

## GENERAL LICENSING COMMITTEE

A meeting of General Licensing Committee was held on Tuesday 18 April 2023.

**Present:** Cllr Paul Kirton (Chair), Cllr Eileen Johnson (Vice-Chair), Cllr Robert Cook, Cllr Ken Dixon, Cllr Mick Moore, Cllr Marilyn Surtees, Cllr Hilary Vickers and Cllr Bill Woodhead MBE.

**Officers:** Elliott Beevers, Leanne Maloney-Kelly (DoAH&W), Natalie Hodgson and Sarah Whaley (DoCS).

**Also in attendance:** Applicant - 154307, Combined Hackney Carriage and Private Hire Driver - 001223, Combined Hackney Carriage and Private Hire Driver - 001223's son and Combined Hackney Carriage and Private Hire Driver - 001223's legal representative Mr Ross

**Apologies:** Cllr Jacky Bright, Cllr Evaline Cunningham, Cllr Tina Large, Cllr Maurice Perry and Cllr Lee Spence.

### **GLC/51/22 Evacuation Procedure**

The evacuation procedure was noted.

### **GLC/52/22 Declarations of Interest**

There were no declarations of interest.

### **GLC/53/22 Minutes**

Consideration was given to the minutes from the General Licensing Committee meeting which was held on 13 February 2023

AGREED that the minutes be approved and signed as a correct record by the Chair.

### **GLC/54/22 GENERAL LICENSING FUNCTIONS DELEGATION**

Members were presented with and asked to consider a report which would allow officers to suspend driver licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to a driver's medical fitness where public safety was deemed to be a relevant consideration.

In line with DVLA guidelines, the Council applied the DVLA Group 2 driver standards for the medical fitness of hackney carriage and private hire drivers. This was a higher medical standard than that required of drivers of other motor vehicles and was required due to the length of time the driver may spend at the wheel and the responsibility they had for the safety of their passengers and the public. A medical assessment was not needed for those with a provisional or current HGV entitlement on the understanding a medical examination had already been carried out to gain this entitlement.

As well as medical assessments carried out to DVLA Group 2 driver standards,

officers also used the Department for Vehicle Licensing Authority (DVLA) document: Assessing Fitness to drive a guide for Medical Professionals.

It was proposed the power to suspend a driver licence relevant to public safety and with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 be delegated to officers when:

- medical information was received meaning a driver did not currently meet group 2 DVLA medical standards
- concerns over a drivers ability to meet group 2 medical standards were raised and a medical assessment must be arranged
- notification of medical status was received and the DVLA guidance document to assess medical fitness stated a licence should be suspended
- any refusal to undertake or provide a compliant medical assessment.

The proposed delegation streamlined the decision and administration process to ensure public safety as agreement of a delegated decision could take 48 hours. In addition, this immediate suspension process could be used outside of the office environment, when producing a written delegated decision was impractical.

The proposed delegation would mirror the delegation agreed by this committee in March 2020, to allow the immediate suspension of a driver licence when a positive drug screening sample was given or a refusal to provide a specimen of saliva for a drug screen sample.

There had been no adverse issues from this current practice, any individual who had been suspended under the delegation had returned a positive back to lab sample and had then had their licence revoked.

Brief discussion was had around how officers made the decision to suspend. Officers explained a decision would be made following the receipt of relevant information and was not based on officers opinion.

A vote took place and the proposed officer delegation was agreed.

RESOLVED that members agree to allow officers to suspend driver licences with immediate effect under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in relation to a drivers medical fitness where public safety is deemed to be a relevant consideration.

#### **GLC/55/22 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/56/22 Combined Hackney Carriage and Private Hire Driver Application- 154307**

Members were asked to consider and determine an application for a combined

hackney carriage and private hire driver licence, from applicant - 154307 who had a relevant conviction which did not meet current Transport Policy.

Applicant - 154307 attended 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 – 154307’s application which contained a DVLA check code, showing no live DVLA endorsements
- a copy of a recorded interview dated 15 December 2022 between applicant – 154307 and licensing officers
- a copy of a Subject Access Request (SAR) to Cleveland Police to gather further information on applicant – 154307
- a copy of a recorded interview dated 7 March 2023 between applicant – 154307 and licensing officers.

