

GENERAL LICENSING COMMITTEE

A meeting of General Licensing Committee was held on Tuesday 30 January 2024.

Present: Cllr Eileen Johnson (Chair), Cllr Mick Moore (Vice-Chair), Cllr Marc Besford, Cllr Diane Clarke OBE, Cllr Robert Cook, Cllr John Coulson, Cllr Jason French, Cllr Clare Gamble, Cllr Mrs Ann McCoy, Cllr Susan Scott, Cllr Andrew Sherris and Cllr Marilyn Surtees.

Officers: Natalie Hodgson, Sarah Whaley (DoCS), Polly Edwards, Amy Stephenson and Kirsty Wannop (DoAH&W).

Also in attendance: Applicant 156614 and Driver 140045

Apologies: Cllr Elsi Hampton, Cllr Hugo Stratton and Cllr Hilary Vickers.

GLC/33/23 Evacuation Procedure

The Evacuation Procedure was noted.

GLC/34/23 Declarations of Interest

There were no declarations of interest.

GLC/35/23 Minutes

Consideration was given to the General Licensing Committee minutes from the meeting which was held on 14 November 2023.

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

GLC/36/23 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/37/23 PRIVATE HIRE DRIVER APPLICATION - 156614

Members were asked to consider a Private Hire Driver application form Applicant – 156614 who had relevant DVLA convictions and did not meet current Transport Policy.

Applicant – 156614 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 – 156614's application which also contained a DVLA check code, showing two live DVLA endorsements, IN10 – Driving a motor vehicle uninsured against third party risks and SP30 – Exceeding the statutory speed limit on public road.

– A copy of a summary transcript detailing an interview between Licensing Officers and Applicant – 156614, during which he admitted to driving without insurance and breaking the speed limit.

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

The Committee Members were presented with the report by the Licensing Officer and were given the opportunity to ask questions of both the Officer and Applicant – 156614.

Applicant – 156614 assured Members during the meeting, that both driving incidents were unintentional. Applicant – 156614 stated that there was no excuse for his actions that resulted in those convictions however he was apologetic and gave the Committee assurances that incidents such as these would not happen again in the future.

The Committee deliberated all the information before them and the comments Applicant – 156614 had made during the hearing. The Committee determined to depart from current policy and place their trust in Applicant – 156614 and grant him a licence to drive private hire vehicles, with this authority. However, this was issued with a severe warning as to Applicant – 156614's future conduct. Members reminded Applicant – 156614 that public safety was paramount, and should he receive any further convictions, cautions, reprimands, warnings, or complaints he was likely to be brought back before the General Licensing Committee.

Applicant – 156614 was told that as he was now a licensed driver, he was expected to drive safely as he was carrying fare paying passengers which included those that may be vulnerable. Driving more than the statutory speed limit was against the law and these limits were designed to keep Taxi Drivers and other road users safe, improve road traffic safety and reduce casualties from traffic collisions. Travelling at excess speed would mean that Applicant – 156614 would have much less time to react to driving conditions. It also meant that if he had a collision, it would be more violent and more likely to result in serious or fatal injuries. Travelling more than the statutory speed limit would not be tolerated from any driver who was licensed with this authority and further formal action would be taken against those who did this.

The law concerning driving without insurance was clear, this meant the penalties could be severe. Police had the power to seize uninsured vehicles and remove them from the road. Offenders would also be liable for costs of accidents with an outcome of increased insurance premiums in the future, this was classed as a major traffic offence in the current transport policy and further offences would likely result in the revocation of Applicant – 156614's driver licence.

The holding of a licence was a privilege, not a right, and conduct that may bring this Council into disrepute would likely see further formal action regarding Applicant – 156614's licence which could include revocation.

RESOLVED that Applicant – 156614' application for a Private Hire Drivers Licence be granted, for the reasons as detailed above.

GLC/38/23 Combined Hackney Carriage and Private Hire Driver – 140045

Members were asked to consider and determine the continued fitness of a suspended Combined Hackney Carriage and Private Hire Driver– 140045 who was under investigation by Cleveland Police and had also failed to attend a driver improvement course, as requested by Licensing Officers.

Combined Hackney Carriage and Private Hire Driver – 140045 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 the letter informing Combined Hackney Carriage and Private Hire Driver– 140045 which requested him to take a driver improvement course at his own expense due to the number of DVLA point he had accrued on his drivers licence.
- . A copy of a police disclosure relating to Combined Hackney Carriage and Private Hire Driver– 140045.
- . A copy of a letter suspending Combined Hackney Carriage and Private Hire Driver– 140045.
- . A copy of a summary transcript between Licensing Officers and Combined Hackney Carriage and Private Hire Driver– 140045.
- . Copies of two licence renewal forms one in 2022 and one in 2023 where Combined Hackney Carriage and Private Hire Driver– 140045 did not disclose he was under police investigation.
- . A copy of Combined Hackney Carriage and Private Hire Driver– 140045's application from May 2015.
- . A copy of a written warning from January 2017.

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

The Committee Members were presented with the report by the Licensing Officer and were given the opportunity to ask questions of both the Officer and Combined Hackney Carriage and Private Hire Driver– 140045.

