

MINUTES OF: LICENSING COMMITTEE

Date of Meeting: 4th December 2012

**Present: Councillor Crawforth (in the Chair)
Councillors: Ashworth, Cheetham, De Souza, Eaton,
Farrington, Hughes, Neal, Procter, Shipley and Wilkinson.**

**In Attendance: Tracy Brzozowski, Licensing and Enforcement Manager
James Dalglish, Licensing and Enforcement Officer
Carolyn Sharples, Committee and Member Services
Manager
Sarah Doherty, Solicitor**

Also Present: 38 members of the public

BUSINESS MATTERS

1. APOLOGIES FOR ABSENCE

Apologies had been received on behalf of Councillor Gill (Councillor Procter sub).

2. MINUTES

Resolved:

That the minutes of the meeting of the Licensing Committee held on the 23rd October 2012 be approved and signed by the Chair as a correct record.

3. DECLARATIONS OF INTEREST

Councillor Cheetham made a declaration of interest in minute number 15 as she was aware of the applicant.

4. URGENT ITEM OF BUSINESS

There was one urgent items of business which the Chair agreed to add to the agenda. This was an additional driver application and would be taken as the first item of confidential business.

5. PROPOSED AMENDMENTS TO THE POLICY FOR THE LICENSING OF: HACKNEY CARRIAGE DRIVERS AND VEHICLES, PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLES

The Licensing and Enforcement Manager outlined the purpose of the report which was to agree amendments to the policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles.

The Licensing and Enforcement Manager outlined the proposed changes and informed members of the recommendations at 1.1 and 1.2 of the report, she also

informed members of an alternative recommendation to consider which was to approve recommendation 1.2 but amend 1.1 as follows:

2.10 Driving Standards Agency (DSA) Tests

As part of an application for a hackney carriage or private hire drivers licence the applicant will be required to pass a DSA Private Hire/ Hackney Carriage Assessment Test and submit evidence of that pass with their application. The test must have been passed within the six-month period preceding the application for the licence.

If a licensee accumulates 9 or more points, within a 36 month period they shall be called in front of the council's licensing committee (although previously accumulated points will still be relevant for consideration by the licensing committee) the licensing committee has the option of:

1. Requiring the Licensee to pass the DSA test and provide evidence of this to the Licensing Unit within a period of three months. If the Licensee fails to provide such evidence within three months, they shall be called back to the Council's Licensing Committee.
2. Suspend the Licensee until they pass the DSA test and provide written evidence of this to the Licensing Unit.
3. Suspend the Licensee for a specified period of time.
4. Revoke the Licensee's Driver's Licence.
5. Take no further action.

Mr D Lawrie spoke on the item.

Upon hearing the item, the committee discussed the following:

- The meeting with the former Leader of the Council.
- The Chairs Update which detailed what was agreed at the meeting.
- Importance of having insurance.
- Consultation undertaken.
- Defer the decision pending more information.
- Writing to the former Leader of the Council.
- 36 months for points and 6 months for the DSA test.
- 36 months for points and 12 months for the DSA test.
- Reinstate 12 points rather than 9 and test within 6 months.
- Need guidelines; if it is written down it can be reviewed.
- Continue with 36 months and delete points 1-5 at recommendation 1.1.
- 3 months to pass the DSA test unless evidence is provided that they are unable to get an appointment.

In response to questions raised, the Licensing and Enforcement Manager confirmed the following:

- The notes for the Chair were a verbal update and not a public report or document on which members make a decision or approve. The minutes of the meeting in question did not clarify what was said as part of the Chair's Update.
- There had been consultation with the Taxi Liaison Group, and whilst she was not present at the meeting she has been made aware since that not everyone was happy with the outcome.

- Most offences remain live for 3 years or more, which is why 36 months is used.
- It was unlikely that anyone would lose their licence if they provided evidence that they could not obtain an appointment for a DSA test.

In response to questions raised, the Solicitor confirmed the following:

- The decision could be deferred; however a “gentlemen’s agreement” was not legally binding.
- Mr Sugarman was at the last Taxi Liaison meeting where this item was discussed.
- These amendments gave power to the Licensing Committee as well as a number of options on how to deal with certain situations.