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

Members of the Council’s General Licensing Committee considered the above matter, full details of which appeared before the Members in their agenda and background papers.

The committee noted that as part of the application process, applicant - 154307 completed an enhanced Disclosure & Barring Service Certificate (DBS) which showed three convictions. All convictions were for ‘breach of non- molestation order’, which were on 25 March 2020, 1 April 2020, and 17 April 2020. Applicant - 154307 explained during interview, and to the committee, that those convictions were due to applicant - 154307 writing three letters to his wife, requesting permission to see his children.

Applicant - 154307 also provided a Subject Access Request (SAR) which showed offences of ‘Battery’ on 14 June 2019, ‘Common Assault’ 24 December 2015 and ‘Assault Occasioning Actual Bodily Harm’ 24 December 2015, all of which applicant – 154307 had received No Further Action (NFA) by the Police.

In the licensing regime, convictions could always be taken into consideration, regardless of the amount of time that had passed. Applicant - 154307 gave assurances to the committee that he was a fit and proper person and that they could trust him to be a responsible licensed driver.

The committee took note of applicant – 154307’s history of domestic issues and previous arrests but were satisfied that he was a fit and proper person to hold a licence. The committee determined to place their trust in applicant - 154307 and grant his combined hackney carriage and private hire driver’s licence once all necessary stages of the application process had been completed.

RESOLVED that applicant – 154307 be granted his combined hackney carriage and private hire driver's licence once all necessary stages of the application process had been completed.

## **GLC/57/22 Combined Hackney Carriage and Private Hire Driver – 001223**

Members were asked to consider and determine the continued fitness of a licensed hackney carriage and private hire driver who had been involved in a physical altercation on a taxi rank.

Combined hackney carriage and private hire driver – 001223 and his son and legal representative Mr Ross attended the meeting and were 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 recorded interview with combined hackney carriage and private hire driver – 001223
- a copy of a letter to combined hackney carriage and private hire driver – 001223 containing details of his CRB check from May 2011
- a copy of a letter of complaint about combined hackney carriage and private hire driver – 001223.

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

At the beginning of the committee hearing, documents provided by Mr Ross in support of combined hackney carriage and private hire driver – 001223 were circulated to all parties. These included witness statements, one of which was stated to be from the other male involved in the altercation with combined hackney carriage and private hire driver – 001223.

Members of the Council's General Licensing Committee considered the above matter, full details of which appeared before members in their agenda and background papers.

The committee noted that the matter before them was to determine combined hackney carriage and private hire driver – 001223's fitness to drive Hackney Carriage and Private Hire Vehicles.

The committee heard that combined hackney carriage and private hire driver – 001223 had held a combined hackney carriage and private hire vehicle licence since before 2003. The committee noted that the matter was before them due to combined hackney carriage and private hire driver – 001223 being involved in a physical altercation with a member of the public at a taxi rank on Stockton High Street on 8th January 2023, at approximately 18:50.

The committee heard from the licensing officer that during the incident, combined

hackney carriage and private hire driver – 001223 could be seen on CCTV footage getting out of his vehicle and pushing a male to the ground, after the male lunged at the window of combined hackney carriage and private hire driver – 001223's vehicle. The committee heard that once the male got to his feet, he appeared to have stumbled towards combined hackney carriage and private hire driver – 001223, who can be seen knocking the male to the ground with force.

The committee noted that information provided from Cleveland Police showed that they recorded combined hackney carriage and private hire driver – 001223 as the victim of the incident, not the assailant.

Mr Ross presented the case on behalf of combined hackney carriage and private hire driver – 001223.

Mr Ross explained to the committee that he could not see any part of the transcript of interview where combined hackney carriage and private hire driver – 001223 had accepted that he had punched the male. The Team Leader of the licensing department confirmed to the committee that combined hackney carriage and private hire driver – 001223 admitted pushing the male during interview, rather than punching, and confirmed that this was an oversight within the committee report.