The Committee understood that the matter before them was to determine the continued fitness of Combined Hackney Carriage and Private Hire Driver– 140045 as detailed in the Committee report and appendices.

The Committee heard that the driver had been licenced with the Authority since May 2015.

The Committee were informed that Cleveland Police had contacted the Licensing Service in February 2023, requesting further information in relation Combined Hackney Carriage and Private Hire Driver– 140045's driver history. The Committee noted that Police confirmed to licensing officers that Combined Hackney Carriage and Private Hire Driver– 140045 was under investigation with regard to his mobile telephone use, and licensing officers sought disclosure from Police for more information, which was subsequently received in July 2023.

The Committee were told that on 28th April 2023, Combined Hackney Carriage and Private Hire Driver– 140045 had submitted a combined licence renewal and declared that he had received DVLA points on 4th August 2022; MS90 'Failure To Give Information As To Identity Of Driver', resulting in Combined Hackney Carriage and Private Hire Driver– 140045 having nine live DVLA points on his driving licence.

The Committee noted that Combined Hackney Carriage and Private Hire Driver– 140045 did not declare the motoring offences from August 2022 within 48 hours, as required by his licence conditions. The Committee heard that Combined Hackney Carriage and Private Hire Driver– 140045 was requested to undertake a driver improvement course at his own expense due to having nine live points on his driving licence, which was not completed.

The Committee heard that the file received from Police revealed details of an investigation that took place from February until October 2022, into sexually malicious phone calls to a victim by a male speaking Urdu. The victim blocked calls from this number, but phone notifications showed more call attempts.

The Committee were informed that Police identified Combined Hackney Carriage and Private Hire Driver– 140045 as the suspect through digital forensic evidence, and Combined Hackney Carriage and Private Hire Driver– 140045 was interviewed by Police in relation to sexual harassment and malicious communications. The Committee heard that the disclosure stated, "Police are unable to prove/disprove whether the suspect was in possession of the mobile phone at the time of the calls due to the alibi that he has given. It is likely that family will support what he has said in interview and validate the alibi. This offence is unable to be proven beyond all reasonable doubt, therefore, there will be no further police action at this time".

The Committee heard that due to Combined Hackney Carriage and Private Hire Driver– 140045 being obstructive and uncooperative with licensing officers during their investigation; failing to attend pre-arranged interviews and having not completed the driver improvement course as per previous requests, Combined Hackney Carriage and Private Hire Driver– 140045's licence was suspended via a delegated decision process on 18th August 2023.

The Committee were told that Combined Hackney Carriage and Private Hire Driver– 140045 eventually attended an interview with licensing officers on 21st September 2023, during which Combined Hackney Carriage and Private Hire Driver– 140045 stated that he was not aware of the malicious communications and did not know that it had happened. The Committee noted that Combined Hackney Carriage and Private Hire Driver– 140045 had told licensing officers, "Obviously, somebody's... 'cause I have a lot of friends around my house sometimes, here and there. Obviously, somebody's probably used my phone. Like it's like somebody asking you to use their

phone and you know when you just give 'em it, and I don't know what's happened to be honest. It definitely wasn't me. I know that one hundred per cent."

The Committee were told that licensing officers questioned whether Combined Hackney Carriage and Private Hire Driver– 140045 had left his phone at home for people to use or allowed customers to use it. Combined Hackney Carriage and Private Hire Driver– 140045 clarified that "Even in the taxi, say somebody, if I am working and they really need to use my phone, I can like, you know, if they haven't got credit, they need to ring somebody in an emergency, or whatever, I do give 'em my phone. I don't think there's anything wrong with that, is there?"

The Committee noted that Combined Hackney Carriage and Private Hire Driver– 140045 was asked in interview how many mobile phones he had, and he confirmed only one, however over the course of the year, Combined Hackney Carriage and Private Hire Driver– 140045 had provided five different phone numbers for officers to contact him on. The Committee heard that this was questioned by officers during interview, to which Combined Hackney Carriage and Private Hire Driver– 140045 stated they were either his or his wife's number and they changed quite a lot due to phones getting lost.

The Committee heard that when asked by licensing officers why Combined Hackney Carriage and Private Hire Driver– 140045 had not attended the driver improvement course by the specified timescale, he advised that he was going through hardship in terms of money adding he had "a lot of things going on in the household. I've had a few people pass away and it's been on my mind too much, so obviously it's just slipped out of my head, to be honest."

The Committee noted Combined Hackney Carriage and Private Hire Driver– 140045's response when asked in interview if he considered himself a fit and proper person; 'I've never had any complaints from customers. They've always said nice things about me, customers. I've always helped them out. Even elderly people, young people, I've always got out when they've got shopping. I've always helped them to the door and everything and they've said to me, this is their own wordings as well, customers' wordings, like you're a very helpful person, we've never had a driver like you before.'

The Committee also heard that Combined Hackney Carriage and Private Hire Driver– 140045 was under police investigation in 2017 in relation to his grooming of a young person who he was transporting under a school contract, including his contact with the child via social media and giving them free lifts. The Committee heard that Police took no further action in relation to this investigation.

