

Regulation and Review Committee Panel

14 December 2017

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

RQ81/12/17 Apologies for Absence

No apologies for absence were received.

RQ82/12/17 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ83/12/17 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.

RQ84/12/17 Private Hire Vehicle Proprietor's Licence – Appeal against conditions of licence

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to an appeal against the decision by officers that digital headrests in the licensed vehicle were a breach of condition 7 in the licence granted for a private hire vehicle.

The proprietor attended the meeting accompanied by a representative and a representative from the third party supplier of the digital headrests to answer any technical questions. Another car fitted out with the digital headrests which officers considered contravened condition 7 was available at the meeting to allow Members to view the product. Members did so prior to the presentation of the report and asked questions of the representatives from the supplier.

The Committee was informed that in November 2017 an application to renew the licence of the car with plate number 1179 was made by the proprietor. The vehicle was inspected at the Authority's Test Station where it passed. Following the test, and prior to the issue of the licence, officers examined the front seats of the vehicle which had been fitted with headrests that housed digital advertising screens that provided in-car digital advertising. Having considered the matter, Officers advised that this type of advertising was not covered by condition 7 and that the licence for this vehicle would not be renewed if it remained in place.

Condition 7 refers to advertising and states:

“No signs, notices, advertisements, video or audio display etc. or other markings shall be displayed on, in or from the vehicle subject to the following exceptions:

- Any sign, notice or other marking required to be displayed by legislation or any condition attached to this licence.
- Advertising on the rear doors, rear wings and boot area of the vehicle (of two-dimensional insignia type) approved by the Authority.
- Advertising along the top 8 cm strip of the windscreen of the vehicle provided that it is not illuminated and it bears only the name and/or telephone number in block letters of the firm operating the vehicle.

Signs, notices, advertisements, video or audio display etc. must not be of a content that the Licensing Officer deems to be offensive or abusive.

A sign must be affixed to the inside of the vehicle indicating that smoking is prohibited in the vehicle.”

Following further discussions with the proprietor’s representative and having expressed an intention to appeal this matter, officers agreed to renew the licence for the vehicle providing an assurance was given by the proprietor that the in-car advertising would be switched off whilst the vehicle was being operated. Having received this assurance the licence for the vehicle was renewed and became effective on 1 December 2017. The licence will expire on 30 November 2018. The appeal against condition 7 was lodged on 8 November 2017.

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 it 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 in accordance with section 48 of the Local Government (Miscellaneous Provisions) Act 1976. In view of this the officer put forward a number of recommended additional points to condition 7 should the Committee be minded to uphold the appeal.

After Members had asked questions, the proprietor’s representative addressed the Committee. The representative referred to a document submitted overnight to the Committee for its consideration which included: changes made as a result of test use of the system, ‘in-development’ modifications; and a change of their policy after advice received from the Committee of Advertising Practice.

The representative then informed the Committee that the unit complied with all necessary regulations and the decision was not whether the device met the Policy but whether adverts could be displayed on the device. All the adverts would be downloaded remotely by the proprietor’s office and drivers would not be able to install their own adverts. This system would also enable monitoring of the use of the screens. No age related products would be advertised, including alcohol.

The changes made to the system included:

- a) A timed switch had been installed to replace the on / off switch, so that when a passenger turned the system off, it would switch itself back on after 15 minutes. This

had been done to ensure the system was on (or came back on) when another passenger was in the vehicle on the basis that the majority of taxi journeys were less than 15 minutes in duration.

- b) It had also been decided that adverts would be submitted to the ASA for review prior to the advert being produced, so that any issues raised can be considered and addressed.

After questions from Members and the Licensing Officer and proprietor's representative summing 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 advertising to be displayed from digital screens within seat headrests; or
- b) Dismiss the appeal and not permit advertising to be displayed from digital screens within seat headrests.

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 and what the Committee had seen when inspecting the vehicle brought to the meeting.

Resolved that (1) the appeal should be upheld with the imposition of the following additional points to condition 7:

- a) That any advertising complies with the Advertising Standards Agency or, if applicable, must be approved by the Authority's Trading Standards service;
- b) That all installed equipment complies with any legislative requirements in respect of Construction and Use Regulations;
- c) No age restricted products will be advertised;
- d) At all times during the display of an advert it must be apparent to the passenger(s) how the system may be switched off. Drivers must also be able to switch off the system from the driver's compartment;
- e) If any adverts contain audio then passengers must be able to control the volume (which should be capable of being muted) with either a pre-set maximum volume acceptable to the driver or an override for the driver to lower the sound level if it is causing him/her a distraction; and
- f) That the Authority's Licensing Section or Trading Standards Service shall be given access to inspect the content of any advertising materials on request.

