

Other Licensing Committee

A meeting of Other Licensing Committee was held on Tuesday, 23rd April, 2019.

Present: Cllr Paul Kirton(Chairman), Cllr Mrs Kathryn Nelson(Vice-Chairman), Cllr Chris Clough, Cllr Evaline Cunningham, Cllr Elsi Hampton, Cllr Eileen Johnson, Cllr Maurice Perry, Cllr David Wilburn, Cllr Norma Wilburn, Cllr Bill Woodhead MBE

Officers: Jonathan Nertney (HR,L&C), Leanne Maloney-Kelly, Sarah Whaley (DCE)

Also in attendance: Private Hire Driver - 119522 and his representative Mr David Wilson, Private Hire Driver Applicant - 146336, Private Hire Driver Applicant - 146454 and his legal representative Mr David Wilson

Apologies: Cllr Derrick Brown, Cllr Mrs Jean O'Donnell, Cllr Julia Whitehill

OLC 62/18 Evacuation Procedure

The Evacuation Procedure was noted.

OLC 63/18 Declarations of Interest

There were no declarations of interest.

OLC 64/18 Draft minutes of the Other Licensing Committee meeting which was held on the 12th March 2019

Consideration was given to the minutes of the Other Licensing Committee meeting which was held on the 12th March 2019 for approval and signature.

RESOLVED that the minutes be approved and signed as a correct record by the Chairman.

OLC 65/18 Exclusion of the Public

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

OLC 66/18 Private Hire Driver - 119522

Members were asked to consider a report and determine what action to take in relation to the continued fitness of Private Hire Driver - Ref 119522 who had a previous history of convictions for speeding. Private Hire Driver - Ref 119522 was granted his licence by the Other Licensing Committee on the 28th November 2017 without declaring the convictions. Private Hire Driver - Ref 119522 had appeared before the Other Licensing Committee on the 22nd January 2019 and was suspended with immediate effect on the grounds of public safety pending further investigation.

Private Hire Driver - Ref 119522 was in attendance at the meeting alongside his

representative Mr David Wilson and was given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- A copy of a committee minute from the Other Licensing Committee meeting which was held on the 22nd January 2019.
- A copy of a suspension letter to Private Hire Driver - 119522.
- A copy of various correspondence between Mr David Wilson, Teesside Magistrates Court and Cleveland Police.
- A copy of further correspondence confirming Private Hire Driver - 119522 used a vehicle without an MOT certificate.

The Committee were asked to determine whether Private Hire Driver - 119522 was a 'fit and proper person' to remain a Private Hire Driver with this Authority.

The Committee had regard to the report, appendices and oral evidence given by Private Hire Driver - 119522 and his representative David Wilson at the meeting.

The Committee noted that Private Hire Driver - 119522 had appeared before the Other Licensing Committee on 22 January 2019 when his representative David Wilson had explained that Private Hire Driver - 119522 did not accept he had been convicted of the offences which were recorded on his DVLA licence. The Committee agreed at that time with Private Hire Driver - 119522's representative's request for an adjournment in order for enquiries to be made with the DVLA, Police and Magistrates Court. The Committee resolved to suspend Private Hire Driver - 119522's licence whilst the necessary enquiries were made.

The Committee noted that Private Hire Driver - 119522's representative had made the relevant enquiries and had received written confirmation from the relevant bodies confirming that the convictions as recorded on the DVLA licence were accurate.

The Committee were aware that when Private Hire Driver - 119522 appeared before them in November 2017 he fell outside Council policy. After hearing submissions at that time the Committee found there were exceptional reasons to depart from the policy and Private Hire Driver - 119522's licence was granted. At that time the Committee were not aware that Private Hire Driver - 119522 had two pending matters relating to speeding. Had the Committee been aware of that relevant information then they may well have taken a different view at that time.

The Committee also noted that although the speeding offences were pending matters, prior to the grant of Private Hire Driver - 119522's licence. Private Hire

Driver - 119522 currently had 9 live points on his DVLA licence. Private Hire Driver – 119522 had also received a conviction for using a vehicle without a valid MOT certificate.

The offences had been further aggravated by Private Hire Driver - 119522's failure to notify the Council of his convictions which he received on 23 April 2018 and 13 August 2018 which was a breach of Private Hire Driver - 119522's driver licence conditions. The Committee found that on the balance of probabilities Private Hire Driver - 119522 had been dishonest in failing to notify the Council of these two convictions.

After considering all of the evidence and the submissions made to them the Committee lifted the suspension of Private Hire Driver - 119522's licence which had been in place since his appearance before the Committee on 22 January 2019. On the basis of the new information before Members, including the new evidence that the convictions had been accurately recorded on Private Hire Driver - 119522's licence, and confirmation from the Police of Private Hire Driver - 119522's conviction for using a vehicle without a valid MOT and after considering his responses to the questions put to Private Hire Driver - 119522 by the Licensing Committee it was resolved that there was sufficient reasonable grounds to revoke Private Hire Driver - 119522's licence and resolved that he was no longer deemed to be a fit and proper person.

The Committee found that Private Hire Driver - 119522's record of speeding did make public safety a relevant consideration and his revocation was deemed to be with immediate effect under the provisions of Section 61(2B) of the Act.