Combined Hackney Carriage and Private Hire Driver– 140045 explained to the Committee that he did not know who had made the complaint to police about the malicious communications.

Combined Hackney Carriage and Private Hire Driver– 140045 explained to the Committee that in relation to the child that he was transporting in 2017 when investigated by police for grooming, he did not groom her in that way and stated that the child was just a friend, nothing more than that, and that his wife was aware of this matter.

With regard to the number of mobile telephone numbers that Combined Hackney Carriage and Private Hire Driver– 140045 had, he explained to the Committee that he

had been subjected to a lot of scams, but confirmed that he had not made the licensing service aware of that.

In relation to the malicious communications, Combined Hackney Carriage and Private Hire Driver– 140045 told the Committee that he did not know which of his friends had made these calls, as he had so many friends he had no idea who this could have been.

The Committee was given an opportunity to ask questions of Combined Hackney Carriage and Private Hire Driver– 140045, with Combined Hackney Carriage and Private Hire Driver– 140045 speaking last.

In summing up, Combined Hackney Carriage and Private Hire Driver– 140045 told the Committee that he had four children to support and that he was going through hardship. Combined Hackney Carriage and Private Hire Driver– 140045 advised the Committee that he was fit and well to do the job, and that his customers all say nice things about him.

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 by Combined Hackney Carriage and Private Hire Driver– 140045 in response to the Committee's questions.

Having carefully considered the written documentation before them and in reaching their decision, the 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 ("the Policy").

The Committee noted that the relevant legislative provision in this case was under section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976. This allowed the Committee to suspend or revoke licences for "any other reasonable cause". When determining this matter, the Committee considered this matter on its merits.

The Committee appreciated that the police took no further action against Combined Hackney Carriage and Private Hire Driver– 140045 in relation to sexual harassment and malicious communications offences, however, that they must consider this matter on a lower standard of proof, on 'the balance of probabilities', rather than the criminal standard which is 'beyond reasonable doubt'.

The Committee members took into consideration that Combined Hackney Carriage and Private Hire Driver– 140045 appeared disingenuous, both in response to the police, licensing officers' and the Committee's questioning about the allegations.

The Committee found it hard to accept that Combined Hackney Carriage and Private Hire Driver– 140045, who admitted owning the telephone that the calls were made from and that being his telephone number, had no idea who had made such calls, on a number of occasions, including through the night. The Committee's doubts in relation to these matters were compounded by Combined Hackney Carriage and Private Hire Driver– 140045's dubious explanation that he had so many friends who attended his house during the night that he had no idea who could have been responsible for such communications.

Framed by the more recent sexual harassment and malicious communications allegations, the Committee were concerned about Combined Hackney Carriage and Private Hire Driver– 140045 being investigated by the police in 2017 for grooming, particularly as this involved a child passenger that Combined Hackney Carriage and Private Hire Driver– 140045 was paid to transport to and from school. The Committee found Combined Hackney Carriage and Private Hire Driver– 140045's lack of insight into his inappropriate behaviour and friendship with this child very concerning. The Committee did not feel that Combined Hackney Carriage and Private Hire Driver– 140045 was credible in response to their questioning.

The Committee members were not satisfied that they would allow people for whom they care to enter a vehicle with Combined Hackney Carriage and Private Hire Driver– 140045 due to their doubts surrounding his explanation of the circumstances that led to him being investigated by the police in 2023, and in 2017. The Committee felt that this was compounded by Combined Hackney Carriage and Private Hire Driver– 140045's concerning history as a licenced driver; his licence being suspended in 2008 and revoked in 2011.

The Committee noted that when Combined Hackney Carriage and Private Hire Driver– 140045's current licence was granted in May 2015, it included a written warning regarding his future conduct due to relevant convictions at that time. The Committee further noted that Combined Hackney Carriage and Private Hire Driver– 140045 was issued with a written warning again in 2017 due to his inappropriate relationship with a child passenger.

The Committee considered the Local Government Association Councillor Handbook: Taxi and PHV Licensing, which stated:- "In the case of *McCool v Rushcliffe Borough Council* 1998, Lord Bingham said this:

"One must it seems to me approach this case bearing in mind the objectives of this licensing regime which is plainly intended among other things to ensure so far as possible that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers."

Lord Bingham's view has since been confirmed in two further court cases; *Anwar v Cherwell District Council* and *Leeds Council v Hussain*." In the Committee's view, the circumstances that had led to revocation being proposed meant that they could not ensure as far as possible that Combined Hackney Carriage and Private Hire Driver– 140045 was a safe and honest driver. The Committee noted that holding a licence was a privilege and not a right.

Ultimately, the Committee did not believe that Combined Hackney Carriage and Private Hire Driver– 140045 was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence. The Committee were unanimously satisfied that Combined Hackney Carriage and Private Hire Driver– 140045's licence should therefore be revoked.

RESOLVED that Combined Hackney Carriage and Private Hire Driver– 140045 have his suspension lifted and his Combined Hackney Carriage and Private Hire Driver's licence revoked for the reasons as stated above.