

## **Regulation and Review Committee Panel**

**15 March 2018**

Present: Councillor P Earley (Chair)  
Councillor John Hunter, M Huscroft, D McMeekan  
and T Mulvenna.

### **RQ103/03/18 Apologies for Absence**

No apologies for absence were recorded.

### **RQ104/03/18 Declarations of Interest and Dispensations**

No declarations of interest or dispensations were reported.

### **RQ105/03/18 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.

### **RQ106/03/18 Private Hire Vehicle 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 for a private hire vehicle.

A representative for the Operator of the vehicle in question attended the meeting accompanied by a driver who used the vehicle as his private hire vehicle. Prior to the presentation of the report by the Licensing Officer, Members of the Committee inspected the vehicle in question by sitting in the front and rear seats of the vehicle and also in the rear of another saloon car for comparison.

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.

Paragraph 4 makes reference to the seating capacity of a vehicle and states:

“The seating capacity of a vehicle will be determined by the Authority. Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles.

15 March 2018

Where the seating in the vehicle does not conform or for other reasons associated with the comfort and safety of passengers, the authority may reduce the permitted number of passengers that may be carried in the vehicle from that specified by the vehicle manufacturer.”

Appendix A of the Hackney Carriage and Private Hire Licensing Policy sets out Hackney Carriage and Private Hire Vehicle specifications and specification 8 under Passenger Comfort states:

“There shall be no obstructions or features in the vehicle (e.g. prominent transmission tunnels, door furniture, vehicle controls, etc.) which in the opinion of the authority materially interferes with the comfort of any passenger.”

On 10 January 2018 an application to licence the vehicle in question as a private hire vehicle was received. The application was accompanied by the relevant documentation and licence fee and included a request to consider allowing two passengers to use the twin seat in the front of the vehicle and licensing the vehicle for eight passengers.

The vehicle was fitted with eight passenger seats including a twin seat in the front. Officers carried out an inspection of the vehicle to re-assess the seating capacity with particular attention to this twin seat. Officers decided that only one passenger should be permitted to be carried in the front of the vehicle, thereby limiting the overall passenger capacity to seven persons. The decision was based on grounds of comfort for the passenger sitting in the middle seat in the front of the vehicle, provided for in section 48 (a) (v) of the Local Government (Miscellaneous Provisions) Act 1976 and the Council’s Hackney Carriage and Private Hire Licensing Policy.

The vehicle met all the requirements set out in the Hackney Carriage and Private Hire Licensing Policy and had been tested at the Authority’s test station. On 11 January 2018 the vehicle was licensed to carry up to seven passengers with a condition stipulating that only one passenger could be seated in the front.

An appeal against the number of licensed passengers permitted to be carried in the vehicle was made.

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.

The Operator’s representative and Members asked questions which were answered by the Licensing Officer.

The Operator’s representative and the licensed driver referred to a mistake with the issuing of the plate; that groups of people always seated themselves in any vehicle according to their size; the number of unfulfilled jobs because of the restricted number of vehicles able to take larger groups; the difficulty trying to explain to passengers that whilst there were two seats in the front only one person could sit in the front; and when bookings were taken for larger parties the customer was always informed that it may be that two saloon cars would be sent if a suitable larger vehicle was not available and customers had the option of saying “no” that but everyone said “yes” because they want to get to their destination as soon as possible and not wait until a larger vehicle was available.

The Committee was also informed that two neighbouring authorities licensed the vehicle for eight passengers. Northumberland County Council had always done so but Newcastle City Council had initially licensed the vehicle for seven passengers but having licensed one in error had for a number of years licensed the previous and the current model for eight passengers. No complaints had been received by either Authority about these vehicles.

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

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

The Operator's representative stated that the issue was one of comfort and the evidence from Newcastle City Council and Northumberland County Council was that passengers felt the level of comfort in the front seat of the vehicle for two passengers was acceptable and the decision should be based on the evidence.

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 licensed to carry eight passengers;
- or
- b) Dismiss the appeal and refuse to licence the vehicle to carry eight passengers.

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 refusal to permit two passengers to be carried in the twin seat in the front of the vehicle be dismissed.

Reason: the decision to refuse to licence the vehicle for eight passengers complied with the requirements of section 48 of the Local Government (Miscellaneous Provisions) Act 1976 and the Authority's Private Hire and Hackney Carriage Licensing Policy and no circumstances on this occasion warranted a departure from the Authority's Policy.

