

General Licensing Committee

A meeting of General Licensing Committee was held on Tuesday, 27th August, 2019.

Present: Cllr Eileen Johnson(Vice-Chair), Cllr Jacky Bright, Cllr Evaline Cunningham, Cllr Ken Dixon, Cllr Clare Gamble, Cllr Tina Large, Cllr Mick Moore, Cllr Mrs Jean O'Donnell, Cllr Maurice Perry, Cllr Norma Stephenson O.B.E, Cllr Hilary Vickers,

Officers: Helen Inglis, Jonathan Nertney (HR,L&C), Polly Edwards, Nigel Hart (DCE)

Also in attendance: Combined Hackney Carriage and Private Hire Driver – 001438, Private Hire Applicant - 144957

Apologies: Cllr Paul Kirton, Cllr Bill Woodhead MBE

GLC 8/19 Evacuation Procedure

The evacuation procedure was noted.

GLC 9/19 Declarations of Interest

There were no declarations of interest.

GLC 10/19 PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY AMENDMENTS - CONSULTATION

Consideration was given to the feedback received arising from proposed amendments received from the trade to the Private Hire and Hackney Carriage Policy.

A total of 43 responses to the consultation had been received; the details of which were summarised.

The views of this Committee were noted as follows regarding each proposed amendment, prior to the matter being considered by Cabinet in October and thereafter recommended for approval to Council in November:-

i) Proposed reduction to the time period provided within the policy that states that a driver's licence will not be granted to anyone who has not held a full driving licence for a period of three years:-

It was noted that many other authorities both regionally and nationally only insisted that a full driving licence be held for one year.

Member opinion was divided on the proposed reduction with several questioning whether one year's driving experience would give a licensed driver sufficient exposure to driving in all conditions and therefore enough experience to be qualified to drive members of the public. There was however no statistics available to suggest that a driver with one year's experience was more likely to have an accident than a driver with three years experience; albeit Members were aware that in general insurance companies premiums were higher for newly qualified drivers.

Cllr Norma Stephenson proposed, and Cllr Jacky Bright seconded that the length of time for which a full driving licence be held be reduced to one year.

A vote on the matter was taken, which was lost.

A subsequent motion to retain the current policy requirement that a licence be held for three years, was then voted on and approved.

ii) Change to the Private Hire and Hackney Carriage Specification to the effect that vehicles deemed to be an insurance 'write off' (i.e. in accident damage category A,B,C or S) and/or endorsed as being 'accident damaged' on their V5 document, will not be licensed/will have their licence revoked.

This sought to exclude vehicles within accident damage categories D & N which were currently included in the policy.

Members expressed concern at such a proposed relaxation of the vehicle specification and considered that they had a duty to uphold the highest possible standards.

A motion to retain the current policy requirements in that a vehicle recorded as an insurance write off will not be licensed, was voted on and approved.

iii) Change to the current wording regarding windows (excluding the windscreen which must have a minimum light transmission of 75%) to state that:-

- In the interests of public safety it is important that passengers carried in licensed vehicles are capable of being seen when viewed from outside of the vehicle.

This request followed the increasing trend for all new vehicles to have tinted rear windows as standard, making it virtually impossible for the trade to comply with the current conditions as stated.

Members were in agreement with this request as the proposed new wording had sufficient safeguard as to ensure that anyone travelling in the vehicle would still be capable of being seen from outside the vehicle. Therefore, it was agreed that the Council's specification relating to the use of tinted windows in licensed vehicles be as follows:-

a) The windscreen shall have a minimum light transmission of 75%;

b) All other front windows of the vehicle shall have a minimum of 70% light transmission;

c) All rear windows of the vehicle shall have a minimum of 30% light transmission, unless the following criteria can be met in which case there will be no minimum light transmission:-

-The vehicle is an executive hire or novelty hire vehicle or stretched limousine operating under an Exemption Notice or exceptional circumstances apply; and
-The vehicle will not be engaged at all in any contract or provision of vehicle for the carriage of school children or based around the carriage of unaccompanied

children/young persons (i.e. under age 18 years). The driver must not act as the accompanying adult, and

-Approval has been given by the Council;

d) The Council will allow a 3% (of the minimum specified reading) error margin in line with the testing instruments manufacturers recommendation. For example therefore, a 3% error margin for a rear window reading equals 0.9% (rounded to 1%). This means that a reading of not less than 29% light transmission will be accepted for rear windows.