RESOLVED that Private Hire Driver 119522 Private Hire Drivers Licence with this Authority be revoked with immediate effect for the reasons as detailed above.

**OLC
67/18 Private Hire Driver Application – 146336**

Members were asked to consider a report and determine what action to take in relation to an application for a Private Hire Drivers Licence from Private Hire Driver Applicant - 146336 who had been convicted of a relevant offence.

Private Hire Driver Applicant - 146336 was in attendance at the meeting and given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- A copy of Private Hire Driver Applicant - 146336's application and DVLA driving licence check.
- A copy of a summary transcript of an interview with Private Hire Driver Applicant - 146336.

The role of the Committee was to determine if Private Hire Driver Applicant - 146336 was considered to be a fit and proper person to be granted a private hire drivers licence with this Authority.

The Committee had regard to the report, appendices and oral evidence given by Private Hire Driver Applicant - 146336.

The Committee considered Private Hire Driver Applicant - 146336's previous history of convictions, details of which were detailed within the Committee report. It was noted that Private Hire Driver Applicant - 146336's previous history included a number of relevant convictions between 2012 and 2015.

Private Hire Driver Applicant - 146336 explained to the Committee that he deserved a second chance. The Committee were mindful that they had to consider whether Private Hire Driver Applicant - 146336 was a fit and proper person to be licensed at this time and assess his suitability against the Councils Policy Guidelines.

The Councils Policy stated that an applicant who had a previous conviction for being concerned in the supply of illegal drugs was unlikely to have an application granted. The Committee found that Private Hire Driver Applicant - 146336 had not provided any exceptional reasons to persuade them to depart from their policy and refused his application for a licence as Private Hire Driver Applicant - 146336 was deemed not to be a fit and proper person to be licensed as a private hire driver.

RESOLVED that Private Hire Driver Applicant - 146336's application for a Private Hire Drivers Licence with this Authority be refused for the reasons as detailed above.

**OLC
68/18 Private Hire Driver Application - 146454**

Members were asked to consider a report and determine what action to take in relation to an application for a Private Hire Drivers Licence from Private Hire Driver Application - 146454 who had been convicted of relevant offences and suffered relevant medical conditions.

Private Hire Driver Applicant - 146454 was in attendance at the meeting alongside his representative Mr David Wilson and was given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- A copy of Private Hire Driver Applicant - 146454's application including his DVLA driving licensing.
- A copy of a summary transcript with Licensing Officers and Private Hire Driver Applicant - 146454.

- A copy of a medical report and a letter from Private Hire Driver Applicant - 146454's GP.
- Information relating to an illness which Private Hire Driver Applicant - 146454 was suffering.
- A copy of an extract explaining PIP from carers UK.

The role of the Committee was to determine if Private Hire Driver Applicant - 146454 was considered a fit and proper person to be granted a private hire drivers licence with this Authority.

The Committee considered all of the evidence presented to them, the submissions made by Private Hire Driver Applicant - 146454 and his representative Mr David Wilson and the applicable Guidelines, under Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

The Committee had regard to the information contained in the report which detailed Private Hire Driver Applicant - 146454's extensive medical history.

The Committee noted that when considering whether Private Hire Driver Applicant - 146454 was a fit and proper person to hold a licence they had to consider the medical evidence and any others factors which they deemed to be relevant considerations.

The Committee were of the view that Private Hire Driver Applicant - 146454's extensive medical conditions could potentially pose a risk to members of the public if he was licensed and working in a stressful environment. Working as a private hire driver could place stresses on an individual often working long hours.

The Committee concluded that because of Private Hire Driver Applicant - 146454's medical history, the Committee were not persuaded that he was a fit and proper person to hold a private hire drivers licence and his application was refused.

RESOLVED that Private Hire Driver Applicant - 146454's application for a Private Hire Drivers Licence with this Authority be refused for the reasons as detailed above.

**OLC
69/18**

Combined Hackney Carriage and Private Hire Driver – 001318

Members were asked to determine what action to take in relation to Combined Hackney Carriage and Private Hire Driver - 001318 who had had a complaint made against him by a female passenger.

Members were informed that Combined Hackney Carriage and Private Hire Driver - 001318 was unable to attend the Committee meeting as confirmed by his legal representative.

The Committee agreed to defer the item to a future meeting of the 'Other Licensing Committee'.

RESOLVED that the item be deferred to a future meeting of the 'Other Licensing Committee'.

**OLC
70/18** **Delegated Decisions Update Report**

Members were asked to consider and note a Delegated Decision Update Report which detailed decisions Officers had made in 2018-19 utilising powers delegated to them by the 'Other Licensing Committee'. The report also detailed legal appeals lodged and concluded in 2018-19.

The main topics discussed were as follows:

It was agreed that Officers update their interview procedures with Applicants to include asking questions relating to any pending court cases or convictions that an Applicant may have, whether it be a new or renewal application.

It was highlighted that there had been six court appeals against decisions made by Members of the Other Licensing Committee, two of which had been upheld and four dismissed. Full details were contained within the main report.

Where Officers in consultation with the Chairman of the 'Other Licensing Committee' had made decisions in relation to the immediate revocation of a drivers licence, none of those had been appealed against.

RESOLVED that the

- 1) information be noted
- 2) Committee agree to the proposed change in terms of the interview procedure as detailed above.