafe driving/parking by the licence holder and his speeding contravention, when deciding whether he remains a 'fit and 'proper' person to hold a private hire driver's licence.

The chairman asked the applicant if he considered that he had received a fair hearing and the applicant confirmed he had.

The chairman adjourned the meeting at 1.10pm.

The meeting reconvened at 1.25pm.

DECISION:

RESOLVED that the private hire driver's licence be suspended for a period of eight weeks and that during this period the applicant must take and pass the Practical Driving Standards Assessment with one of the borough council's nominated test providers. Should the licence holder not pass the test within the eight week suspension period the suspension will continue until the test has been successfully passed.

REASONS FOR DECISION:

- (i) The sub-committee heard from the licence holder and took into account the report to the sub-committee;
- (ii) The sub-committee takes very seriously the fact that there have been four reported incidents within a two and half year period and the sub-committee therefore concluded that a period of suspension of the applicant's licence was justified in these circumstances.

The legal adviser informed the applicant of his right to appeal and the process to do so.

4. APPLICATION TO CONSIDER PRIVATE HIRE DRIVER'S LICENCE AND PRIVATE HIRE VEHICLE LICENCE.

The annexed circulated exempt report of the director was received in relation to an application to consider the private hire driver's licence and private hire vehicle licence.

The chairman welcomed the applicant and his brother-in-law to the sub-committee and introduced everyone present.

The principal environmental health manager presented the report to the sub-committee. She explained that the council had recently received a complaint concerning the licence holder's conduct whilst acting as a licensed driver. After reviewing the licence holders compliance history it had become apparent that a number of complaints had been received over the last 14 months, raising the question over whether he remained a 'fit and proper' person to hold a private hire driver licence and vehicle licence. The complaints were as follows.

- In March 2017 a complaint was received from the police stating that the licence holder had parked his vehicle on a pedestrian crossing. A letter was sent to the licence holder and presented to the sub-committee. The licence holders explained that due to a number of passengers opening the vehicle doors to exit whilst the vehicle was in motion the licence holder had to stop the vehicle as it would have been unsafe to continue driving in this situation.
- In June 2017 a complaint was received alleging that the licence holder drove unsafely outside Park School on the zebra crossing. It is alleged that the licence holder drove around a bin lorry and narrowly missed pedestrians on the zebra crossing. The licence holder claims that he applied his brakes in sufficient time. The complainant was advised to report the incident to the police and no further action was taken. The licence holder explained that due to a bin lorry obstructing his view that he was forced to go round the lorry with limited view.
- In October 2017 a complaint was received of the licence holder plying for hire on Silver Street, Wellingborough. It is alleged that the licence holder took passengers who had not pre-booked through a licensed private hire operator. This is a contravention and all private hire journeys must be pre-booked through a

licensed operator. The licence holder denied the allegation. A letter was sent to the licence holder and presented to the sub-committee.

- A further complaint was received in May 2018. The complainant claims that the licence holder was seen urinating against a house near to his parked private hire vehicle. The complainant took photographs of the incident which were appended to the report, the licence holder admitted the incident upon questioning and a letter was sent to the licence holder and presented to the sub-committee. The licence holder apologised repeatedly and advised that it was not something he had ever done previously or would ever do again in the future. He explained that it was an emergency but agreed that it was not an appropriate place.

Members considered the four separate complaints regarding the licence holder received over the last 14 months in deciding whether he remained a 'fit and proper' person to hold a private hire driver's licence.

He asked the licence holder if he considered that he had received a fair hearing.

The licence holder confirmed that he had.

The chairman adjourned the meeting at 14.25pm.

The chairman reconvened the meeting at 2.45pm.

DECISION:

RESOLVED that the licence holder's licenses be suspended for a period of six months and that during this period the licence holder must take and pass the Practical Driving Standards Assessment with one of the borough council's nominated test provider. Should the licence holder not pass the test within the six month suspension period the suspension will continue until the test has been successfully passed.

REASONS FOR DECISION:

- (i) The sub-committee heard from the licence holder and took into account the content of the report;
- (ii) The sub-committee takes very seriously the fact that there have been four reported incidents within a 14 month period, particularly the urinating without medical justification. The sub-committee therefore concluded that the licence holder had not acted in a fit and proper manor and the suspension was reasonable and proportionate in the interests of public safety.