Councillor Wilkinson moved the following recommendation which was seconded by Councillor Hughes:

1.1 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles be amended as follows:

2.10 Driving Standards Agency (DSA) Tests

As part of an application for a hackney carriage or private hire drivers licence the applicant will be required to pass a DSA Private Hire/ Hackney Carriage Assessment Test and submit evidence of that pass with their application. The test must have been passed within the six-month period preceding the application for the licence.

If a licensee accumulates 9 or more points, within a 36 month period they shall be called in front of the council’s licensing committee (although previously accumulated points will still be relevant for consideration by the licensing committee) the licensing committee has the option of:

1. Requiring the Licensee to pass the DSA test and provide evidence of this to the Licensing Unit within a period of three months (unless the Licensee provides evidence that an appointment cannot be obtained). If the Licensee fails to provide such evidence within three months, they shall be called back to the Council’s Licensing Committee.
2. Suspend the Licensee until they pass the DSA test and provide written evidence of this to the Licensing Unit.
3. Suspend the Licensee for a specified period of time.
4. Revoke the Licensee’s Driver’s Licence.
5. Take no further action.

1.2 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles in relation to certificates of insurance be amended as follows:

4.3 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a hackney carriage vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

7.1 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a Private Hire vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

Councillor Eaton moved an amendment which was seconded by Councillor Cheetham as follows:

1.1 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles be amended as follows:

2.10 Driving Standards Agency (DSA) Tests

As part of an application for a hackney carriage or private hire drivers licence the applicant will be required to pass a DSA Private Hire/ Hackney Carriage Assessment Test and submit evidence of that pass with their application. The test must have been passed within the six-month period preceding the application for the licence.

If a licensee accumulates 9 or more points, within a 36 month period they shall be called in front of the council's licensing committee (although previously accumulated points will still be relevant for consideration by the licensing committee) the licensing committee has the option of:

1. Requiring the Licensee to pass the DSA test and provide evidence of this to the Licensing Unit within a period of six months. If the Licensee fails to provide such evidence within six months, they shall be called back to the Council's Licensing Committee.
2. Suspend the Licensee until they pass the DSA test and provide written evidence of this to the Licensing Unit.
3. Suspend the Licensee for a specified period of time.
4. Revoke the Licensee's Driver's Licence.
5. Take no further action.

1.2 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles in relation to certificates of insurance be amended as follows:

4.3 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a hackney carriage vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

7.1 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a Private Hire vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

Members discussed the amendment as follows:

- Amendment does not allow for flexibility.
- Allowing the committee to make the decision.

Members voted on the amendment. The amended motion was lost and the committee voted on the original motion.

Resolved:

1.1 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles be amended as follows:

2.10 Driving Standards Agency (DSA) Tests

As part of an application for a hackney carriage or private hire drivers licence the applicant will be required to pass a DSA Private Hire/ Hackney Carriage Assessment Test and submit evidence of that pass with their application. The test must have been passed within the six-month period preceding the application for the licence.

If a licensee accumulates 9 or more points, within a 36 month period they shall be called in front of the council's licensing committee (although previously accumulated points will still be relevant for consideration by the licensing committee) the licensing committee has the option of:

1. Requiring the Licensee to pass the DSA test and provide evidence of this to the Licensing Unit within a period of three months (unless the Licensee provides evidence that an appointment cannot be obtained). If the Licensee fails to provide such evidence within three months, they shall be called back to the Council's Licensing Committee.
2. Suspend the Licensee until they pass the DSA test and provide written evidence of this to the Licensing Unit.
3. Suspend the Licensee for a specified period of time.
4. Revoke the Licensee's Driver's Licence.
5. Take no further action.

1.2 That the Policy for the licensing of: hackney carriage drivers and vehicles, private hire operators, drivers and vehicles in relation to certificates of insurance be amended as follows:

4.3 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a hackney carriage vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

7.1 Applications

- an original certificate of insurance for the vehicle, valid on the day of application, insuring it for the purpose of its use as a Private Hire vehicle; certificates of insurance emailed direct from the insurance company will be accepted.

