

MINUTES of a meeting of the HACKNEY CARRIAGE AND PRIVATE HIRE GROUP held in the Board Room, Council Offices, Coalville on THURSDAY, 20 NOVEMBER 2003.

Present: Councillor R A Evans (Chairman) (In the Chair)

Councillors J G Coxon, P A Hyde and J B Webster.

Officers: Mrs J Cotton, Miss M Lister and J E Peters.

An apology for absence was received from Councillor D Howe.

There were no declarations of personal or prejudicial interest.

446. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That in pursuance of Section 100A (4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 4 of Schedule 12A to the Act.

447. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

Before the consideration of the application Mrs Cotton reminded members that they were acting in a quasi judicial capacity. The effect of this meant that the rules of natural justice had to be observed and that any applicant must be treated fairly and be seen to be treated fairly. She requested members to restrict themselves to questions and to reserve their opinions until the process of deliberation. She also reminded members that the Group would be required to give reasons for any decisions to refuse an application and she referred to a recent judgement on the issue of an applicant or licence holder's personal circumstances. The High Court decided the impact of a licence suspension on the livelihood of the driver and his personal circumstances except perhaps in very rare cases to explain or excuse some conduct of the driver was not requested to be considered when a local authority was considering the suspension of a driver's licence.

The Senior Licensing Officer explained the reasons for referring the licence application to the Group for determination and she circulated papers in support of her case. The papers included a copy of the application form for a private hire driver's licence, a copy of the applicant's Criminal Records Bureau (CRB) enhanced disclosure document, a copy of an entry on Burton on Trent Magistrates' Court register, the result of a Crown Court appeal and guidelines to the Council's policy relating to the relevance of convictions to applications for hackney carriage or private hire vehicle drivers' licences.

Chairman's initials

The Senior Licensing Officer referred to the papers circulated to the Group and explained that members were being asked to consider whether the applicant was fit and proper to be granted a private hire driver's licence on the grounds that the applicant had unspent convictions for common assault and for the intimidation of a witness or juror with intent to obstruct, pervert or interfere with justice. In addition to this, the applicant had also failed to disclose on his application form that the District Council had refused a previous licence application in 1999. The Senior Licensing Officer referred members to the current guidelines relating to the relevant convictions and the particular sections on violence (Section E) and dishonesty (Section F).

Members were asked to consider whether the applicant was fit and proper to be granted a private hire driver's licence. In making that determination, the Senior Licensing Officer asked members to note that the onus was on the applicant to show that he was a fit and proper person and the Council's overriding consideration must be the protection of the public and all other matters were secondary to public safety.

There were no questions to the Senior Licensing Officer.

The applicant and his representative (co-owner of the private hire company for which the applicant intended to work) then gave details of the applicant's case, including details in respect of his two unspent convictions. In his submission the applicant stated that he regretted his actions and wished to put the matters behind him. The intimidation conviction was a result of a family argument which had now been settled. The licensee's representative spoke in support of the applicant who had been working at the company as a member of its booking staff. The private hire company manager stated that in his opinion the applicant was reliable and was ideally suited for the company's typical work of transporting elderly people and children. The applicant was a family man who lived with his mother and who was aware of the standards that the company insisted on. The manager was prepared to offer employment if the applicant was granted a driver's licence.

The Senior Licensing Officer had no questions for the applicant so the Chairman invited questions from members of the Group. In response to questions, the applicant explained why he had failed to complete section 5 of his application form correctly and gave further details of the family dispute and background to his two convictions.

In his closing address to the Group the applicant's representative asked members to consider the application favourably. The company had been holding a vacancy for three months and they felt that the applicant was suitable to be granted a private hire driver's licence.

At 6.55pm the applicant, his representative and the Senior Licensing Officer left the meeting whilst the Group deliberated. The parties were invited to return to the room at 7.15pm.

Chairman's initials

RESOLVED:

That the application for a private hire vehicle driver's licence be refused on the grounds that members were not satisfied that the applicant was a fit and proper person to hold a driver's licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

In reaching their decision the Group had listened to the applicant's case and had considered all the evidence presented but, having had regard to

- (i) his previous convictions for common assault and intimidation of a witness or juror with intent to obstruct, pervert or interfere with justice;
- (ii) the particular seriousness of the second conviction which had resulted in a five month prison sentence;
- (iii) the fact that he had not disclosed a previous licence application refusal on his application form; and
- (iv) the Council's policy on the relevance of his convictions, the Group had decided that the applicant had not proved under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 that he was fit and proper to be granted a private hire driver's licence.

448. APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE DRIVER'S LICENCE**

Firstly the Senior Licensing Officer clarified that the case related not to a renewal but to the licensee's fitness to retain his hackney carriage driver's licence.

The Senior Licensing Officer explained the reasons for referring the application to the Group for determination and circulated papers supporting her submission. The papers included a copy of the licensee's application form for renewal, a copy of part of the licensee's Criminal Records Bureau (CRB) Disclosure Application Form, a copy of his current hackney carriage driver's licence, a copy of the licensee's CRB enhanced disclosure document, guidelines to the Council's policy relating to the relevance of convictions to applications for hackney carriage or private hire vehicle driver's licences, section 61 of the Local Government (Miscellaneous Provisions) Act 1976, a copy of the licensee's DVLA counterpart driving licence and a photocopy of a letter sent to the licensee in October 2000.

The Senior Licensing Officer referred to the papers circulated to the Group and explained that members were being asked to consider if the applicant was still fit and proper to hold a hackney carriage driver's licence on the grounds that he had been convicted of an offence since the date of the last renewal application and had failed to declare this on his application submitted on 26 September 2003. He had furthermore failed to declare his two most recent convictions, which became spent on 22 October 2003, on his CRB Disclosure Application Form. In addition to these failures to disclose, the licensee's current DVLA driving licence showed an endorsement for using a vehicle uninsured against third party risks in April 2002.

Chairman's initials

Miss Lister referred to the guidelines adopted by the District Council relating to the relevance of convictions to assist in the determination of fitness and propriety and drew members' particular attention to sections B (major traffic offences), E (violence) and F (dishonesty). She asked members to note that the Council's overriding consideration was protection of the public and all other matters were secondary to public safety and she requested members to consider whether the licensee was still fit and proper to hold a hackney carriage driver's licence for the reasons outlined in her submission.

The licensee and the general manager of the company for which the licensee worked then gave details of the applicant's character including details in respect of his last conviction. The general manager stated that the licensee had not intended to conceal details and he had been fully aware that an enhanced disclosure contained details of current and spent convictions, cautions, reprimands and warnings. He explained that the licensee had failed to declare the 2002 common assault conviction because he had mistakenly thought that the court had found him not guilty of the charge. He had believed that the court's disposal of a conditional discharge with no costs, no compensation and no fine meant that he had not been guilty of the offence.

Owing to the licensee's genuine misunderstanding in respect of the conviction in October 2002, the general manager explained that this had in turn resulted in the licensee failing to disclose two unspent convictions on his CRB Disclosure Application Form because the last conviction had the effect of extending the rehabilitation period for his February 1998 common assault conviction. The licensee had been of the opinion that the 1998 conviction became spent in February 2003 and therefore he had not been conscious of the need to declare it as unspent.

Finally, the manager of the company gave details in respect of the conviction for no insurance and the steps that the licensee had taken in response to the previous warning given to him by the Council's Service Appeals Group. The licensee's manager spoke in support of the licensee's record as a driver for the company.

The Senior Licensing Officer had no questions for the licensee so the Chairman invited questions from members of the committee. In response to questions, the licensee gave details of his regular work patterns and an overcharge complaint that had been investigated by the Council's enforcement officers in October 2002.

In his closing address to the committee, the licensee's manager asked members to consider his situation favourably. He had not deliberately attempted to conceal information from officers, he was a valued member of the company and there had been no complaints made regarding his behaviour during the three years that he had worked at the company.

At 7.50pm the licensee, his manager, the manager's wife and the Senior Licensing Officer left the room whilst the committee deliberated. The parties were invited to return to the room at 8.20pm in order for the licensee to answer further questions from members of the Group.

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Members sought clarification from the licensee and his manager on whether the licensee had made the decision to work daytimes because he was considered temperamentally unfit to work at night-time when there was an increase in the number of difficult, and possibly volatile, customers.

The licensee and his manager denied that his temperament made him unsuitable for night-time taxi work. It had been a choice to work days rather than any admission that he was unfit to work nights.

At 8.24pm the licensee, his manager, the manager's wife and the Senior Licensing Officer were asked to leave the room again. The parties were invited to return to the room at 8.33pm.

RESOLVED:

That the licensee's hackney carriage driver's license not be revoked but the licensee be given a strict warning as to his standard of behaviour and conduct.