The committee and everyone present viewed the CCTV footage of the incident taken from the Riverbank public house, allowing both the Team Leader of the licensing department and combined hackney carriage and private hire driver – 001223 to narrate the footage. Combined hackney carriage and private hire driver – 001223 told the committee that the male was “swearing very badly” at him and was very aggressive towards him, which resulted in combined hackney carriage and private hire driver – 001223 closing the window of his vehicle. The committee heard from combined hackney carriage and private hire driver – 001223, that the male punched the window so strongly that combined hackney carriage and private hire driver – 001223 thought that the glass would break. Combined hackney carriage and private hire driver – 001223 denied punching the male but confirmed to the committee that he pushed him, with two hands the first time he struck him, and with one hand the second.

The committee noted that the CCTV provided by the Riverbank public house was of poor resolution and therefore they could not clearly view the incident. Council CCTV was also viewed by the committee, and everyone present, which was recorded from a different angle, however the view from this camera was obscured by a tree and a bus shelter. The committee heard that none of the people that could be seen on CCTV had been identified, and there were therefore no witnesses to the incident itself.

A witness in support of combined hackney carriage and private hire driver – 001223, was brought into the room. The Chair and Vice-Chair both confirmed that they knew the witness in their professional capacities through Council licensing work and events.

The committee heard from the witness that he was driving through Stockton High Street and saw that something had occurred at the taxi rank and stopped his vehicle. The witness told the committee that he recognised the male involved in the incident with combined hackney carriage and private hire driver – 001223 as a tenant of his, who had lived in his properties for over 20 years. The committee heard that the witness had known combined hackney carriage and private hire driver – 001223 for 35 years, and currently owned the taxi vehicle that combined hackney carriage and

private hire driver – 001223 drove.

The Chair expressed his concern that there appeared to be a lot of coincidences; the witness owned combined hackney carriage and private hire driver – 001223's taxi vehicle and he had also previously owned the property that the assailant had lived in, and therefore knew them both, and just happened to be passing the scene shortly after the incident.

The committee heard from Mr Ross that the witness was simply stating the facts.

Mr Ross referred to the two statements he had provided at the meeting.

The Chair asked the witness if he knew who had written the statement from the assailant. The witness stated to the committee that a friend of his wrote the statement as the assailant could not write but could read.

The Team Leader of the Licensing Department informed the committee that the licensing team had no evidence that the assailant was the male involved in the incident, and that they were unaware of the statements until they received the statements from Mr Ross shortly before the hearing.

The committee heard from Mr Ross that the footage showed the male approach combined hackney carriage and private hire driver – 001223 three times, and on the third occasion the male's attitude could be seen on CCTV, shortly before he struck the window of combined hackney carriage and private hire driver – 001223's vehicle. Mr Ross expressed to the committee that combined hackney carriage and private hire driver – 001223 was in a vulnerable position, and was punched by the male, and his reaction was to push him away. Mr Ross told the committee that there was no further evidence of aggression from combined hackney carriage and private hire driver – 001223, who pushed the male away a second time as he came towards him again.

Mr Ross briefly summed up the driver's case and invited the committee to find that combined hackney carriage and private hire driver – 001223 was a fit and proper person who had not been brought before the committee for anything of this nature in the past.

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 driver's behalf and by the driver himself in response to the committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, Members 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 driver was a fit and proper person.

When determining the matter, the committee considered it on its own merits. The committee were not impressed by combined hackney carriage and private hire driver – 001223's reactions towards the member of the public during the incident and felt that he should have remained within his vehicle throughout.

The committee noted that combined hackney carriage and private hire driver – 001223 felt threatened by the aggression from, and the attitude of, the member of the public involved. The committee added weight to the confirmation received from Cleveland Police that combined hackney carriage and private hire driver – 001223 was recorded as the victim in the matter.

Ultimately, the committee were satisfied that the driver was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence. The committee did however feel that it was appropriate to issue combined hackney carriage and private hire driver – 001223 with a final written warning with regard to his future conduct, owing to the seriousness of the incident and combined hackney carriage and private hire driver – 001223's inappropriate reactions to the situation. The committee warned combined hackney carriage and private hire driver – 001223 that he must not react in this way in future.

RESOLVED that combined hackney carriage and private hire driver – 001223 continue to hold his combined hackney carriage and private hire vehicle drivers licence with a final written warning.