6. HACKNEY CARRIAGE STANDS, SOUTH STREET, BACUP AND KING STREET, BACUP

The Licensing and Enforcement Officer outlined the purpose of the report which was to formally approve the adoption of hackney carriage stands under section 63 of the Local Government (Miscellaneous Provisions) Act 1976, as follows:

- Six hackney carriages on South Street, Bacup.
- Two hackney carriages on South Street, Bacup.
- Five hackney carriages on King Street, Bacup.

The Licensing and Enforcement Officer also informed the committee of the consultations that had taken place with Lancashire County Council – Highways, Lancashire Constabulary and the Taxi Liaison Group. Members were asked to approve recommendations detailed at 1.1 to 1.7 of the report.

Resolved:

1. That the Licensing Committee appoint a hackney carriage stand for six hackney carriages at South Street, Bacup (South Side) under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.
2. That the hours of operation should be Monday to Sunday, 24 hours.
3. That the Licensing Committee appoint a hackney carriage stand for two hackney carriages at South Street, Bacup (South Side) under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.
4. That the hours of operation should be Monday to Sunday, 24 hours.
5. That the Licensing Committee appoint a hackney carriage stand for Five hackney carriages at King Street, Bacup under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.
6. That the hours of operation should be Monday to Sunday, 24 hours.
7. That the Licensing Committee delegate all matters relating to the appointment of the above hackney carriage stands to the Licensing and Enforcement Manager in consultation with the Chair of the Licensing Committee.

7. REVIEW OF STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

The Licensing and Enforcement Manager outlined the purpose of the report which was to confirm the amendments to the Statement of Principles required under the Gambling Act 2005 and made in accordance with section 349 of the Act. The report has been reviewed by Policy Overview and Scrutiny and would be going to Council for formal approval on 12th December 2012. Members of the committee were asked to approve recommendations detailed at 1.1 and 1.2 of the report.

Upon hearing the item, the committee discussed the following:

- National clubs and the National Federation’s support.

Resolved:

1. That the Licensing Committee recommend that Council adopt the Statement of Principles relating to the Gambling Act 2005 for the period 31st January 2013 to 30th January 2016.

2. That the Licensing Committee recommend that Council delegate fee setting to the Licensing Sub Committee.

8. **QUARTER 2 ENFORCEMENT REPORT**

The Licensing and Enforcement Officer outlined the purpose of the report which was to inform the Committee of enforcement action and issues in respect of licensing matters for the period 1st July to 30th September 2012. This included information in relation to premises licences, event notices, charitable collections, taxi licensing and various exercises conducted.

Mr D Lawrie spoke on the item.

Upon hearing the item, the committee discussed the following:

- Location of the new premises licence granted.
- Whitworth Civic Hall is now the Riverside.
- Taxi licences gained in Rossendale being used in other areas.
- Drivers can operate anywhere in the country
- Cross border working.
- Capping hackney carriages in Rossendale.
- Cheaper insurance in Rossendale.

In response to questions raised, the Licensing and Enforcement Manager confirmed the following:

- Regarding licences from Rossendale being used in other areas, she confirmed that there had been a few high court cases and that they were currently allowed to do this.
- Regarding capping the number of hackney carriages in Rossendale, she confirmed that the government were likely going to remove the Council's powers to do this in line with the Law Commissions legislative proposals, and it would also be difficult to determine who got a hackney carriage licence if capping applied.
- Regarding cross boundary working, she confirmed that joint working was taking place where licences had been issued in Rossendale but the Licensee was operating in a neighbouring area. The Chair had also met with enforcement officers and Councillors from Oldham in relation to this matter.

Resolved:

That the Committee note the contents of the report.

Due to the number of items on the agenda the Chair asked the Licensing and Enforcement Manager to outline to all persons present the relevant information which applied to all confidential applications.

9. EXCLUSION OF PUBLIC AND PRESS

Resolved:

That the public and press be excluded from the following items of business under Section 100(A)(4) of the Local Government Act 1972 since they involve the disclosure of exempt information under Paragraph 1 of Schedule 12A of the Act.

10. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – TM

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Manager presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Manager, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

That the licence be granted. The Committee consider that the applicant is a fit and proper person to hold a Hackney Carriage Driver's Licence.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure and policy and the Committee took into account all the relevant information put before them.

11. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – MJ

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Manager presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Manager, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

That the licence be granted. The Committee consider that the applicant is a fit and proper person to hold a Hackney Carriage Driver's Licence.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure and policy and the Committee took into account all the relevant information put before them.

12. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – MH

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Manager presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Manager, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

1. That the licence be refused. The Committee considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.
2. That the applicant be notified in writing of the decision and has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of service of the decision letter.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure and policy and the Committee took into account all the relevant information put before them.

13. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – CAJ

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Officer presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Officer, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

1. That the licence be refused. The Committee considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.
2. That the applicant be notified in writing of the decision and has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of service of the decision letter.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

14. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – MM

The Applicant was unable to attend the meeting, but had provided written representation to the committee. The committee agreed to determine the application in the absence of the Applicant.

The Licensing and Enforcement Manager presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant's written representation was considered.

The Committee Members asked questions of the Licensing and Enforcement Manager for clarification purposes only.

The Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

1. That the licence be refused. The Committee considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.
2. That the applicant be notified in writing of the decision and has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of service of the decision letter.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

Councillor Cheetham left the meeting for the following item of business.

15. REPORT TO CONSIDER THE REVOCATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – MU

The Chair welcomed the Applicant to the meeting.

The Licensing and Enforcement Manager presented the report detailing the proposed revocation of a Hackney Carriage Drivers Licence.

The Applicant spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Manager and the Applicant for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

That the licence is not revoked. The Committee consider that the applicant is a fit and proper person to hold a Hackney Carriage Driver's Licence.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

Councillor Cheetham returned to the meeting for the remaining business.

16. REPORT TO CONSIDER THE APPLICATION TO RENEW A HACKNEY CARRIAGE DRIVERS LICENCE – MY

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Officer presented the report detailing the proposed application to renew a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Officer, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant, Applicant's Representative and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

1. That the licence be refused. The Committee considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.
2. That the applicant be notified in writing of the decision and has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of service of the decision letter.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

17. REPORT TO CONSIDER THE APPLICATION OF A HACKNEY CARRIAGE DRIVERS LICENCE – QZ

The Chair welcomed the Applicant to the meeting.

The Licensing and Enforcement Manager presented the report detailing the proposed application for a Hackney Carriage Drivers Licence.

The Applicant spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Manager and the Applicant for clarification purposes only.

The Applicant and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

1. That the licence be refused. The Committee considered that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.
2. That the applicant be notified in writing of the decision and has the right of appeal to the Magistrates' Court, which must be exercised within 21 days of service of the decision letter.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

18. REPORT TO CONSIDER THE SUSPENSION OF A HACKNEY CARRIAGE DRIVERS LICENCE – HMS

The Chair welcomed the Applicant and the Applicant's Representative to the meeting.

The Licensing and Enforcement Officer presented the report detailing the proposed suspension of a Hackney Carriage Drivers Licence.

The Applicant and the Applicant's Representative spoke in favour of the case.

The Committee Members asked questions of the Licensing and Enforcement Officer, the Applicant and the Applicant's Representative for clarification purposes only.

The Applicant, Applicant's Representative and the Licensing and Enforcement Staff left the room to enable the Committee to determine the application.

Resolved:

That the Hackney Carriage Driver Licence shall remain suspended until such time as the pending court case is determined when the matter will be reported back to Committee for elected members to decide whether they can be satisfied that the applicant is a "fit and proper" person to hold a hackney carriage driver's licence or until the licence lapses, whichever is soonest.

Reason for Decision

The Application had been considered in accordance with the Council's approved procedure, the Council's Guidelines on Convictions and the Committee took into account all the relevant information put before them.

In response to a question by the Applicants' Representative, it was clarified that if the Applicant was found to be not guilty, the licence could be immediately reinstated by the Licensing Enforcement Manager.

The meeting commenced at 6.30pm and closed at 9.50pm

CHAIRMAN