In reaching their decision, the Hackney Carriage and Private Hire Group had noted that the matter had been referred for members' consideration following concerns that the licensee was no longer suitable to hold a hackney carriage driver's licence bearing in mind that the licensee did not declare two convictions that he should have at the time of his renewal application. The Group had considered the licensee's explanation and the warning given to him by the Council's Service Appeals Group in October 2000 and on the evidence presented and after consideration of the grounds for revocation, the Group had decided that it would not revoke the licensee's licence but the Council's overriding consideration must be the protection and care of the public and the Chairman of the Group warned the licensee that his future conduct must be of the standard expected for all drivers and that any further conviction could raise serious doubts over his suitability to hold a licence.

After consideration of the licence revocation, the meeting returned to public session.

449. MINUTES**

... Consideration was given to the minutes of the Hackney Carriage and Private Hire Group meeting held on Monday, 22 September 2003.

RESOLVED:

That the minutes of the Hackney Carriage and Private Hire Group held on Monday, 22 September 2003 be approved as a correct record.

450. CRIMINAL RECORDS BUREAU**

Members noted the proposals for altering the system permitting standard or enhanced disclosures for taxi and private hire drivers.

Chairman's initials

Miss Lister explained the current situation for local authorities making background criminal checks in respect of applicants for hackney carriage and private hire driver licences and how the situation could change if Clause 298 of the Criminal Justice Bill currently before the House of Lords was passed.

Members strongly supported the need to maintain local discretion enabling the local authority to request an enhanced level of check for taxi and private hire drivers.

RESOLVED:

That letters be sent to Mr D Taylor MP from the Council's Manager of Central Support and the Chairman of the Council's Licensing Committee strongly supporting the need to maintain discretion for registered bodies concerning the level of disclosure check requested in respect of applicants for hackney carriage and private hire driver licences.

451. OFFICE OF FAIR TRADING**

Miss Lister gave a verbal report on the Office of Fair Trading's (OFT) report on the regulation of licensed taxi and private hire vehicles services in the United Kingdom. The report had been published on Tuesday, 11 November 2003 after a 14 month study into the taxi and private hire vehicle market.

Members noted that the OFT recommended that the legislation allowing local authorities to limit the number of taxis in an area should be repealed. In addition, the report recommended that local authorities throughout the United Kingdom should set maximum fare levels for taxis and allow freedom to set lower fares. A maximum fare cap was needed to protect vulnerable consumers but there should still be scope for taxis to compete on price.

Miss Lister reminded members that the Council's Hackney Carriage and Private Hire Group had discussed limiting the number of hackney carriage vehicle licences at their meeting on 7 October 2002 and, at that time, had agreed that consideration of the matter be deferred until the OFT had completed their investigation.

In respect of the current number of licensed hackney carriage vehicles, members noted that District Council had 108 licensed hackney carriage vehicles as at 20 November 2003. This represented a drop in the total number of licensed hackney carriage vehicles from a peak of 131 in November 2001.

RESOLVED:

That the recommendations of the OFT report be reported to licensed drivers at the Hackney Carriage and Private Hire Group meeting to be held with representatives of the trade in February 2004.

Chairman's initials

452. DISABILITY DISCRIMINATION ACT 1995 –
TAX ACCESSIBILITY REGULATIONS**

Miss Lister gave a verbal report on the statement made by Tony McNulty MP, Parliamentary Under-Secretary of State for Transport, in the House of Commons on Tuesday, 28 October 2003 announcing the Government's proposals to implement the taxi provisions of the Disability Discrimination Act 1995 in England and Wales.

The Department for Transport intended to target first those areas accessible taxis were likely to make the biggest impact in meeting the needs of disabled people and where additional cost would not have any major detrimental effect. It was noted that North West Leicestershire District Council was named in the "First Phase" Licensing Authorities where it was proposed to introduce the regulations over a 10 year period from 2010-2020.

Members noted that consultation on the full package of measures, including the technical requirements, would follow in due course.

RESOLVED:

That the announcement of the Government's proposals be reported to licensed drivers at the Hackney Carriage and Private Hire Group meeting to be held with representatives of the trade in February 2004.

453. ADDITIONAL MEETING**

Members were advised that an additional meeting of the Group was required in order to consider an application for a private hire driver's licence.

RESOLVED:

That an additional meeting of the Group be held on Thursday, 4 December 2003.

The meeting terminated at 9.00pm.

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