And (2) to delegate to the Head of Environment, Housing and Leisure authority to add the amendment in (1) above to Condition 7 to any vehicle licensed to Blueline (North East) Ltd. only which had the same equipment subject to this appeal installed upon application instead of referring the matter to the Regulation and Review Committee. Any other proprietor wishing to install this or similar equipment would still need to be referred to the Committee.

Reason: the Committee was satisfied that the vehicle was fit to be licensed and considered the imposition of the additional points to condition 7 complied with the requirements of section 48 of the Local Government (Miscellaneous Provisions) Act 1976 and were reasonable and necessary to protect the passengers of the car from unwanted messages whilst they were travelling in a vehicle licensed by the Authority.

RQ85/12/17 Application for a Hackney Carriage (Saloon) Vehicle Licence

The Committee received a report by the Senior Client Manager, Technical Services which outlined the background to an appeal by Mr B against the refusal by the licensing section to grant a Hackney Carriage (Saloon) Vehicle Licence on the grounds that there were no saloon licences available.

Mr B was present at the meeting accompanied by Mr MB and Mr PB.

A Licensing Officer presented the report to the Committee which included information on the Authority's policy regarding hackney carriage licences, Mr B's record with the licensing authority and the circumstances surrounding the refusal.

The Committee was informed that the Authority had placed a limit on the number of hackney carriage vehicle licences issued because it was satisfied that there was no significant unmet demand for hackney carriage services within the borough. This limit had been placed at 204 following a decision made by Council on 31 October 2012 following consideration of the results of an independent study. If the limit had not been met and hackney carriage licences were available they would be available for wheelchair-accessible vehicles only. The current Hackney Carriage and Private Hire Licensing Policy stated at Appendix A: "If you are making a new application for a Hackney Carriage proprietors licence or if you are replacing a hackney carriage first licensed after July 1992, the vehicle must be wheelchair accessible".

As a small number of hackney carriage licences were available for issue the Authority no longer maintained a waiting list for prospective applicants for hackney carriage proprietor licences. There were currently 16 available plates: 99 saloon plates and 89 wheelchair accessible plates had been issued.

On 11 January 2017 a letter was sent out to all Hackney Carriage proprietors by the Trading Standards and Licensing Group Leader pointing out the consequences of not renewing a licence before it expired. The Authority sent out reminders six weeks in advance of licence expiry dates and if there were no exceptional circumstances then the licence could not be renewed and a new application would have to be made.

The history of Mr B's experience as a Hackney Carriage (Saloon) proprietors licence holder and the circumstances surrounding the non-renewal of his previously held licence was then explained to the Committee.

Mr B and his representatives were given the opportunity to ask questions of the Licensing Officer.

Members asked questions of the Licensing Officer.

Mr MB and Mr PB then addressed the Committee on Mr B's behalf, which included an explanation of why it was not possible for Mr B to have an accessible vehicle, and answered questions from Members. Mr B also answered questions from Members. Following a summing up from the Licensing Officer and Mr B, all parties left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the committee were to:

- a) Agree to the issue of the licence.
- b) Refuse to issue the licence.

In determining its response the Committee had regard to the Authority's Hackney Carriage and Private Hire Licensing Policy and all the information presented to the meeting.

Resolved that the appeal be upheld as there were sufficient mitigating circumstances to warrant a departure from the Policy and to allow the issue of a new saloon hackney carriage licence.

RQ86/12/17 Combined Hackney Carriage/Private Hire Driver's Licence referral – Mr C

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 private hire driver's licence, Mr C, whose licence had been suspended pending the Committee's consideration. The Committee was requested to determine whether any disciplinary action was required and to assess Mr C's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer and Mr C, accompanied by his representative, Mr W, attended the meeting.

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

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

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

In accordance with Part 4.4 (9) of the Constitution, it was moved and seconded that the meeting continue beyond 3½ hours.

Resolved that the meeting continue beyond 3½ hours until the conclusion of business.

The options available to the Committee were to:

- a) lift the suspension of your licence and take no action against you;
- b) lift the suspension of your licence and issue a warning letter as to your future conduct;
- c) extend the suspension of your licence for a further period of time; or
- d) revoke your 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 to the Committee 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 conduct.

Resolved that Mr C's combined hackney carriage/private hire driver's licence be revoked with immediate effect in the interests of public safety as the Committee was no longer satisfied that he was a fit and proper person to hold a licence.

(After the consideration of the above matter had been completed Councillor J O'Shea left the meeting and took no further part in the decision making on the remaining items of business).

RQ87/12/17 Private Hire Driver's Licence Appeal – Mr S

The Committee received a report by the Senior Client Manager, Technical Services which outlined the background to an appeal by Mr S against the refusal by the licensing section to renew his private hire driver's licence as the Authority was not satisfied that he was a fit and proper person to hold such a licence.

Mr S was present at the meeting and he was accompanied by Mrs S.