The legal adviser informed the licence holder of his right to appeal and the process to do so.

5. APPLICATION TO CONSIDER HACKNEY CARRIAGE DRIVER LICENCE AND HACKNEY CARRIAGE VEHICLE LICENCE.

The annexed circulated exempt report of the director was received in relation to an application to consider the licence holders hackney

carriage driver and vehicle licence.

The chairman welcomed the licence holder and his legal representative to the sub-committee and introduced everyone present.

The principal environmental health manager presented the report to the sub-committee. She explained that the council had recently received a complaint concerning unsafe driving by the licence holder. Given the serious nature of the complaint it was decided that the matter should be referred to the sub-committee for decision. After reviewing the licence holder's history it had become apparent that this was not the first complaint received. The complaints are detailed below.

- In January 2016 a complaint was received stating that the licence holder entered the roundabout on Turnells Mill Lane, Wellingborough by Tesco, travelling at high speed. The complainant claims that his vehicle was already on the roundabout and he had to brake hard to avoid a collision with the licence holder's licensed vehicle. A copy of the letter sent to the licence holder was presented to the sub-committee.
- During 2015 and 2016, the council received a number of complaints and counter complaints regarding a small number of drivers working at the station. Complaints were received about the licence holder, alleging that he was involved in incidents of damage to another licensed driver's vehicle. The police and licensing officers were involved in investigating these incidents and met with the drivers concerned. The police did not charge any person as a result of the complaints and the council did not take any formal action, since there was insufficient evidence to substantiate the complaints. Letters were sent to all the licensed drivers involved, and a copy of the letter sent to the licence holder was presented to the sub-committee.
- In February 2018 a complaint was received that the licence holder was displaying credit card sized stickers in the windows of his licensed vehicle, contrary to council policy. The licence holder was reminded of the requirement to only display council approved signs. The licence holder was unaware of the requirement and apologised. No further action was taken.
- In March 2018 the council received a complaint of unsafe driving by the licence holder. The complainant claims that the licence holder had overtaken his and other vehicles in a queue at temporary traffic lights and had travelled through a red light. The complainant captured the incident on his dash cam and has completed a witness statement. This witness statement was presented to the sub-committee and the dash cam footage taken was played. A licensing officer discussed the complaint with the licence holder who remembered the incident, but claims that the light was amber when he passed through it and claimed that he only drove on to avoid a collision with the vehicle behind him.

Three character references were read out by his legal representative including one from the passenger in the vehicle at the time of the March 2018 incident.

Members considered the complaints concerning the licence holder's conduct as a licensed driver and his non-compliance with council policy in deciding whether he remained a 'fit and proper' person to hold a hackney carriage licence and a private hire driver's licence.

The chairman asked the licence holder if he considered he had received a fair hearing. The licence holder confirmed this was the case.

The meeting was adjourned at 3.30pm.

The meeting reconvened at 3.40pm.

DECISION:

RESOLVED that the licence holder's licenses be suspended for a period of six months and that during this period the licence holder must take and pass the Practical Driving Standards Assessment with one of the borough council's nominated test providers. Should the licence holder not pass the test within the six month suspension period the suspension will continue until the test has been successfully passed.

REASONS FOR DECISION:

- (i) The sub-committee heard from the licence holder and his legal representative and took into account the contents of the report, the dash cam footage and the three character references that were read out by his legal representative.
- (ii) The sub-committee considered that the actions of the licence holder demonstrated a safety risk to himself, to his passengers and to members of the public and that a period of suspension was justified in these circumstances.

The legal adviser informed the licence holder of his right to appeal and the process to do so.

6. APPLICATION TO CONSIDER HACKNEY CARRIAGE DRIVER LICENCE, PRIVATE HIRE DRIVER AND HACKNEY CARRIAGE VEHICLE LICENCE.

The annexed circulated exempt report of the director was received in relation to an application to consider the licence holders hackney carriage driver and vehicle licence and private hire driver licence.

The chairman welcomed the licence holder, his wife and his legal representative to the sub-committee and introduced everyone present.