It was a proportionate response to limit the front twin seat to one passenger due to the impact the design of the dashboard and position of the gear level would have on the comfort of the passenger seated next to the driver and for the protection of both the driver and passenger from potential inappropriate touching due to the close proximity of the passenger's limbs with the gear stick.

The Committee accepted that both Northumberland County Council and Newcastle City Council licenced such vehicles for eight passengers but each licensing authority had to apply its own policies as it considered appropriate for the safety and comfort of passengers.

## **RQ107/03/18      Private Hire Vehicle Licence – Appeal**

The Committee considered a report by the Senior Client Manager, Technical and Regulatory Services which outlined the background to an appeal by JP against the decision by officers to refuse to issue a private hire vehicle licence for his vehicle.

The Operator of the vehicle in question attended the meeting. Prior to the presentation of the report by the Licensing Officer, Members of the Committee inspected the vehicle.

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.

Tinted windows are regulated by the Road Vehicles (Construction and Use) Regulations 1986. These road safety regulations specified the minimum levels of light that must pass through the windscreen and front side windows of all motor vehicles.

Excessively tinted glass fitted to these windows can affect road safety as a driver's vision could be restricted and other road users could not make eye contact with the driver, particularly at night. For this reason, the limits for vehicles first used on or after 1st April 1985 are a minimum of 75% light transmittance for the windscreen and a minimum of 70% light transmittance for the front side windows. There was no minimum legal limit that regulated the remainder of the glass fitted to a vehicle. This meant that rear windows and the rear screen could be fitted with varying degrees of tint.

Chapter 2 of the Authority's Hackney Carriage and Private Hire Licensing Policy made reference to Vehicle Licences. Paragraph 5 references an appendix which sets out the minimum standards which are expected for licensed vehicles. Specification 11 under passenger safety states:

"Glass shall have a minimum light transmittance of 75% for the front windscreen, 70% for the front side windows and 34% for all other vehicle window glass.

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".

Paragraph 71 of Chapter 2 of the Policy also details these specifications.

An application to licence a vehicle as a private hire vehicle was received. During the application process, officers examined the vehicle and measured the level of tint of the glass fitted to the rear side windows and rear screen using a Tintman Photoptic Window Tint Meter. Officers found that the light transmittance of the rear side windows was 31%. This was below the minimum set out in the Authority's Policy by 3% but officers were satisfied that visibility into the vehicle was sufficient. However, the light transmittance of the rear screen was measured at 19.5% which was far below the level set out in the Policy of 34%. Officers decided that as they could not see clearly into the vehicle they could not use their discretion as set out in the Authority's Policy for this window.

The vehicle was refused a licence as the glass fitted to the rear screen was far below the standard and as such was not of an appropriate design and specification and did not meet the Council's minimum requirements as set out in the Policy which was primarily designed to ensure as far as possible the safety of customers using licensed vehicles. Officers had exercised their discretion in relation to the rear side windows but did not consider there were grounds to depart from the Policy so far for the rear screen.

An appeal against the refusal of the licence was then received.

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.

The Operator and the Members asked questions which were answered by the Licensing Officer.

The Operator then addressed the Committee and referred to visibility from inside the vehicle, the need for the Policy, that adverts were allowed on rear windows, that tinted glass was a safety feature to protect children or pets in the rear seat from the sun and lowered emissions as the cars were cooler and did not require as much air conditioning. As it was a private hire vehicle it would be driven by a well vetted licensed private hire driver and increasingly vehicles came with tinted windows as standard and that changing windows affected insurance as it was classified as changing the manufacturers design for the vehicle.

Members asked questions of the Operator.

The Licensing Officer and Operator 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 issue the vehicle with a private hire vehicle licence; or
- b) Dismiss the appeal and do not issue the vehicle with a private hire vehicle licence.

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 be upheld and the vehicle licensed as a private hire vehicle. Reason: The Committee was satisfied that the vehicle complied with the requirements of section 48 of the Local Government (Miscellaneous Provisions) Act 1976, was safe and that the circumstances and assurances of this particular vehicle and this particular Operator was sufficient to warrant a departure from the Authority's Policy for this one vehicle on this occasion.

(After the discussion on the above matter had been concluded Councillor John Hunter left the meeting room and took no part in the decision making on the remaining items of business.)

