

General Licensing Committee

A meeting of General Licensing Committee was held on Tuesday, 31st January, 2023.

Present: Cllr Paul Kirton(Chairman), Cllr Eileen Johnson(Vice-Chair), Cllr Robert Cook, Cllr Evaline Cunningham, Cllr Ken Dixon, Cllr Mick Moore, Cllr Maurice Perry, Cllr Marilyn Surtees, Cllr Bill Woodhead MBE

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

Also in attendance: Combined Hackney Carriage and Private Hire Driver – 001379, Combined Hackney Carriage and Private Hire Driver – 114288 and his representative Mr P Spence

Apologies: Cllr Tina Large, Cllr Lee Spence, Cllr Hilary Vickers

GLC 31/22 Evacuation Procedure

The Evacuation Procedure was noted.

GLC 32/22 Declarations of Interest

For transparency purposes Councillor Evaline Cunningham informed the Committee that with regard to the item relating to Combined Hackney Carriage and Private Hire Driver - 114288, who had contacted his local MP Alex Cunningham with regards to the item. Cllr Evaline Cunningham is Alex Cunningham MP's wife, therefore she felt it was best to leave the room and not take part in the discussion of that item.

GLC 33/22 Draft Minutes from the General Licensing Committee meeting which was held on the 8th November and 12th December 2022

Consideration was given to the draft General Licensing Committee minutes which were held on the 8th November and 12th December 2022 for approval and signature.

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

GLC 34/22 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 35/22 Combined Hackney Carriage and Private Hire Driver – 000928

The Committee was advised of new information relevant to the item that would need further consideration.

RESOLVED that this item be deferred.

Combined Hackney Carriage and Private Hire Driver – 001379

Members were asked to consider and determine the continued fitness of a Combined Hackney Carriage and Private Hire Driver who was arrested and currently suspended from driving licensed vehicles.

Combined Hackney Carriage and Private Hire Driver – 001379 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 a final suspension letter to Combined Hackney Carriage and Private Hire Driver – 001379.
- A redacted summary from Cleveland Police.
- A copy of a summary transcript between Combined Hackney Carriage and Private Hire Driver – 001379 and Licensing Officers.
- A redacted copy of Combined Hackney Carriage and Private Hire Driver – 001379's Bail Period Form.
- A copy of Combined Hackney Carriage and Private Hire Driver – 001379's Release without Police Bail form.
- A copy of various documents supplied by Combined Hackney Carriage and Private Hire Driver – 001379.

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

Members noted that they were to consider and determine the continued fitness of Combined Hackney Carriage and Private Hire Driver – 001379 to remain a licensed hackney carriage and private hire driver with this Authority after Combined Hackney Carriage and Private Hire Driver – 001379 was arrested in August 2021 for the offences of, 'Rape of a female aged 16 years or over', 'Kidnapping', 'False Imprisonment', 'Possessing a controlled drug with intent to supply – Class A - Other'.

Combined Hackney Carriage and Private Hire Driver – 001379 was bailed and subsequently the Police took No Further Action in the matter.

The Committee had regard to the report and appendices and all oral submissions at the Hearing.

Members considered the details of the report carefully and after some deliberation determined that they considered Combined Hackney Carriage and Private Hire Driver – 001379 to be a fit and proper person and resolved to lift the suspension of his licence and have Combined Hackney Carriage and

Private Hire Driver – 001379's licence reinstated.

Combined Hackney Carriage and Private Hire Driver – 001379 was reminded to familiarise himself with the condition imposed on him as part of the licence and ensure that Combined Hackney Carriage and Private Hire Driver – 001379 report any future incidents directly to Stockton on Tees Brough Councils Licensing Department. and always confirm to the Police, if arrested again, that Combined Hackney Carriage and Private Hire Driver – 001379 was a taxi driver.

RESOLVED that that Combined Hackney Carriage and Private Hire Driver – 001379 have his Combined Hackney Carriage and Private Hire Drivers Licence reinstated for the reasons as detailed above.

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37/22**

Combined Hackney Carriage and Private Hire Driver – 114288

Combined Hackney Carriage and Private Hire Driver – 114288

Members were asked to consider and determine the continued fitness of Combined Hackney Carriage and Private Hire Driver 114288 due to his attitude and behaviour with a member of the public, complaint history and refusal to heed officers' warnings and advice which had raised questions regarding his continued safety and suitability.