A Licensing Officer presented the report to the Committee which included information on Mr S's renewal application, his licensing record and criminal record and what had changed since his last licence had been granted. The report also included the appeal form submitted by Mr S.

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

Members asked questions of the Licensing Officer.

Mr S, supported by Mrs S, then addressed the committee and answered questions from Members.

Following a summing up from the Licensing Officer and Mr S, 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 grant the licence; or
- Dismiss the appeal and refuse to issue 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 upheld and Mr S's private hire driver's licence be renewed. The Committee considered there were sufficient mitigating factors to warrant a departure from the Policy and was satisfied that Mr S was a fit and proper person to hold a licence from this Authority.

RQ88/12/17 Combined Hackney Carriage/Private Hire Driver's Licence Referral – Mr AB

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 AB.

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

A Licensing Officer and Mr AB attended the meeting.

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

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

Following a summing up from the Licensing Officer and Mr AB, 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 to the Committee 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 conduct.

Resolved that Mr AB's combined hackney carriage/private hire driver's licence be revoked as the Committee was no longer satisfied that he was a fit and proper person to hold such a licence.

RQ89/12/17 Hackney Carriage/Private Hire Driver's Licence Disciplinary Referral

The Committee considered a report by the Senior Manager, Technical and Regulatory Services which concerned a licensed driver, Mr MB, who had been referred to the Committee for failing to complete the Child Sexual Exploitation (CSE) Awareness training

as required by the North Tyneside Hackney Carriage and Private Hire Policy. The Committee was requested to determine whether any disciplinary action was required and to assess Mr MB's continued suitability to carry out the duties of a licensed driver.

The matter had been deferred from the meeting held on 22 November 2017 to enable Licensing Officers time to ascertain the whereabouts of Mr MB either from the Police or by tracking his licensed vehicle to allow him the opportunity to attend the hearing as all correspondence relating to the meeting had been returned to the Authority (previous minute RQ52/11/17).

A Licensing Officer attended the meeting and informed the Committee of steps taken by the Authority to locate Mr MB since November 2017. As all reasonable steps to locate Mr MB had been taken and it was a condition of his licence that the Licensing Authority be kept informed of his address the Committee agreed to proceed in his absence.

The Committee was informed that child sexual exploitation (CSE) was 'everybody's business' and the Authority was committed to working in partnership with and supporting local businesses to raise awareness of this issue. As licensed drivers may see, hear or recognise situations or behaviour that may be of concern as well as being in a position of trust they played an important role in helping to safeguard vulnerable people.

It was therefore important that licensed drivers and applicants underwent awareness training to assist in the prevention of sexual exploitation and to know how to report it. By key agencies working together and sharing information, sexual exploitation could be prevented, children and young people protected and perpetrators of sexual offences prosecuted.

On the 4 August 2015 the Licensing Section sent a letter to all drivers concerning CSE awareness training. This letter invited all licensed drivers to attend face to face awareness training, with 12 sessions available from September through to November to choose from. Further invitations to another four sessions (two in February and two in May) were sent to drivers in January 2016 and again in August 2016 (two in September and two in November). There was no charge for this training and at this point there was no requirement for training to be undertaken by licensed drivers.

On 24 January 2017, the Regulation and Review Committee approved a revised North Tyneside Hackney Carriage and Private Hire Licensing Policy which came into force on 1 April 2017. One of the changes required new applicants for a Hackney Carriage or a Private Hire Drivers Licence to undertake awareness training on child sexual exploitation (CSE) within three months of receiving their licence. If training was not undertaken within three months the driver would be referred to Regulation and Review Committee. Existing drivers were required to undertake the training by 1st April 2017 and if this was not completed the driver would be referred to the Regulation and Review Committee.

The Licensing Section sent another letter to all licensed drivers to attend a face to face awareness training session in March 2017. In addition, an invitation to complete the new on-line training module was issued to drivers who had still to complete their CSE training in September 2017.

All existing licensed drivers who had failed to complete the CSE awareness training had now been referred to the Committee for it to consider their continued suitability to carry out the duties of a licensed driver. As the number was quite significant a series of meetings over two weeks had been arranged to hear the cases.

The Licensing Officer then informed the Committee how long Mr MB had held a licence with North Tyneside Council; how many letters he had received regarding the CSE awareness training; and the total number of sessions of face to face training he had had the opportunity to attend. The Committee was also reminded that online training had been available since September 2017.

Members of the Committee asked questions of the Officer.

Following a summing up from the Licensing Officer he 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 drivers' future conduct;
- suspend the drivers' licence; or
- revoke the drivers' 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, conduct and medical fitness.

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.

Resolved that Mr MB's combined hackney carriage/private hire driver's licence be revoked with immediate effect in the interests of public safety as the Committee was no longer satisfied that he was a fit and proper person to hold a licence.