

REGULATORY PANEL

WEDNESDAY 15 NOVEMBER 2017 AT 2.00 PM

PRESENT: Councillor Bell (Chairman), Councillors Mrs Birks, Bowman S, Layden, Morton, Mrs Parsons, Sidgwick T, Stothard, Tinnion, Ms Williams and Wilson.

OFFICERS: Assistant Solicitor
Regulatory Services Manager
Licensing Officer

RP.39/17 APOLOGY FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Bainbridge.

RP.40/17 DECLARATIONS OF INTEREST

There were no declarations of interest affecting the business to be transacted at the meeting.

RP.41/17 PUBLIC AND PRESS

It was agreed that the items of business within Part A be dealt with in public.

RP.42/17 MINUTES OF PREVIOUS MEETINGS

RESOLVED - That the minutes of the meeting held on 2 August 2017, which had been approved by Council on 12 September 2017 and the minutes of the meeting held on 6 September 2017, which had been approved by Council on 7 November 2017, be signed by the Chairman.

RP.43/17 HACKNEY CARRIAGE DRIVER – MOTORING CONVICTIONS

The Licensing Officer submitted report GD.67/17 regarding a Licensed Hackney Carriage Driver who had notified the Council of a recent conviction for speeding.

Mr Lee, the licensed driver, was in attendance.

The Assistant Solicitor outlined the procedure the Panel would follow. Mr Lee confirmed that he had received, read and understood the Licensing Officer's report. The Assistant Solicitor advised Mr Lee that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer outlined Mr Lee's licensing history as detailed within the report which included a copy of his driving licence. Mr Lee had appeared before the Regulatory Panel in 2004 and had been issued with five warning letters by the Licensing Office, all with regard to speeding issues. The Panel was reminded that there was an obligation under the Hackney Carriage Driver's Code of Practice that drivers must inform the Council, in writing, of any offence within seven days of any conviction, either motoring or criminal.

The Licensing Officer reported that during an annual administration check on 29 September 2017 it was discovered that Mr Lee had declared on a Statutory Declaration a further speeding offence that had occurred on 22 January 2017. The Licensing Office had not received notification of the conviction.

Mr Lee was invited to the Civic Centre and given the opportunity to explain the reason for his failure to inform the Office. Mr Lee advised the Licensing Officer that he had emailed notification of the conviction to the Licensing Office on 28 March 2017. Having reviewed the screenshot of the email provided by Mr Lee, it was noted that the Licensing email address had been misspelt, as a result of which the email was not delivered to the Licensing Office. Mr Lee apologised for the conviction and confirmed that he now had six points endorsed on his licence (as set out in Appendix 8 to the report).

Members' attention was further drawn to the relevant legislation and detailed Legal Advice included within the report which the Panel had to consider when making their decision.

The Licensing Officer concluded his presentation by recommending that, after hearing the evidence and any representations from Mr Lee, the Panel reach a decision in line with the options available.

Speaking at the request of the Chairman, the Licensing Officer clarified the updated position with regard to the provision of speed awareness training, confirming that the £280 fee was payable by the driver as opposed to the Local Authority.

Mr Lee addressed the Panel explaining that he had been a Hackney Carriage Driver for a number of years and had accrued offences during that time. Taxi drivers travelled many miles as part of their role and, whilst he acknowledged that speeding offences had occurred, the majority related to speeding between 30 mph – 40 mph.

Mr Lee summarised the circumstances surrounding his latest speeding offence, emphasising that he worked twelve hour shifts; was driving a different vehicle on that occasion; and suggesting that a lack of concentration and tiredness was a factor. It was not a matter of his inability to drive.

Following the speeding conviction Mr Lee had reviewed his working arrangements, as a result of which he had totally changed his working pattern, was working fewer hours as a taxi driver and had not committed any further speeding offences over that ten month period. He had made a personal effort to change and did not anticipate incurring any further penalties in the future. Only three of the points on his licence were valid at the moment.

For the avoidance of doubt, the Licensing Officer clarified the obligation under the Hackney Carriage Driver's Code of Practice for drivers to inform the Council, in writing, of any offence within seven days of any conviction.