A motion that the Committee supports the proposed amendment to the policy was voted on and approved.

RECOMMENDED that: the views of this Committee regarding the recent consultation on Private Hire and Hackney Carriage Policy be noted and be submitted to Cabinet and thereafter Council for consideration.

**GLC
11/19 Minutes from the meeting which was held on the 11th June 2019**

The Minutes of the Meeting held on 11th June 2019 were agreed to be signed as a correct record.

**GLC
12/19 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.

**GLC
13/19 Combined Hackney Carriage and Private Hire Driver 001438**

Members were asked to consider a report and determine what action to take in relation to the continued fitness of Combined Hackney Carriage and Private Hire Driver - 001438 who had been using his mobile phone whilst driving.

Combined Hackney Carriage and Private Hire Driver – 001438 was in attendance at the meeting 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 signed suspension letter.
- A copy of a summary of a transcript interview with Combined Hackney Carriage and Private Hire Driver - 001438
- A copy of a witness statement.

The Committee were asked to determine whether Combined Hackney Carriage and Private Hire Driver – 001438 was a 'fit and proper person' to remain a Combined Hackney Carriage and Private Hire Driver with this Authority.

The Committee had regard to the report, appendices, video evidence and oral evidence given by Combined Hackney Carriage and Private Hire Driver - 001438.

The Committee were asked to consider a report which detailed a complaint made by a customer who had video evidence of Combined Hackney Carriage and Private Hire Driver - 001438 using social media whilst driving during a journey when the customer was a passenger in Combined Hackney Carriage and Private Hire Driver - 001438's vehicle.

The role of the Committee was to make findings on the balance of probabilities and determine whether such findings were relevant to Combined Hackney Carriage and Private Hire Driver - 001438's fitness to hold a combined hackney carriage and private hire drivers licence with this Authority.

The following facts were not in dispute:

Combined Hackney Carriage and Private Hire Driver - 001438 was driving with a fare paying passenger whilst using his mobile phone to look on social media while his vehicle was in motion.

The Committee noted that they had to consider the evidence on the civil burden of proof, i.e. on the balance of probabilities.

The Committee noted that Combined Hackney Carriage and Private Hire Driver - 001438 was remorseful and explained that if he was allowed to keep his licence this would not happen again.

Combined Hackney Carriage and Private Hire Driver - 001438's conduct during the journey which took place on Sunday 14 July 2019 was unacceptable and put himself, the passenger and other pedestrian and road users in potential danger. The Committee found on the balance of probabilities that Combined Hackney Carriage and Combined Hackney Carriage and Private Hire Driver - 001438 was not paying adequate attention and this was evident by the fact that Combined Hackney Carriage and Private Hire Driver - 001438 did not notice that the rear seat passenger was recording Combined Hackney Carriage and Private Hire Driver - 001438 on her mobile phone whilst Combined Hackney Carriage and Private Hire Driver - 001438 was using social media on his mobile phone.

The Committee found that Combined Hackney Carriage and Private Hire Driver - 001438 had not been wholly truthful with the Licensing Officer when interviewed as he had informed the Officer that he was accessing a messenger app on his mobile as Combined Hackney Carriage and Private Hire Driver - 001438 was expecting a message from his wife. The footage shown at the Committee meeting demonstrated Combined Hackney Carriage and Private Hire Driver - 001438's explanation to be false.

The Committee found that Combined Hackney Carriage and Private Hire Driver

- 001438 was using a social media app such as Facebook. The Committee noted that the footage uploaded to the internet by the passenger had been viewed approximately 45,000 times.

Combined Hackney Carriage and Private Hire Driver - 001438 informed the Committee that this was the first time he had looked at social media while driving. Although no other complaints of this nature had been brought to the Councils attention, it was highly unlikely that this was the first occasion Combined Hackney Carriage and Private Hire Driver - 001438 had done this.

The Committee resolved to lift the suspension of Combined Hackney Carriage and Private Hire Driver - 001438's licence and that given their findings there was sufficient reasonable cause to revoke Combined Hackney Carriage and Private Hire Driver - 001438's licence.