## **RQ108/03/18          Private Hire Vehicle Drivers Licence Appeal – Mr B**

The Committee received a report by the Senior Manager, Technical Services which outlined the background to an appeal by Mr B against the decision by the Authority to refuse to issue him a Private Hire Driver's Licence on the grounds that it was not satisfied that he was a fit and proper person to hold such a licence

Mr B was present at the meeting.

A Licensing Officer presented the report to the Committee which included information on Mr B's 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 B.

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

Members asked questions of the Licensing Officer.

Mr B then addressed the committee and 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) Uphold the appeal and agree to grant the licence; or
- b) 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 B's private hire driver's licence be granted. The Committee considered there were sufficient mitigating factors to warrant a departure from the Policy and was satisfied that Mr B was a fit and proper person to hold a licence from this Authority.

#### **RQ109/03/18      Private Hire Driver's Licence Appeal – Mr S**

The Committee received a report by the Senior Manager, Technical Services which outlined the background to an appeal by Mr S against the decision by the Authority to refuse to renew his Private Hire Driver's Licence on the grounds that it was not satisfied that he was a fit and proper person to hold such a licence

Mr S was not present at the meeting. The Committee considered whether to proceed in Mr S's absence or defer consideration to a future meeting and give him another opportunity to attend. Mr S had been informed of the date of the meeting on 26 February 2018 and the Licensing Officer produced a certificate of service which showed that a copy of the committee report and another letter inviting him to attend the meeting had been hand delivered to his last known address on 8 March 2018.

The Committee decided to proceed in Mr S's absence as it was satisfied that he had received appropriate notice of the meeting and no indication had been received that he intended to attend the meeting.

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.

Members asked questions of the Licensing Officer.

Following a summing up from the Licensing Officer he left the meeting to enable consideration of the matter to be undertaken in private.

The options available to the committee were to:

- a) Uphold the appeal and agree to renew the licence; or
- b) Dismiss the appeal and refuse to renew 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 was not satisfied that Mr S was a fit and proper person to hold a licence from this Authority.

### **RQ110/03/18 Private Hire Driver's Licence Disciplinary Referral – Mr A**

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 A.

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

A Licensing Officer and Mr A accompanied by a friend attended the meeting.

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

Mr A's representative then addressed the Committee.

Members of the Committee asked questions of Mr A and his representative and sought clarification on a number of matters.

Following a summing up from the Licensing Officer and Mr A's representative, 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 six weeks was the most appropriate sanction as it was an effective way of giving Mr A time to reflect on the implications his actions could have for his licence.

**Resolved** that Mr A's private hire driver's licence be suspended for a period of six weeks weeks.

#### **RQ111/03/18 Private Hire Driver's Licence Disciplinary Referral – Mr M**

The Committee considered a report by the Senior Manager, Technical and Regulatory Services which concerned a licensed driver, Mr M, 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 M's continued suitability to carry out the duties of a licensed driver.

A Licensing Officer attended the meeting.

Mr M was not present at the meeting. The Committee considered whether to proceed in Mr M's absence or defer consideration to a future meeting and give him another opportunity to attend. Mr M had been informed of the date of the meeting on 5 February 2018 and the Licensing Officer produced a certificate of service which showed that a copy of the committee report and a letter inviting him to attend the meeting had been hand delivered to his last known address on 8 March 2018 and he had been spoken to by the officer.

The Committee decided to proceed in Mr M's absence as it was satisfied that he had received appropriate notice of the meeting and no indication had been received that he intended to attend the meeting.

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.

The Hackney Carriage and Private Hire Licensing Policy in force at the time Mr M's licence was issued required all new licensed drivers to undertake child sexual exploitation awareness training within 3 months of a licence being granted. If training was not undertaken within 3 months the driver would be referred to Regulation and Review Committee.

An on-line training account had been set up for Mr M to enable him to undertake the required training at the time his licence was issued and after three months a reminder was sent which also warned that failure to complete the training would result in a referral to the Committee.

No response to any of the correspondence relating to the need to complete the training or with information relating to the committee meeting had been received and the training was still uncompleted.

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 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, 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 M's Private Hire Drivers' Licence be suspended until he completes the required Child Sexual Awareness training.

Reason: the revocation of Mr M's licence would be a disproportionate sanction in the circumstances and a suspension until the required training was completed was the most appropriate as it would broaden Mr M's understanding of the issue and satisfy the Committee that he remained a fit and proper person to hold a licence.