In response to questions Mr Lee confirmed that:

- He was initially unaware of the speeding offence and the taxi office also had to follow due process to determine who was driving the vehicle at the time. That had contributed to the delay in notifying the Licensing Office. Should such a scenario arise in future, he would telephone the Licensing Officer to inform him.
- Based upon his experience as a Licensing Hackney Carriage driver the offence should not have occurred. However, having taken the steps alluded to above, there was no longer an issue.
- He now worked approximately thirty seven hours per week. The reduced hours enabled him to spend more time with his sister whom he looked after.
- Several of the offences had occurred from November to January, which was a particularly busy time for taxi drivers.
- The speeding offence was probably recorded on a mobile camera.

- He was now approaching sixty years of age; it was sensible to review his working arrangements; he now enjoyed driving and thought that the new regime would work well.

The respective parties then withdrew from the meeting whilst the Panel gave detailed consideration to the matter, and it was:

RESOLVED – That the Panel Members had read the report and listened carefully to all the evidence heard today from the Council's Licensing Officer and from Mr Lee.

The Panel noted that Mr Lee had six previous incidents of speeding, he had received five written warnings and this was the second time he had appeared before the Panel.

Mr Lee also failed to inform the Council of the latest speeding conviction, though the Panel appreciated that Mr Lee believed he had.

However, the Panel appreciated that those incidents were over a fourteen year period and only one incident involved fair paying passengers. Also, Mr Lee had reduced his hours.

The Panel must consider all the evidence placed before it and decide whether Members found Mr Lee to be a fit and proper person to hold a taxi licence.

Having considered all the evidence before them the Panel had decided that, whilst they would not suspend or revoke Mr Lee's licence, they did require him to take and pass the Speed Awareness Risk Assessment at the earliest available opportunity.

If Mr Lee did not pass he would need to return to the Panel.

The reasons for this were:

1. Mr Lee had a history of speeding offences.
2. Mr Lee had been issued with five warning letters for speeding.

RP.44/17 REVIEW OF CHARGES 2018/19 - LICENSING

The Regulatory Services Manager submitted report GD.65/17 setting out the proposed fees and charges for areas falling within the responsibility of the Licensing Section of the Governance and Regulatory Services Directorate, with the exception of those under the Scrap Metal Dealers Act 2013 which fell to the Executive.

The Regulatory Services Manager reported that the Corporate Charging Policy, which was part of the Strategic Financial Framework approved by the Executive and full Council, set out the City Council's policy for reviewing charges.

The report outlined that licence fees (that could be determined by local authorities) could only be set at a level which recovered the cost of administration, inspection and in some cases compliance of existing licences which arose out of carrying out their licensing functions under the various legislation. Under European Directive 2006/123 art 13(2), any charges which an applicant for a licence may incur should be reasonable and proportionate to the cost of the authorisation procedures in question and should not exceed the cost of the procedures.

Details of the Supreme Court case *Hemming v Westminster City Council* had previously been reported to the Panel. The Supreme Court had ruled in favour of Westminster City Council and the case would affect councils and other licence fee charging bodies across the UK by allowing them to recoup regulatory and enforcement costs instead of just administration costs of granting a licence.

It was the Council's policy to maximise charges to maintain full cost recovery wherever possible, and that should be the case when setting charges. Licensing were operating at an income level that was achieving full cost recovery.

Recognition should be made of the risk that licensing income levels could be subject to market forces out with the Council's overall control, including new responsibilities and the repeal of other legislation. That reinforced the message that any practice of simple annual increments in line with inflation was inappropriate without taking into account local factors as well as the Council's priorities.

The Regulatory Services Manager also explained the extremely wide ranging and principal functions covered by licensing income set out at Section 3, and drew Members' attention to page twenty seven of the document pack which detailed the charging structure for Licensing and Appendices A and B which included the proposed charges.

In addition the Policy recognised that each Directorate was different and required Directors to develop specific principles for their particular service or client groups.

The Regulatory Services Manager and the Licensing Officer then responded to Members' questions in relation to the proposed charges for Hackney Carriage Vehicle (Wheelchair) and (Non-Wheelchair) – confirming that all new Hackney Carriage vehicle applications had the same proposed licence fee as all new vehicles would be wheelchair accessible.

RESOLVED – That the fees and charges for areas falling within the responsibility of the Licensing Section of the Governance and Regulatory Services Directorate, as set out in Appendices A and B to Report GD.65/17, be agreed with effect from 1 April 2018, with the exception of the Scrap Metal Act fees which had been determined by the Executive, subject to any required advertising for hackney carriages and no objections being received.

[The meeting ended at 2.56 pm]