

# General Licensing Committee

A meeting of General Licensing Committee was held on Tuesday, 27th September, 2022.

**Present:** Cllr Paul Kirton(Chairman), Cllr Eileen Johnson(Vice-Chair), Cllr Robert Cook, Cllr Mick Moore, Cllr Maurice Perry, Cllr Marilyn Surtees, Cllr Hilary Vickers, Cllr Bill Woodhead MBE

**Officers:** Natalie Hodgson, Rebecca Jackson, Sarah Whaley (D o CS), Kirsty Wannop, Leanne Maloney-Kelly (D o AH),

**Also in attendance:** Applicant - 074134, Applicant Representative Mr David Wilson

**Apologies:** Cllr Jacky Bright, Cllr Evaline Cunningham, Cllr Ken Dixon, Cllr Tina Large, Cllr Lee Spence,

## 1 Evacuation Procedure

The Evacuation Procedure was noted.

## 2 Declarations of Interest

There were no declarations of interest.

## 3 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.

## 4 Combined Hackney Carriage and Private Hire Driver Application – 074134

Members were asked to determine an application for a combined hackney carriage and private hire driver licence from Applicant - 074134 who had previously held a licence with this Authority and had the licence revoked.

Applicant – 074134 attended the meeting alongside his Representative Mr David Wilson who were given the opportunity to make representations.

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

The report detailed the following:

- A copy of Applicant – 074134's application and DVLA check code.
- A copy of a written submission from Applicant – 074134.
- A copy of a report following Applicant – 074134's attendance at anger management sessions.

The Chair introduced everyone present and explained the procedure to be followed during the hearing.

The Committee noted that the Applicant 074134's application was for the grant of an application to Drive Hackney Carriage and Private Hire Vehicles.

The Committee heard that Applicant - 074134 had previously held a combined hackney carriage and private hire vehicle licence from May 2007 to January 2019. Applicant – 074134's licence was revoked on 28th January 2019, due to the findings of the General Licensing Committee at that time in relation to the applicant's behaviour during an incident on 29th September 2018, aggravated by Applicant – 074134's subsequent deliberate attempt to lie to officers and to the Committee. During the incident, Applicant - 074134 swore and was aggressive towards a child that had been left in the rear of his vehicle and was also abusive towards a parking attendant.

As per the Committee's decision letter from 2019, contained within the main report, Applicant - 074134's disciplinary record was clearly relevant:-

In 2013, the Committee considered revoking Applicant – 074134's licence when they found that "there was an issue with the driver's ability to control his emotions and he may have an issue with anger control". At the time the Committee issued a final written warning and required Applicant – 074134 to attend anger management sessions with a counsellor. Applicant – 074134 was warned that he should be in no doubt that any future incidents of a similar nature may result in his licence being revoked. This incident involved a series of altercations with another licenced driver culminated in Applicant – 074134 being photographed holding a metal wheel brace during an argument. The other driver alleged that Applicant – 074134 had assaulted them.

In 2016, a further complaint was received regarding Applicant – 074134's manner of driving and an allegation that he was abusive to a female driver. Applicant – 074134 admitted an error in driving but denied being abusive. Applicant – 074134 was sent a further written warning dated 18th October 2016.

Applicant – 074134 was sent a warning letter on 14th January 2019 due to him having six live penalty points on his driving licence. This was as a result of two convictions for speeding on 10th May 2018 and 11th August 2018. The letter also included a warning relating to future conduct.

The Committee noted that Applicant – 074134 failed to notify the Council that he received five penalty points on 1st September 2018, when he was licenced as a combined driver with this Authority. Applicant – 074134, Mr Wilson confirmed that whilst the offence was committed when Applicant – 074134 was a licenced driver, he did not receive the court summons and was not convicted/sentenced until February 2019, after the revocation of his licence. Mr Wilson accepted before the Committee that he had no evidence to submit in support of this assertion.

Mr Wilson explained to the Committee Applicant – 074134 had had anger management issues, for which he had unsuccessfully undertaken anger management sessions during 2013. Mr Wilson also highlighted that the last occasion on which Applicant – 074134 lost his temper was the incident dated 29th September 2018, which was almost four years ago, and which resulted in the revocation of Applicant – 074134's licence on 28th January 2019. The Committee heard from Mr Wilson that Applicant – 074134 respected the

Magistrates' Court decision in refusing his subsequent appeal and had not made a subsequent application to be a licenced driver until the application before this Committee.

The Committee heard from Mr Wilson that the Applicant – 074134 had undertaken anger management interventions recently, and that on this occasion the techniques had worked. Mr Wilson stated that Applicant – 074134 now accepted that he was “Mr Angry” in the past but did not know it at the time. Mr Wilson told the Committee that Applicant – 074134's therapy sessions with his psychotherapist had now concluded, and that Applicant – 074134 embraced everything that he had learned. Mr Wilson submitted to the Committee that sufficient time had passed to demonstrate that these sessions had been successful.