The principal environmental health manager presented the report to the sub-committee. She explained that the council had recently received a complaint concerning the licence holder's conduct whilst acting as a licensed driver. After reviewing the licence holders compliance history it became apparent that a number of complaints had been received since the licence holder attended committee in 2015, which raised a question over whether he remained a 'fit and proper' person to hold a hackney carriage and private hire driver's licence in addition to a hackney carriage vehicle licence. The complaints were as follows.

- In November 2016 a complaint was received from one of the licence holder's passengers, claiming that he had attempted to overcharge him and a fellow passenger and threatened to leave them on the roadside if they did not agree to the fare. It is alleged that a fare was not agreed before the journey commenced and the licence holder switched off his meter. This is in contravention to council policy. A copy of the letter sent to the licence holder was presented to the sub-committee. The licence holder explained that he had already agreed a fixed price with both passengers prior to setting off on the journey. He also advised that due to this the meter was not switched on from the outset. The licence holder denied saying he would leave the passengers by the road side.
- In December 2016, during a test purchase operation the licence holder was witnessed using a hand held phone mobile phone whilst driving. The licence holder was reminded that it is an offence to use a hand held phone whilst driving. A copy of the letter sent to the licence holder was presented to the sub-committee. The licence holder admitted that he was at fault and he answered his phone and pressed the speaker button to continue his conversation. He stated that he was not aware that this did not constitute as has free.
- In August 2017 a complaint was received of allegations of unsafe driving. It is alleged by the complainant that the licence holder drove his vehicle with one hand and swerved at the Elsdon Road/Mill Road junction to such an extent that the driver on other side of the road had to swerve to avoid a collision. The licence holder denied the allegation and stated that the other driver was on his side of the road due to a parked car and that both vehicles had to swerve. He denied unsafe driving. No further action was taken following this complaint.
- A complaint was received in September 2017 alleging that the licence holder was driving in an unsafe manner whilst driving in the dark. The complainant claimed that the licence holder repeatedly slowed down every time a car drove past in the opposite direction. The licence holder denied the allegation. A copy of the letter sent to the licence holder was presented to the sub-committee.
- In March 2018 a complaint was received alleging that the licence holder and another licensed driver refused to take a passenger in a wheelchair. The passenger claims that the licence holder offered to take a passenger standing behind them in the hackney carriage rank at the station and when he declined, the licence holder shook his head at the passenger in a wheelchair refusing to take her or her daughter without attempting to identify their requirements. A copy of the complainant's statement is attached as appendix F. The licence holder denies refusing to take the passengers, but claimed that he could not recollect the incident. A copy of the letter sent to the licence holder was presented to the sub-committee. The licence holder advised that he was unable at the time to take the passenger and tried to contact a colleague to take the passenger instead. Five character references that were read out by his legal representative including those who are wheelchair users.

Members will need to consider the six separate complaints concerning the licence holder that were received over the last 18 months, and the previous complaints considered at the last committee hearing in 2015, when deciding whether he remained a 'fit and 'proper' person to hold a hackney carriage licence and a private hire driver's licence.

The chairman asked the licence holder if he considered he had received a fair hearing. The licence holder confirmed this was the case.

The meeting was adjourned at 16.50pm.

The meeting reconvened at 17.10pm.

DECISION:

RESOLVED that the licence holder's licenses be suspended for a period of three months and that during this period the licence holder must take and pass the Practical Driving Standards Assessment with one of the borough council's nominated test providers. Should the licence holder not pass the test within the three month suspension period the suspension will continue until the test has been successfully passed.

REASONS FOR DECISION:

- (i) The sub-committee heard from the licence holder and his legal representative and took into account the contents of the report and the five character references that were read out by his legal representative.
- (ii) The sub-committee takes seriously the fact that there have been five complaints reported within a 16 month period and was concerned that the licence holder's accounts of the incidents were not consistent. The committee felt that the licence holder had not heeded the warning letters that he had been issued with previously and therefore a period of suspension was justified in these circumstances.

The legal adviser informed the licence holder of his right to appeal and the process to do so.

Chairman

The meeting concluded at 5:15pm.