Combined Hackney Carriage and Private Hire Driver - 001438 was no longer deemed to be a fit and proper person. Given these concerns the Committee resolved that public safety was a relevant consideration and the revocation was with immediate effect under section 61 (2B) of the Act and Combined Hackney Carriage and Private Hire Driver - 001438 was therefore no longer authorised to drive licensed vehicles.

RESOLVED that Combined Hackney Carriage and Private Hire Driver – 001438's Combined Hackney Carriage and Private Hire Drivers licence be revoked for the reasons as detailed above.

**GLC
14/19** **Private Hire Driver Application - 144957**

Members were asked to consider a report and determine what action to take in relation to a Private Hire Driver Application from Applicant Ref - 144957 who had previously applied for a licence in November 2017 but withdrew his application in March 2018 due to providing a non-negative oral fluid swab drugs test in February 2018.

Applicant Ref – 144957 was in attendance at the meeting 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 Applicant - Ref 144957's application and DVLA driving licence.
- A copy of a typed transcript of an interview with Applicant - Ref 144957.
- A copy of a toxicology certificate.

The meeting was to consider Applicant Ref - 144957's application for a private hire driver licence. Applicant Ref - 144957 had previously withdrawn his application, in March 2018, due to providing a positive drug test which indicated the use of cannabis (THC). The toxicology report at that time stated that the test result was “consistent with illicit drug use and was not consistent with any

prescribed or over the counter medication”.

The role of the Committee was to determine if Applicant Ref - 144957 was considered a fit and proper person to be granted a private hire drivers licence with this Authority.

The Committee considered the report, appendices and oral evidence given at the meeting. The Committee also noted the written representation Applicant Ref - 144957 had submitted in support of his application, stating the reasons that he was taking tablets, which Applicant Ref - 144957 stated had caused him to provide a positive sample when an oral fluid drugs test was carried out in February 2018.

The Committee noted that when Applicant Ref - 144957 reapplied for the licence in May 2019 he undertook another oral fluid drugs test, which provided a clear sample.

Applicant Ref - 144957 informed the Committee that he had been taking tablets purchased by a friend of his via the internet and that he believed these had been responsible for Applicant Ref - 144957 failing the drug test as they contained THC. The Committee questioned Applicant Ref - 144957 on this and he stated the tablets had been obtained from e-Bay. Applicant Ref - 144957 stated that they did not come in any packaging but that they were in a blister pack with no details of ingredients on that packaging. Applicant Ref - 144957 admitted that these tablets had not been medically prescribed.

Applicant Ref - 144957 did not provide the Committee with any evidence to corroborate this version of events and did not provide any e-mails, details of the e-Bay transaction or any statement from Applicant Ref - 144957's friend to corroborate this.

The Committee did not believe the version of events put forward by Applicant Ref - 144957 and found that on the balance of probabilities the reason he had failed the drugs test in February 2018 was owing to Applicant Ref - 144957's use of cannabis (THC).

Although the Committee did not accept the explanation given by Applicant Ref - 144957 it would, at best, demonstrate a very poor example of decision making on his part and the obtaining of tablets from the internet, which were not at that time legal to possess in the UK as they contained THC and were not prescribed to him. To take tablets obtained via the internet with no knowledge of what they contained could pose a danger to himself and if Applicant Ref - 144957 was driving a vehicle, to other road users also.

The Committee considered all of the evidence presented to them and the submissions made by Applicant Ref - 144957 at the meeting and their Policy Guidelines which applied when considering applications.

The Committee found Applicant Ref - 144957 had failed a drugs test in February 2018 which indicated the illicit use of cannabis (THC). Under Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Committee resolved to refuse Applicant Ref - 144957's application for a licence as he was not deemed to be a fit and proper person at this time.

RESOLVED that Applicant Ref- 144957 application for a Private Hire Drivers Licence be refused for the reasons as detailed above.

**GLC
15/19** **DELEGATED DECISION UPDATE REPORT**

Members were asked to consider a report which provided an update on decisions officers had made in utilising powers delegated to them by this Committee; as well as the outcome of appeals lodged against decisions of this Committee which had now been concluded.

RESOLVED that the report be noted.