Combined Hackney Carriage and Private Hire Driver – 114288 and his representative Mr Spence attended 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 a redacted complaint against Combined Hackney Carriage and Private Hire Driver – 114288.
- A copy of a tape-recorded interview with Licensing Officers and Combined Hackney Carriage and Private Hire Driver – 114288.
- A copy of an image provided by Combined Hackney Carriage and Private Hire Driver – 114288 showing an image of his steering wheel with double sided tape on, which he used to stick his mobile phone to when recording customers.
- Copies of various warning letters to Combined Hackney Carriage and Private Hire Driver – 114288.
- A copy of an enquiry received from Alex Cunningham MP's office following Combined Hackney Carriage and Private Hire Driver – 114288 contacting him in relation to investigations undertaken by the licensing team.
- A copy of a response to Alex Cunningham MP.
- A copy of policy requirements relating to the installation of CCTV in licensed vehicles.

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

Members noted that they were to consider and determine the continued fitness of Combined Hackney Carriage and Private Hire Driver – 114288 for the reasons as detailed within the Officers main report.

The Committee heard that the Combined Hackney Carriage and Private Hire Driver – 114288 had been a licenced driver with this Authority since 2009.

The Committee heard that a complaint had been received from a passenger on 26 November 2022, regarding Combined Hackney Carriage and Private Hire Driver – 114288, requesting payment up front. The passenger believed this was more than double the regular fare. The Committee heard that the complainant felt that the driver's approach was an attempt to exploit an intoxicated passenger.

The Committee also heard that Combined Hackney Carriage and Private Hire Driver – 114288 had shown officers a video of the passenger, that he had recorded on his mobile telephone. Combined Hackney Carriage and Private Hire Driver – 114288 believed his mobile telephone was stuck to the steering wheel of his vehicle at the time of the recording. The Committee noted that Combined Hackney Carriage and Private Hire Driver – 114288 admitted recording passengers with his mobile telephone in this way.

The Committee heard that the driver's history and background was relevant to them in determining the driver's fitness:-

- In 2009, Combined Hackney Carriage and Private Hire Driver – 114288 received a written warning regarding his conduct in relation to an endorsement of six penalty points on his licence that he had declared on his application form for driving without insurance.
- In 2012, Combined Hackney Carriage and Private Hire Driver – 114288 received a written warning regarding an endorsement on his licence for using a mobile telephone whilst driving.
- In 2013, Combined Hackney Carriage and Private Hire Driver – 114288 received a written warning regarding his future conduct and driving standards after an officer observed his poor driving whilst using a hand-held mobile telephone.
- In 2015, an allegation that an unconscious drunk female was sexually assaulted in Combined Hackney Carriage and Private Hire Driver – 114288's taxi. No further action was taken by Cleveland Police and there was insufficient evidence for the Licensing Authority to take any action.
- In 2017, Combined Hackney Carriage and Private Hire Driver – 114288 received written warnings regarding his attitude, swearing and bad driving, and for refusing a short fare four months later.

- In 2020, Combined Hackney Carriage and Private Hire Driver – 114288 received a written warning regarding two separate incidents. The first was following a complaint regarding his behaviour towards a female with a child. The second was in relation to an allegation that the driver had assaulted a school pupil.

- In 2021, Combined Hackney Carriage and Private Hire Driver – 114288 alleged that other drivers were bullying him, however there was insufficient evidence to pursue this matter.

- In May 2022, Combined Hackney Carriage and Private Hire Driver – 114288 driver was issued with a written warning in relation to his conduct for;

- pushing in the rank at Yarm High Street.

- refusing short fare on Yarm High Street in May 2022.

- abusive language towards another licensed driver at Stockton's taxi rank.

- In November 2022, the driver was issued with a written warning in relation to his conduct for;

- refusing a short fare from Yarm High Street in November 2022.

- attempting to overcharge from rank outside Ku Bar in Stockton.

The Committee heard that officers had tried to educate and assist Combined Hackney Carriage and Private Hire Driver – 114288, however despite this he had not heeded the warnings given to him. The Committee noted that Combined Hackney Carriage and Private Hire Driver – 114288 had been warned repeatedly that his behaviour raised concerns in relation to his fitness to hold a licence.

Mr Spence presented the case on behalf of Combined Hackney Carriage and Private Hire Driver – 114288.

Mr Spence explained to the Committee that Combined Hackney Carriage and Private Hire Driver – 114288 denied overcharging the complainant passenger from November 2022 and stated that the fare would have been higher than the £10.00 that the driver accepted.

Mr Spence highlighted that Combined Hackney Carriage and Private Hire Driver – 114288's job could be difficult, but that Combined Hackney Carriage and Private Hire Driver – 114288 tried to keep his cool and yet be firm. Mr Spence stated that the driver had experienced aggressive passengers and had been in fear of passengers in the past.