Mr Wilson told the Committee that Applicant – 074134 worked as a takeaway food delivery driver, and that he was often held responsible by customers for issues such as late or incorrectly delivered food. Mr Wilson said that Applicant – 074134 used his anger management skills several times a day in order to avoid being “Mr Angry”. Mr Wilson described Applicant – 074134 to the Committee as now being “Mr Calm”.

Mr Wilson explained to the Committee that Applicant – 074134 admitted everything that he denied in the past, however, stressed that Applicant – 074134 denied lying in the past. Mr Wilson told the Committee that, in Applicant – 074134's view, he was previously in denial rather than being untruthful.

Members of the Committee were given an opportunity to ask questions of the applicant. Applicant – 074134 was questioned in relation to his reason for applying to Stockton-on-Tees Borough Council for a licence rather than Middlesbrough Council, the borough within which he lived. Applicant – 074134 explained that in his view, Stockton-on-Tees Bough Council's taxi assessment was easier to pass.

The Committee questioned Applicant – 074134 in relation to the incident in 2013 where a series of altercations with another licenced driver culminated in Applicant – 074134 being photographed holding a wheel brace during an argument. Applicant – 074134 was asked hypothetically how he would react if he were granted a licence, and he was working on a rank when another driver took his fare. Applicant – 074134 stated that he had learned a lot since his past mistakes and assured the Committee that he would report such a matter to the authorities.

The Committee asked Applicant – 074134 to tell them more about his anger management course. Applicant – 074134 explained that the techniques he learned included counting backwards from ten to one, walking away from confrontation and using his body language, tone of voice and eye contact appropriately in order to remain calm.

The Committee asked Applicant – 074134 to give examples of him putting his newly acquired techniques into practice. Applicant – 074134 explained that he had experienced abuse from customers every day of the week, for example when food he delivered was cold. Applicant – 074134 stated that in such instances he simply walks away from the situation.

Mr Wilson briefly summed up the Applicant – 074134's case and invited the Committee to consider the report of Applicant – 074134 psychotherapist which was contained within the main report. Mr Wilson invited the Committee to consider Applicant – 074134's demeanour before them, and submitted that he was now very calm, relaxed and in control.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made on the applicant's behalf and by the applicant himself in response to the Committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, the Committee had regard to the provisions of the Local Government (Miscellaneous Provisions) Act 1976. The Committee also had regard to the Council's Private Hire and Hackney Carriage Licensing Policy 2021 – 2026.

Under section 51 Local Government (Miscellaneous Provisions) Act 1976, the Committee shall not grant a drivers licence unless they are satisfied that the applicant is a fit and proper person. When determining this matter, the Committee considered the application on its merits.

The Committee considered the report of Applicant – 074134 's psychotherapist dated 15th June 2022. The Committee acknowledged Applicant – 074134's psychotherapist stated that Applicant – 074134 engaged well, and that during a "therapeutic episode" he demonstrated his ability to identify when he was becoming frustrated and annoyed and was able to deal with such situations by exercising discipline. The Committee also noted that no additional independent evidence had been provided in order to verify such abilities. Despite questioning Applicant – 074134 about this, no specific 'real life' examples were provided by the applicant to demonstrate his assertion that he regularly "walks away" from confrontation.

The Committee noted that the report of Applicant – 074134's psychotherapist offered no conclusion as to Applicant – 074134's fitness nor propriety. In the Committee's view, six one-hour counselling sessions over a period of seven weeks were unlikely to dramatically change a person's character, particularly where there had been a documented pattern of an inability to control his anger/emotions spanning over five years, from 2013 to 2018.

The Committee further noted that no character references were provided by anyone for whom Applicant – 074134 had worked for, nor delivered food to, in support of his assertion that no complaints had been made against him during the course of his employment as a food delivery driver.

The Committee noted that despite now admitting his past wrongdoings, Applicant – 074134 offered no remorse for his previous actions.

The Committee were not satisfied that they would allow people for whom they care to enter a vehicle with Applicant – 074134 alone due to their doubts surrounding his past aggression, along with his improper conduct when transporting passengers, including a child, which Applicant – 074134 now

admitted.

Ultimately, the Committee did not believe that Applicant – 074134 was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence owing to his background, specifically the pattern of aggressive/abusive behaviour spanning over five years. The Committee were unanimously satisfied that the application should therefore be refused.

RESOLVED that Applicant - 074134's application for a Combined Hackney Carriage and Private Hire Drivers Licence be refused as he was not deemed to be a fit and proper person for the reasons as detailed above.

## **5 Delegated Decision Update Report**

The Committee noted an update with regards to the decisions which officers had made in utilising powers delegated to them by this Committee, along with an update on the legal appeals lodged and concluded.

A full list of 2021 - 2022 delegated decisions and action taken could be found at appended to the Officers main report.

- Members heard that there were still a couple of cases which were under investigation however should those drivers' licences be revoked following the conclusion of the cases, then those drivers' details would be added to the National Register of Taxi Licence Suspensions Revocations and Refusals (NR3S) held by the National Anti-Fraud Network.

RESOLVED the report be noted.