Mr Spence further explained to the Committee that Combined Hackney Carriage and Private Hire Driver – 114288 denied using his mobile telephone illegally, as it was attached to his steering wheel when in use.

Mr Spence stated that Combined Hackney Carriage and Private Hire Driver – 114288 was willing to install CCTV within his vehicle in order to protect Combined Hackney Carriage and Private Hire Driver – 114288 and his passengers.

Members of the Committee were given an opportunity to ask questions of Combined Hackney Carriage and Private Hire Driver – 114288.

Combined Hackney Carriage and Private Hire Driver – 114288 was questioned in relation to his mobile telephone being affixed to the steering wheel of his vehicle.

Combined Hackney Carriage and Private Hire Driver – 114288 confirmed that he recorded passengers when he felt threatened and stated that he could not trust any of them.

Combined Hackney Carriage and Private Hire Driver – 114288 told the Committee that he undercharged if anything, and that he was an honest man.

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 Combined Hackney Carriage and Private Hire Driver – 114288's behalf and by Combined Hackney Carriage and Private Hire Driver – 114288 himself in response to the Committee's questions.

Having carefully considered the written 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 61 Local Government (Miscellaneous Provisions) Act 1976, the Committee may revoke a driver's licence for any reasonable cause. When determining this matter, the Committee considered this case on its merits.

The Committee understood that their overriding consideration was the safety of the public. The Committee considered that holding a licence was a privilege not a right, and those who hold a licence are expected to conduct themselves in a manner that does not bring their profession or the Council into disrepute.

The Committee noted Combined Hackney Carriage and Private Hire Driver – 114288 history and background as set out within the Committee papers. The Committee were deeply concerned by the documented pattern of complaints regarding Combined Hackney Carriage and Private Hire Driver – 114288's conduct and inability to control his emotions spanning over twelve years, from 2009 to 2022. The Committee noted that Combined Hackney Carriage and Private Hire Driver – 114288 had received eight written warnings in that time, and despite these, his concerning behaviour had continued and indeed appeared to be escalating in 2022.

The Committee further noted that no character references were provided by anyone for whom Combined Hackney Carriage and Private Hire Driver – 114288 had worked for, nor from any passengers in support of his assertion that he was a fit and proper person.

The Committee noted that the complaint from November 2022 was the third time that Combined Hackney Carriage and Private Hire Driver – 114288 had

come to the attention of the Licensing Authority for incidents of using a mobile telephone whilst driving. The Committee report documented Combined Hackney Carriage and Private Hire Driver – 114288's notification to the Licensing Authority of a conviction in February 2012 for using a mobile telephone whilst driving (offence code CU80). Despite the written warning that Combined Hackney Carriage and Private Hire Driver – 114288 had received on that occasion, in May 2013 Combined Hackney Carriage and Private Hire Driver – 114288 was again observed driving poorly and using a mobile telephone whilst driving, which again resulted in a further written warning.

The Committee found that despite Combined Hackney Carriage and Private Hire Driver – 114288's claim that he affixed his mobile telephone to the steering wheel of his vehicle using a Velcro fastening rather than holding it whilst driving, the use of a mobile telephone in this way whilst driving was inappropriate and potentially dangerous as this was likely to distract the driver.

Furthermore, the Committee felt that Combined Hackney Carriage and Private Hire Driver – 114288's recording of passengers was inappropriate and was not in accordance with the written advice that he had been sent on 26th May 2022 by a Licensing Officer.

Members of the Committee were not satisfied that they would allow people for whom they care to enter a vehicle with the driver alone due to their doubts surrounding Combined Hackney Carriage and Private Hire Driver – 114288's attitude and behaviour.

Ultimately, the Committee did not believe that Combined Hackney Carriage and Private Hire Driver – 114288 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 concerns around his conduct spanning over twelve years. The Committee were unanimously satisfied that the driver's licence should therefore be revoked.

RESOLVED that that Combined Hackney Carriage and Private Hire Driver – 114288's, Combined Hackney Carriage and Private Hire Drivers Licence be revoked for the reasons as detailed above.

**GLC
38/22**

Delegated Decisions and Court Appeals Update

The Committee noted an update with regards to Officer Delegated Decisions which officers had made in utilising powers delegated to them by this Committee, along with an update on a recent court appeal hearing full details of which were detailed within the Officers report.

A full list of delegated decisions and action taken from April 2022 – Oct 2022 could be found appended to the Officers main report.

AGREED that the report be noted.